

Democratic Services

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Date: 28 May 2013

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To: All Members of the Development Control Committee

Councillors:- Gerry Curran, Ian Gilchrist, Liz Hardman, Eleanor Jackson, Les Kew, Malcolm Lees, Douglas Nicol, Bryan Organ, Manda Rigby, Martin Veal, David Veale and Brian Webber and 1 other Member (tba)

Permanent Substitutes:- Councillors: Rob Appleyard, John Bull, Sarah Bevan, Sally Davis, Jeremy Sparks and Vic Pritchard

Chief Executive and other appropriate officers
Press and Public

Dear Member

Development Control Committee: Wednesday, 5th June, 2013

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 5th June, 2013** at **2.00pm** in the **Brunswick Room - Guildhall, Bath**

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 4th June 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. A Tea will be provided in the Kaposvar Room at an appropriate point in the meeting for an adjournment.

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 Bath 01225 - 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, 5th June, 2013
at 2.00pm in the Brunswick Room - Guildhall, Bath**

A G E N D A

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

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number and site in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is a **disclosable pecuniary interest or other interest** (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer before the meeting to expedite dealing with the item during the meeting.

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: 8TH MAY 2013 (Pages 9 - 64)

To approve as a correct record the Minutes of the previous meeting held on Wednesday 8th May 2013

9. MAJOR DEVELOPMENTS

The Development Manager to report

10. SITE VISIT LIST - APPLICATION FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 65 - 78)

11. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 79 - 210)

12. ENFORCEMENT ITEM - PARCELS 0005/2866 WOOLLEY LANE, CHARLCOMBE (Pages 211 - 222)

To consider a recommendation to authorise enforcement action relating to various unauthorised works.

13. ENFORCEMENT ITEM - OPA, NORTH PARADE, BATH (Pages 223 - 228)

To consider a recommendation to authorise enforcement action relating to the unauthorised material change of use from a restaurant to a mixed use of restaurant, bar and nightclub

14. ENFORCEMENT ITEM - THE QUARRY, EASTCOURT ROAD, TEMPLE CLOUD (Pages 229 - 234)

To consider a recommendation to authorise enforcement action relating to the unauthorised material change of use of a workshop (B2) to a mixed use of dwelling (C3) and business activities (B1) and the unauthorised siting of a mobile home

15. TREE PRESERVATION ORDER - REDHILL HOUSE, RED HILL, CAMERTON (Pages 235 - 244)

To consider a recommendation to confirm a Tree Preservation Order with a

modification to protect 2 groups of trees

16. TREE PRESERVATION ORDER - LAND BETWEEN VIVIEN AVENUE AND WELLOW BROOK, MIDSOMER NORTON (Pages 245 - 254)

To consider a recommendation to confirm a Tree Preservation Order to protect a group of trees

17. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 255 - 258)

To note the report

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

Delegated List Web Link: <http://www.bathnes.gov.uk/services/planning-and-building-control/view-and-comment-planning-applications/delegated-report>

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 (Disclosable Pecuniary Interest or an Other Interest)

These are to take place when the agenda item relating to declarations of interest is reached. It is best for Officer's 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, Principal Solicitor
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.

DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF DEVELOPMENT CONTROL COMMITTEE

Wednesday, 8th May, 2013

Present:- Councillor Gerry Curran in the Chair

Councillors Rob Appleyard (In place of Liz Hardman), Neil Butters, Nicholas Coombes, Eleanor Jackson, Les Kew, Malcolm Lees, David Martin, Douglas Nicol, Bryan Organ, Martin Veal, David Veale and Brian Webber

Also in attendance: Councillors Gabriel Batt, Mathew Blankley, Sally Davis, Michael Evans, Barry Macrae, Paul Myers, Vic Pritchard, Geoff Ward and Chris Watt

165 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

166 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not desired

167 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

An apology for absence was received from Councillor Liz Hardman whose substitute was Councillor Rob Appleyard

168 DECLARATIONS OF INTEREST

There were no declarations of interest

169 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There were no items of Urgent Business. However, the Chair announced that the planning application at Bubblers Dytch, High Street, Wellow (Item 17, Report 11) had been withdrawn from the Agenda as had the 2 Enforcement Reports at Opa, North Parade, Bath (Report 12) and The Quarry, Eastcourt Road, Temple Cloud (Report 13).

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

The Senior Democratic Services Officer informed the meeting that there were various speakers on planning applications in Reports 10 and 11 and that they would be able to make their statements when reaching their respective Items in those Reports.

171 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There were no items

172 MINUTES: 10TH APRIL 2013

The Minutes of the previous meeting held on Wednesday 10th April 2013 were approved as a correct record and signed by the Chair

173 MAJOR DEVELOPMENTS

The Development Manager reported that discussions had commenced with the developers of the former Cadbury's site, Somerdale, and that, once the application had been registered, the usual consultation process would follow.

In response to Councillor Eleanor Jackson's query about the Norton Radstock Regeneration proposals, the Development Manager stated that an application was expected in the near future.

The Committee noted.

174 SITE VISIT LIST - APPLICATION FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered

- The report of the Development Manager on an application for planning permission at The Chase, Rectory Lane, Compton Martin
- An Update Report by the Development Manager which is attached as *Appendix 1* to these Minutes
- Oral statements by members of the public etc, the Speakers List being attached as *Appendix 2* to these Minutes

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

The Chase, Rectory Lane, Compton Martin – Erection of extensions including a first floor extension to create a 1.5 storey dwelling (Revised proposal) – The Case Officer reported on this application and her recommendation to Permit with conditions. The Update Report advised Members of further drawings submitted by the applicants and of further representations by the adjoining neighbour.

The public speakers made their statements against and in favour of the proposed development which was followed by a statement by the Ward Councillor Vic Pritchard.

Councillor Les Kew considered that the recent site visit had proved to be very useful. He considered that the amenities of the adjoining property were not affected and that the value of both properties would be improved. He therefore moved that the Officer recommendation be approved which was seconded by Councillor Doug Nicol.

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

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

The Committee considered

- The report of the Development Manager on various applications for planning permission etc
- an Update Report by the Development Manager on Item Nos 2-6, 11 and 14, a copy of which is attached as *Appendix 1* to these Minutes
- oral statements by members of the public etc on Item Nos 2-15, the Speakers List being 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 4* to these Minutes.

Items 2-6 Parcels 2866 and 0005 South, Woolley Lane, Woolley – (2) Alterations and extension to existing agricultural building; alterations to access; formation of hard standing and farm track; construction of stock pond; siting of 2 feed hoppers and ancillary works (Retrospective). Siting of a temporary timber cabin for an agricultural worker for a period of up to 3 years on Parcel 2866 (Ref 12/05660/FUL); (3) erection of general purpose agricultural building on Parcel 2866 (Ref 12/05661/FUL); (4) siting of 4 mobile poultry units (Retrospective) on Parcel 2866 (Ref 12/05662/FUL); (5) siting of 3 mobile poultry units (Retrospective) on Parcel 0005 South (Ref 12/05663/FUL); and (6) siting of 3 mobile poultry units (Retrospective) on Parcel 0005 South (Ref 12/05664/FUL) – The Case Officer reported on all 5 applications and his recommendations to refuse permission. The Update Report provided the full comments of the Highways Officer on these applications and the observations of the Planning Officer.

The public speakers made their statements against and in favour of the proposals which were followed by statements by the Ward Councillors Geoff Ward and Gabriel Batt.

Councillor Martin Veal (Ward Member) stated that the applicants were riding roughshod over the community. He considered that the development blighted the visual amenity of the area which was AONB and Green Belt and impacted on the setting of a World Heritage Site. The cumulative effect was unacceptable. He complimented the Case Officer on producing a good report. He raised a query on the wording of the last sentence on page 2 of the Update Report. The Case Officer stated that, instead of “the highway response is open of objection ...” it should read “the highway response is one of objection ...”

Councillor Eleanor Jackson agreed with the Officer’s conclusions on Item 2 and therefore moved the Recommendation to refuse permission which was seconded by Councillor Martin Veal. Councillor Brian Webber referred to the Article 4 Direction which covered the area and removed agricultural permitted development rights over a wide area of the Swainswick Valley. This was an overriding consideration. The motion was then put to the vote and was carried unanimously.

Councillor Martin Veal moved separately that the remaining 4 applications be refused as recommended which were seconded by Councillor Les Kew. Voting was taken separately and these were carried unanimously.

Councillor Les Kew thanked the Case Officer for producing such a good report. In view of the above decisions, Councillor Martin Veal expressed a desire for enforcement action to be considered at the next meeting on 5th June. The Development Manager replied that Officers would aim at producing a report for the next meeting.

Item 7 Parcel 8966 Manor Road, Saltford – Erection of up to 99 dwellings and associated parking on Parcel 8966 and Parcel 0064, 1 vehicular access from Manor Road and separate pedestrian access to Manor Road, associated engineering works and the construction of 2 car parking lay-bys on Manor Road – The Case Officer reported on this application and her recommendation that, if the Council had been in a position to make a decision on the application, then the recommendation would be to refuse the application on the basis that the development would comprise inappropriate development in the Green Belt, harmful to openness that would encroach into the countryside, and for which no very special circumstances had been demonstrated that would clearly outweigh the very significant level of harm caused. The Development Manager explained that the application was the subject of an appeal for non-determination and therefore Members' views were being sought to enable the Inspector to be advised of the Council's recommendation for the application.

The public speakers made their statements against the proposal which was followed by a statement by the Ward Councillor Mathew Blankley against the application.

Councillor Bryan Organ opened the discussion. He stated that the development site was not in the Core Strategy and was outside the housing boundary. The Development Manager gave advice regarding the policy position and stated that the National Planning Policy Framework was a material consideration in planning decisions and should be given more weight than the Local Plan if there was any inconsistency. There was a presumption in favour of sustainable development and it stipulated that relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority could not demonstrate a 5 year land supply of deliverable housing. This Council could not demonstrate such land supply until objections had been heard by the Inspector at the forthcoming Examination in Public into the Draft Core Strategy. The outcome was that applications should be assessed against the policies of the NPPF with the amended Draft Core Strategy and the relevant Local Plan policies being given little weight. Where sites were located in the Green Belt, as in this case, the NPPF states that the presumption in favour of sustainable development did not apply even when the Council could not demonstrate a 5 year housing supply. In these cases, such development would remain inappropriate which is harmful by definition and there may also be harm to openness and other harm. Permission could only be granted if very special circumstances existed that clearly outweighed the harm.

Councillor Bryan Organ appreciated the situation and moved the Officer recommendation. This was seconded by Councillor Les Kew.

Members debated the motion. Councillor Nicholas Coombes supported the policy position and saw no reason to grant permission due to the harm to the openness of the Green Belt which was upheld by the NPPF. Councillor Eleanor Jackson referred to the need for Green Belt land and retaining its openness.

The motion was put to the vote and was carried unanimously.

Item 8 Fields north of Orchard Park, Staunton Lane, Whitchurch – Residential development (up to 295 dwellings) including infrastructure, ancillary facilities, open space, allotments and landscaping. Construction of 2 new vehicular accesses from Stockwood Lane (Resubmission) – The Case Officer reported on this application and her recommendation to refuse permission. She pointed out that there had been 385 objections received, not 585 as stated in the report.

The public speaker made her statement against the proposal.

Councillor Les Kew opened the debate. He stated that the Ward Councillor Peter Edwards was unable to be present due to ill health. He agreed with the reasons for refusal as the development would harm the openness of the Green Belt, encroach into the countryside and contribute to the sprawl of Bristol. He therefore moved the Officer recommendation which was seconded by Councillor Bryan Organ.

Members debated the motion. It was generally agreed that the reasons for refusal could not be disputed. It was also suggested that the site was not sustainable. Councillor Nicholas Coombes raised the issue of Green Belt status and the safeguarded bypass route through the site. The Officers responded that a detailed design had not been prepared and that the route would be reviewed in the Place Making Plan – funding for the bypass would need to be demonstrated.

The motion was put to the vote and was carried unanimously.

Items 9&10 Parcel 5400 Fosseyway South, Westfield, Midsomer Norton – (1) Outline planning permission for up to 164 residential dwellings (C3), a 60 bed care home (C2), 200sq m of retail/business/community space (A1/A3/B1/D1) along with 2 points of access and public open space (Ref 12/00546/OUT); and (2) outline planning permission for up to 165 residential dwellings (C3), and 60 bed care home, 2 points of access and public open space (Ref 13/00127/OUT) – The Case Officer reported on these proposals and his recommendations to authorise the Development Manager to Permit the applications subject to (1) a S106 Agreement to secure various provisions relating to Affordable Housing, Education, Open Space and Recreational Facilities, and Transport; and (2) various conditions.

The public speakers made their statements against and in favour of the proposals which was followed by statements by the Ward Councillors Paul Myers and Chris Watt

The Development Manager gave advice on the policy position. She stated that the NPPF was a little ambiguous and did not make reference to sub areas. The Somer Valley was due to make a contribution to meet housing requirements. Having made a sequential assessment of the proposals, the Officers considered that there were no reasons to warrant refusal.

Councillor Bryan Organ opened the debate. He felt that the applications should be deferred for 1 month for further consideration and advice regarding the NPPF. He moved accordingly which was seconded by Councillor Martin Veal.

Members debated the motion. It was generally felt that there were insufficient grounds for deferral. At the suggestion of Councillor Les Kew, he amended his motion, with the seconder's agreement, to Defer for a Site Visit. Members debated the amended motion. It was generally felt that little would be achieved by holding a site visit. The motion was put to the vote. Voting: 4 in favour and 7 against with 2 abstentions. Motion lost.

Councillor Eleanor Jackson moved the Officer recommendations which were seconded by Councillor Rob Appleyard. Members raised various issues including the need for jobs and houses, loss of a greenfield site when brownfield sites were still available, sustainability, highways and congestion. Views were expressed for and against the proposals. Some Members considered that there was demand for housing in the area, others not. There were a number of differences of opinion on the application. The motions were separately put to the vote and were carried, 7 voting in favour and 6 against.

Item 11 Parcel 0025 Monger Lane, Welton, Midsomer Norton – Residential development comprising up to 135 dwellings, vehicular access from Monger Lane, public open space and other associated infrastructure – The Case Officer reported on this application and her recommendation to authorise the Development Manager to grant permission subject to (1) entering into a S106 Agreement to cover various provisos under the headings of Affordable Housing, Highways, Highways Drainage, Landscape and Open Space, and Education; and (2) various conditions. The Update Report commented on the Highways Officer's additional comments and added a further condition.

The public speakers made their statements against and in favour of the proposal which was followed by statements by the Ward Councillors Michael Evans and Barry Macrae, and then the Ward Councillors for Midsomer Norton Redfield, Paul Myers and Chris Watt.

Councillor Eleanor Jackson moved that the Recommendation be overturned and that the application be refused which was seconded by Councillor Rob Appleyard. The reasons for refusing were that (1) the development would be harmful to the appearance of the hillside; (2) inadequate highway provision which would create a rat-run; (3) the development was unsustainable with no pavement and a poor bus service; and (4) the site was liable to flooding.

The Development Manager commented on the reasons for refusal. She pointed out that there were no objections by the Highways Officer or by the Environment Agency and Wessex Water.

Members asked questions regarding loss of trees, mine working and the bus service to which the Officers responded. At a Member's request, the Development Manager gave an explanation of a paragraph in the report relating to a contribution of £366,178.05 towards strategic highway and transport works.

After a short debate, the motion was put to the vote and it was carried, 12 voting in favour and 1 against.

(Notes: (1) After this item at 6.07pm, there followed an adjournment for Tea and the meeting resumed at 6.30pm; and (2) Councillors Rob Appleyard and Neil Butters did not return to the meeting)

Item 12 The Glebe, Church Hill, High Littleton – Conversion and extension of garage to form family room, new entry hall, bathroom, garage and attic storage following removal of carport and provision of a pitched roof to existing open oil storage tank – The Case Officer reported on this application and her recommendation to refuse permission.

The applicant's agent made his statement in support of the application.

Councillor Les Kew opened the debate. He considered that the works were minor and couldn't be seen from adjoining sites – the works would improve the appearance of the property and give it character. He added that the proposals were verging on being Permitted Development and would help a growing family to remain in the village. He therefore moved that the Recommendation be overturned and that authority be delegated to Officers to grant permission subject to appropriate conditions. The motion was seconded by Councillor Martin Veal. Members debated the motion. It was generally agreed that the roots of the Yew tree in the garden needed to be protected and an appropriate condition added.

The motion was put to the vote and it was carried, 10 voting in favour and 1 against.

Items 13&14 The Hay Barn, Camerton Hill, Camerton – (1) Increase in roof pitch and ridge height, insertion of 5 conservation roof lights, new door and window opening on the south west elevation and internal reorganisation to provide 4 bedroomed holiday accommodation (Retrospective)(Ref 1300690/FUL); and (2) internal and external alterations for the increase in roof pitch and ridge height, insertion of 5 conservation roof lights, new door and window opening on the south west elevation and internal reorganisation to provide 4 bedroom holiday accommodation (Regularisation)(Ref 13/00691/LBA) – The Case Officer reported on these applications and her recommendations to Permit/Consent with conditions. The Update Report informed Members that, if consent was granted as recommended, condition 01 was now no longer required.

The public speakers made their statements against and in favour of the proposals.

Councillor David Veale opened the debate and referred to the large amount of earth removed to create the parking space at the front of the property. The letting appeared to provide full time family accommodation. He felt that due process had not been followed by the applicant.

Councillor Les Kew considered that the alterations had been done to a high standard providing an attractive building although consultation had been lacking. He moved that the recommendation to Permit with conditions be approved which was seconded by Councillor Bryan Organ.

Members debated the motion. There was discussion regarding the recommended length of the occupancy of the accommodation by the same person, namely, 6 months. The Officer explained that this was included in the original permission. Councillor Nicholas Coombes moved an amendment that the length of occupancy be reduced to 3 months which was seconded by Councillor David Veale. Members debated the amendment. After a short discussion, the amendment was put to the vote and was carried, 7 voting in favour and 4 against.

The substantive motion with this amendment was put to the vote and was carried, 10 voting in favour and 1 against.

Councillor Eleanor Jackson moved that the Officer recommendation to Consent with conditions be approved which was seconded by Councillor Les Kew. The motion was put to the vote and was carried, 10 voting in favour and 1 against.

Item 15 Land between Old Lane and Conygre Brook, Old Lane, Farmborough – Erection of 12 dwellings and construction of vehicular and pedestrian accesses following demolition of bungalow – The Case Officer reported on this application and his recommendation to authorise the Development Manager to grant permission subject to (1) a S106 Agreement to secure various provisos under the headings of Transport, Affordable Housing, and Open Space and Recreational Facilities; and (2) appropriate conditions.

The public speakers made their statements against and in favour of the proposal which was followed by a statement by the Ward Councillor Sally Davis.

The Development Manager gave advice regarding the policy considerations. The site was within the housing development boundary and the proposal was acceptable in principle subject to satisfactory details and the usual conditions. The protection of visually important hillsides had been removed by the Inspector on the Core Strategy and development sites should be considered on the basis of individual circumstances. It was considered that there was no harm in this instance.

Councillor Les Kew opened the debate. He considered this to be an odd site tantamount to back land development and had concerns regarding the access. He moved that consideration be deferred to enable Members to have a Site Visit to assess the contours of the land and the access. The motion was seconded by Councillor Bryan Organ.

Members debated the motion. Although some Members did not feel it necessary, most Members welcomed a Site Visit in this case. The motion was therefore put to the vote and was carried, 9 voting in favour and 2 against.

(Note: Councillor David Veale left the meeting at this point)

Item 16 Parcel 0087 Walley Lane, Chew Magna – Change of use of filed from agriculture to equestrian and erection of block of 4 stables (Resubmission) – The Case Officer reported on this application and his recommendation to refuse permission.

The public speaker had previously indicated that he had to leave the meeting before this item was considered and left his statement for the Chair to read out which he did.

The Development Manager gave advice on the policy position. The NPPF had removed the previous PPG 2 reference to material changes of use being appropriate “other” forms of development in the Green Belt – therefore this proposed change of use represented inappropriate development in the Green Belt.

Councillor Les Kew referred to the site being in the Green Belt and a pleasant area for walking with a nearby lake and café. He felt that it should be designated an AONB. He therefore moved the Officer recommendation which was seconded by Councillor Bryan Organ. The motion was put to the vote which was carried unanimously.

Item 17 Bubblers Dutch, High Street, Wellow – Erection of 2 detached two storey houses with attached garages following demolition of existing single storey house (Resubmission) – The Officer withdrew this report from the Agenda for further consideration.

176 ENFORCEMENT ITEM - OPA, NORTH PARADE, BATH (WITHDRAWN)

This Report was withdrawn from the Agenda

177 ENFORCEMENT ITEM -THE QUARRY, EASTCOURT ROAD, TEMPLE CLOUD (WITHDRAWN)

This Report was withdrawn from the Agenda

178 QUARTERLY PERFORMANCE REPORT - JANUARY TO MARCH 2013

The Chair extended his thanks on behalf of the Committee to Development Control Officers for their hard work and endeavours during a particularly busy period.

The report was noted.

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

Councillor Eleanor Jackson congratulated Planning Officers for their overall high success rate in winning appeals.

The report was noted.

180 UPDATE ON FORMER FULLERS EARTHWORKS, COMBE HAY, BATH

The Development Manager reported that the appellants had applied for costs as regards the Council’s withdrawal of Enforcement Notice 01. She informed Members that the Statement of Case on the 2nd Bite Notice had been submitted yesterday. No response had been received from the Planning Inspectorate regarding the appeal held in abeyance. She also referred to two statements received from the appellants’ agents.

The Committee noted.

The meeting ended at 7.55 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

BATH AND NORTH EAST SOMERSET COUNCIL

Development Control Committee

8th May 2013

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

ITEM 10

Item No 1 Application No 13/00376/FUL
Address The Chase, Rectory Lane Compton Martin.

Following the presentation of the application at the last committee the applicant decided to submit two further drawings. Drawings 2013/chase/09a and 2013/chase/08a were received on 26th April

2013. These plans were uploaded on the Council's website and shown to Councillors when they visited the site 29th April 2013. The plans were also forward to the objector at the neighbouring property.

Drawing 08a shows a section through the site and 09a showed a street scene elevation.

Further correspondence was received from the neighbouring properties siting inconsistencies in the drawings, the correspondence is as follows:

- The Section Drawing indicates a distance from the rear of the property to the boundary hedge of 8.6 metres instead of the correct 5.7 meters giving the impression that the distance from our living rooms is greater than it is. This does not accord with the site plan dated 15th March 2013.
- The drawing described as 'Street Scene' is of the west facing elevations rather than those facing east - Rectory Lane.
- Confusingly the Section Drawing appears to show the ridge height in imperial but all other measurements in metric.

We remain concerned at the continued inaccuracies of drawings from a professional building design company. As these drawings have been produced to assist the Development Committee in its deliberations, I would be grateful if you would bring this to their attention.

The section drawings show an arrangement which is consistent with the other drawings that have been submitted. It is recognised the 'Street Scene' view is the view of the property from the rear rather than the front. The measurements on the drawing are all metric, the objector may confused in respect of level measurements.

ITEMS FOR PLANNING PERMISSION

**Item No.2 - 6 Application No.12/05660/FUL; 5661/FUL; 05662/FUL;
05663/FUL; 05664/FUL:**
Address Parcel 2866 and 005, Woolley Lane Charlcombe

Further Comments

Following completion of the report, two letters have been received from objectors unable to attend committee but reiterating their previous grounds of objection to the applications.

Highway Comments

The comments from Highways were summarised in the Committee report. The following are the full comments:

Application No. 12/05660/FUL

Site address: Parcel 2886, Woolley Lane, Charlcombe

Proposal: Alterations and extension to existing agricultural building; alterations to access, formation of hardstanding and farm track; construction of stock pond; siting of 2 no. feed hoppers and ancillary works (retrospective). Siting of a temporary timber cabin for an agricultural worker for a period of up to 3 years.

The proposed development would appear to represent an intensification in use of the site. However, no attempt has been made to quantify this situation, the Design and Access Statement looking collectively at 5 applications and giving the applicants 'opinion' rather than making justified statements.

The applicants agent considers there is a need for one worker to be on site at all times, yet the proposed residential unit is a 3 bedroomed, family sized dwelling, which inevitably will result in a potential intensification in use of the site over and above the agricultural use.

However (in mitigation?), the application includes alteration to the access. This has not been quantified or demonstrated, the only plan being of the existing access. At the very least, if there is to be an intensification in use of the site I would wish to see reduction in access gradient, improved visibility and some squaring off of the access to the highway carriageway, to improve ease of use for southbound traffic, with further setting back of the existing gates. This has all been set out in previous highway consultation responses regarding development proposals for the site.

Regarding the farm track, details are very sketchy.

Taking into account the above, I fail to be satisfied regarding the development proposals and highway impact – compliance with Policy T24 has not been demonstrated.

Bearing in mind the above, the highway response is open of OBJECTION in the interests of highway safety.

I refer to your revised plans/information consultation received 15th March 2013. My comments are as follows:

I have drawn attainable visibility at the proposed access onto the submitted plan using the minimum acceptable set-back ('x' distance) of 2.4 metres. Not allowing for any growth of the boundary hedge, attainable visibility scales at 7.0 metres in a southerly direction and 5.0 metres in a northerly direction (see attached plan extract). Whilst Woolley Lane does not equate to a Street, as per Manual for streets, even by the visibility standards set out in that document, which are less than the requirements of the Design Manual for Roads and Bridges, the attainable visibility falls below the requirement of 11 metres for a main road speed of traffic of 10mph. This is totally unacceptable and contrary to the interests of highway safety.

Despite previous comments regarding failure to justify figures/assumptions in the Design and Access Statement, no further information has been received.

Further, no justification has been given for the size of the proposed residential unit and no details have been submitted with regards alterations to the vehicular access previously referred to.

Bearing the above in mind, the highway response remains open of OBJECTION in the interests of highway safety, the proposed development being contrary to Policy T24 of the adopted Bath and North East Somerset Local Plan.

Application No. 12/05661/FUL

Site address: Parcel 2866, Woolley Lane, Charlcombe, Bath

Proposal: Erection of a general purpose agricultural building

The submitted Design and Access Statement is inadequate for me to determine the likely impact of the proposed building. Given the poor access to the site and the single track nature of highway leading to it, it is essential that an adequate Transport Statement, at the very least is submitted.

Three of the other current applications relating to the site relate to the (retrospective) provision of poultry shed. However, this application refers to the need to store hay, bedding, feeds, machinery, use as a workshop, accommodation for lambing and calving, etc.

Clearly, should you be satisfied by the need, such uses would be unlikely to result in intensification in use of the site and no highway objections would be raised.

However, there are existing buildings on the site and, should the intention be to free their use for other purposes, and intensification in use of the site could result which, given the nature of the approach roads and site access, could result in a highway objection.

Bearing in mind the above, clarification is required regarding the existing lawful development and uses on the site in order to be satisfied that the proposed development will not result in a material intensification in use of the site if it is to be permitted.

Application No. 12/05662/FUL, 12/05663/FUL & 12/05664/FUL

Site address: Parcel 2886 and Parcel 0005, Woolley Lane, Charlcombe

Proposal: Siting of: 4 no. mobile poultry units (retrospective); 3 no. mobile poultry units (retrospective); and, 3 no. mobile poultry units (retrospective).

I am responding to these 3 applications (12/05662, 05663 & 05664/FUL) together as they are all retrospective and the submitted Design and Access Statement refers to them collectively and the proposal for 10 such units to accommodate 7,500 birds (750 in each unit).

Bearing in mind the above, I am rather puzzled why separate applications have been submitted – it would appear to be an attempt to minimise the impact of any particular element rather and avoid the collective impact.

The Design and Access Statement states that no Transport Assessment or Travel Plan have been submitted as the impact of the development is not significant.

Each application must be judged on its merits and, given the single track nature of the approach roads and existing authorised developments on the site, it is considered that the proposed development is material and, at the very least, a transport statement should be submitted.

Furthermore, increasing the number of employees, as a result of the proposed development, importing produce from other sites to distribute along with goods produced and sorted on the site, introducing deliveries to individual customers as well as larger scale deliveries, would all point to a substantial intensification in use of the site as a result of the proposed development.

Furthermore, as indicated in responses to previous planning applications, access to the site is also substandard.

Taking into account the above, I fail to be satisfied that the impact of the development proposals has been adequately examined and addressed and believe that the proposed development results in a material intensification in use of the site and traffic generation along narrow rural lanes via substandard accesses.

Bearing this in mind, the highway response is one of OBJECTION, in the interests of highway safety, the development as I am not satisfied that the proposed development complies with Policy T24 of the adopted Bath and North East Somerset Local Plan due to the inadequacy of information submitted.

**Observations of the Planning Officer
12/05660/FUL**

The issue of the use of the land, intensification in the use of the site and the need for the temporary dwelling are addressed in the main report. The planning history and current status of the site access are also addressed in the main report.

The need for further information regarding traffic to/from the site has been requested from the applicant however no further information has been provided at the time of reporting to Committee.

Application No. 12/05661/FUL

The need for further information regarding traffic to/from the site has been requested from the applicant however no further information has been provided at the time of reporting to Committee.

The use of the building would be for agricultural purposes and not considered to result in intensification in the use of the site amounting to a change of use from agriculture.

Application No. 12/05662/FUL, 12/05663/FUL & 12/05664/FUL

The need for further information regarding traffic to/from the site has been requested from the applicant however no further information has been provided at the time of reporting to Committee.

Based on the proposed use of the site, level of employment and identified vehicle movements it is considered that the proposals do not result in intensification in the use of the site amounting to a change of use from agriculture.

Conclusion

The Recommendations and Reasons for Refusal as set out in the main report are considered to be appropriate.

**Item No 11 Application No 12/04590/OUT
ADDRESS Parcel 0025 Monger Lane Welton Midsomer Norton**

Consultations:

Highways Development Officer: Additional Comments – 29th April 2013.

For clarity on the new access road junction visibility, I would request that an additional condition be attached to any permission granted. The previously suggested conditions are also still requested.

Officer Comments: The additional condition in relation to visibility splays is considered to be acceptable and therefore should be attached to any decision issued. All other considerations for this scheme remain as per the main report and the overall recommendation is unchanged.

RECOMMENDATION: Remains as in the main report with the addition of the following condition:

Before the dwellings hereby permitted are first occupied the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the new access onto Monger Lane and

points on the carriageway edge 45m from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 150mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety.

Item No 14 Application No 13/00691/LBA
Address The Hay Barn, Camerton Hill Camerton

Following further consideration of the Listed Building Application and a further site visit the Conservation Officer has withdrawn the request for condition 1 to be attached to any future consent. It has been considered that as the other buildings in the group of buildings have this rafter

detail it would be difficult to substantiate an argument for their removal on this part of the complex. Therefore should consent be granted the following condition is not required:

Prior to the occupation of the development the exposed rafter feet must be removed and replaced by a traditional eaves detail. Large scale drawings of the detail are to be submitted to and approved by the local planning authority for approval prior to works being completed

Reason: to respect and safeguard the character and appearance of the setting of the listed building and adjacent heritage assets.

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

**MEMBERS OF THE PUBLIC ETC WHO MADE A STATEMENT AT
DEVELOPMENT CONTROL COMMITTEE ON WEDNESDAY 8TH MAY 2013**

SITE/REPORT NAME/REPRESENTING FOR/AGAINST

SITE/REPORT	NAME/REPRESENTING	FOR/AGAINST
SITE VISIT – REPORT 10		
The Chase, Rectory Lane, Compton Martin (Pages 28-35)	John Mapplethorp	Against
	Martin Mackenzie (Applicants' Agent)	For
MAIN PLANS LIST – REPORT 11		
Parcels 2866 & 0005 South, Woolley Lane, Woolley, Charlcombe (Items 2-6, Pages 41-251)	Alistair Mackichan, Charlcombe Parish Council <u>AND</u> Jonathan Miles, Swainswick Parish Council	Against – To share 15 minutes
	Bill Murphy, Save Woolley Valley Action Group <u>AND</u> Caroline Kay, Chief Executive, Bath Preservation Trust	Against – To share 15 minutes
	Mark Willis (Applicants' Agent)	For – Up to 15 minutes
Parcel 8966, Manor Road, Saltford (Item 7, Pages 252-269)	Duncan Houndsell, Saltford Parish Council	Against
	Phil Harding, Saltford Environment Group	Against
Fields north of Orchard Park, Whitchurch (Item 8, Pages 270-294)	Mary Walsh, Whitchurch Village Action Group	Against
Parcel 5400, Fosseyway South, Westfield (Items 9&10, Pages 295-373)	Councillor Jane Lewis (Midsomer Norton Town Council)	Against – Up 6 minutes
	Terry Reynolds <u>AND</u> Cliff Shellard <u>AND</u> Patricia Flagg (Midsomer Norton Society)	Against – To share 6 minutes
	Simon Steele-Perkins (representing the Applicants)	For – Up to 6 minutes
Parcel 0025, Monger Lane, Welton, Midsomer Norton (Item 11, Pages 374-415)	Jeff Humphries, Paulton Parish Council <u>AND</u> Jane Lewis, Midsomer Norton Town Council	Against – To share 3 minutes
	Selena Ashman <u>AND</u> Patricia Flagg (Midsomer Norton Society)	Against – To share 3 minutes
	Alistair Macdonald, Turley Associates (Applicants' Agent)	For

The Glebe, Church Hill, High Littleton (Item 12, Pages 416-420)	John Hooke (Applicant's Agent)	For
The Hay Barn, Camerton Hill, Camerton (Items 13&14, Pages 421-433)	Chris Taylor, Camerton Parish Council	Against – Up to 6 minutes
	Bill Lowe (Applicant's Agent)	For – Up to 6 minutes
Land between Old Lane and Conygre Brook, Old Lane, Farmborough (Item 15, Pages 434-445)	Jean Rogers, Farmborough Parish Council	Against
	Dave Baggely	Against
	Ivor Bridges (Applicant)	For
Parcel 0087, Walley Lane, Chew Magna (Item 16, Pages 446-451)	Note: Statement by Peter Bedingfield, Applicants' Agent, read out by the Chair	For

BATH AND NORTH EAST SOMERSET COUNCIL

DEVELOPMENT CONTROL COMMITTEE

8th May 2013

SITE VISIT DECISIONS

Item No:	01	
Application No:	13/00376/FUL	
Site Location:	The Chase, Rectory Lane, Compton Martin, Bristol	
Ward: Chew Valley South	Parish: Compton Martin	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of extensions including a first floor extension to create a 1.5 storey dwelling (Revised proposal)	
Constraints:	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Housing Development Boundary, Water Source Areas,	
Applicant:	Mr And Mrs C & J Linegar	
Expiry Date:	26th March 2013	
Case Officer:	Heather Faulkner	

DECISION PERMIT

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 All external walling and roofing materials to be used shall match those of the existing building in respect of type, size, colour, pointing, coursing, jointing, profile and texture.

Reason: In the interests of the appearance of the development and the surrounding area.

3 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 side elevations (north east or south west) 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.

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 is taken on the basis of the following drawing numbers:

Received 29th January 2013

Design and Access Statement

2012/Chase01B Location Plan

2013/Chase/03B Existing Elevations

2012/Chase04B Existing Elevations

2013/Chase06B Proposed Ground Floor Plan

2013/Chase07B Proposed First Floor Plan

2013/Chase08B Proposed Elevations

2013/Chase/09B Proposed elevations

Received 1st March 2013

2012/Chase05B Existing Floor Plan

Received 6th March 2013

2013/Chase02D Existing/Proposed Block |Plan

Received 15th March 2013

Site Plan with dimensions

REASONS FOR GRANTING APPROVAL

1 The development is considered to be of an acceptable scale, design and siting , which would preserve the character and appearance of this building and the surrounding Area of Outstanding Natural Beauty. There will be no harm to highway safety or residential amenity as a result of this development.

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.

D.2 - General design and public Realm Considerations

D.4 - Townscape considerations

NE.2 - Areas of Outstanding Natural Beauty

NE.4 - Trees and Woodland conservation

Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

Bath and North East Somerset Submission Core Strategy (May 2011)

The National Planning Policy Framework published in March 2012

DECISION TAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The applicant sought pre-application advice prior to this application being submitted. For the reasons given above the application was recommended for approval.

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BATH AND NORTH EAST SOMERSET COUNCIL

DEVELOPMENT CONTROL COMMITTEE

8th May 2013

DECISIONS

Item No:	01	
Application No:	12/05660/FUL	
Site Location:	Parcel 2866, Woolley Lane, Charlcombe, Bath	
Ward: Bathavon North	Parish: Charlcombe	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Alterations and extension to existing agricultural building; alterations to access; formation of hardstanding and farm track; construction of stock pond; siting of 2no. feed hoppers and ancillary works (Retrospective). Siting of a temporary timber cabin for an agricultural worker for a period of up to 3 years.	
Constraints:	Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Area of Outstanding Natural Beauty, Article 4, Greenbelt, Sites of Nature Conservation Imp (SN), Tree Preservation Order,	
Applicant:	Golden Valley Paddocks Limited	
Expiry Date:	6th May 2013	
Case Officer:	Gwilym Jones	

DECISION REFUSE

1 The functional need and financial justification for a temporary dwelling for an agricultural worker has not been demonstrated and the building would therefore constitute inappropriate development within the Green Belt and open countryside contrary to Policy GB.1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007, policy CP8 of the Draft Core Strategy, and para. 55 and 87 of the National Planning Policy Framework.

2 The siting of the proposed temporary dwelling in this location would detract from the appearance and openness of this part of the Green Belt and from the natural beauty and rural character of this part of the Cotswold Area of Outstanding Natural Beauty contrary to policies GB.2 and NE.1 and NE.3 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007 and policy CP6 of the Draft Core Strategy.

3 The works to the entrance to the site and the new gates installed are of an inappropriate design for this rural location and detract from the character of this part of Woolley Lane as a narrow rural lane, to the detriment of the appearance and rural character of this part of Woolley Lane and contrary to Policy NE.1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

4 The vehicle access to the site by reason of its steep gradient downwards towards the highway and inadequate visibility is likely to result in a road safety hazard and inconvenience to users of the adjoining highway, contrary to Policy T24 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

PLANS LIST:

This decision relates to Drawings 2028/002A (Plans and Elevations of Proposed Agricultural Storage Building), 2028/02 (Existing Entrance), 2028/22 (Proposed Temporary Mobile Home Floor Plans), 2028/500/A (Site Plan), 2028/501 (Section Through Stock Pond), 2028/201E (Plan and Elevations as Existing)

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant choose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No:	02	
Application No:	12/05661/FUL	
Site Location:	Parcel 2866, Woolley Lane, Charlcombe, Bath	
Ward: Bathavon North	Parish: Charlcombe	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of general purpose agricultural building	
Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Article 4, Greenbelt,	
Applicant:	Golden Valley Paddocks Limited	
Expiry Date:	22nd March 2013	
Case Officer:	Gwilym Jones	

DECISION REFUSE

1 The proposed new agricultural building by reason of its size, height and location would be visually detrimental to the Green Belt and would detract from the character of the local landscape and the natural beauty of this part of the Cotswold Area of Outstanding Natural Beauty contrary to Policy GB.2, NE.2, NE.3 and ET.6 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007 and policy CP6 of the Draft Core Strategy.

PLANS LIST:

This decision relates to Drawings 2028/DWG1 (Section as Proposed) and 2028/002 (Plan and Elevations of Proposed Agricultural Storage Building)

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant choose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No:	03	
Application No:	12/05662/FUL	
Site Location:	Parcel 2866, Woolley Lane, Charlcombe, Bath	
Ward: Bathavon North	Parish: Charlcombe	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Siting of 4no. mobile poultry units (Retrospective)	
Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Article 4, Greenbelt,	
Applicant:	Golden Valley Paddocks Limited	
Expiry Date:	30th April 2013	
Case Officer:	Gwilym Jones	

DECISION REFUSE

1 The proposed poultry units by reason of their size and materials, location and permanence would result in harm to the openness of the Green Belt and detract from the rural character and natural beauty of this part of the Cotswold Area of Outstanding Natural Beauty and the local landscape contrary to Policies GB.2, NE.1, NE.2, NE.3, ET.6 and D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007 and policy CP6 of the Draft Core Strategy.

PLANS LIST:

This decision relates to Drawings 2028/99.3 (Location Plan) and 2028/001 (Plan and Elevations of Poultry Units)

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant choose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No:	04		
Application No:	12/05663/FUL		
Site Location:	Parcel 0005 South, Woolley Lane, Charlcombe, Bath		
Ward:	Bathavon North	Parish:	Charlcombe
		LB Grade:	N/A
Application Type:	Full Application		
Proposal:	Siting of 3no. mobile poultry units (Retrospective)		
Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Article 4, Greenbelt,		
Applicant:	Golden Valley Paddocks Limited		
Expiry Date:	22nd March 2013		
Case Officer:	Gwilym Jones		

DECISION REFUSE

1 The proposed poultry units by reason of their size and materials, location and permanence would result in harm to the openness of the Green Belt and detract from the rural character and natural beauty of this part of the Cotswold Area of Outstanding Natural Beauty and the local landscape contrary to Policies GB.2, NE.1, NE.2, NE.3, ET.6 and D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007 and policy CP6 of the Draft Core Strategy.

PLANS LIST:

This decision relates to Drawings 2028/99.4 (Location Plan) and 2028/001 (Plan and Elevations of Poultry Units)

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant choose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No:	05
Application No:	12/05664/FUL
Site Location:	Parcel 0005 South, Woolley Lane, Charlcombe, Bath
Ward: Bathavon North	Parish: Charlcombe LB Grade: N/A
Application Type:	Full Application
Proposal:	Siting of 3no. mobile poultry units (Retrospective)
Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Article 4, Greenbelt,
Applicant:	Golden Valley Paddocks Limited
Expiry Date:	26th April 2013
Case Officer:	Gwilym Jones

DECISION REFUSE

1 The proposed poultry units by reason of their size and materials, location and permanence would result in harm to the openness of the Green Belt and detract from the rural character and natural beauty of this part of the Cotswold Area of Outstanding Natural Beauty and the local landscape contrary to Policies GB.2, NE.1, NE.2, NE.3, ET.6 and D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007 and policy CP6 of the Draft Core Strategy.

PLANS LIST:

This decision relates to Drawings 2028/99.5 (Location Plan) and 2028/001 (Plan and Elevations of Poultry Units)

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant choose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No:	06
Application No:	12/05315/OUT
Site Location:	Parcel 8966, Manor Road, Saltford,
Ward: Saltford	Parish: Saltford LB Grade: N/A
Application Type:	Outline Application
Proposal:	Erection of up to 99no. dwellings and associated parking on Parcel 8966 and Parcel 0064, 1 no vehicular access from Manor Road and separate pedestrian access to Manor Road, associated engineering works and the construction of 2no. car parking lay-bys on Manor Road.
Constraints:	Agric Land Class 1,2,3a, Forest of Avon, Greenbelt,
Applicant:	Crest Nicholson (South West) Ltd
Expiry Date:	6th March 2013
Case Officer:	Sarah James

DECISION REFUSE

If the Council had been in a position to make a decision on the application then the recommendation would be to REFUSE the application on the basis that the development would comprise inappropriate development within the green belt, harmful to openness, that would encroach into the countryside and for which no very special circumstances have been demonstrated that would clearly outweigh the very significant level of harm caused.

PLANS LIST:

10350/T08 B, 606, BRS.2656_11B, BRS.2656_12A, BRS.2656_13A

DECISION MAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework in that it has undergone appropriate pre-application engagement with the applicant and entered into discussions and negotiations throughout the application so as to ensure that the applicant had adequate opportunity to consider all of the issues raised.

Item No:	07
Application No:	12/04597/OUT
Site Location:	Fields North Of Orchard Park, Staunton Lane, Whitchurch, Bristol
Ward: Publow And Whitchurch	Parish: Whitchurch LB Grade: N/A
Application Type:	Outline Application
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 (Resubmission)

Constraints:	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Cycle Route, Forest of Avon, Greenbelt, Housing Development Boundary, Public Right of Way, Sites of Nature Conservation Imp (SN), Safeguarded Roads,
Applicant:	Robert Hitchins Ltd
Expiry Date:	11th January 2013
Case Officer:	Sarah James

DECISION REFUSE

1 The introduction of 295 dwellings on a site, which is currently open fields represents inappropriate development harmful to the Green Belt. It would also harm the openness of the Green Belt and it would contribute to the sprawl of Bristol, encroach into the countryside and compromise the character, identity and setting of the village of Whitchurch through closing the gap between the village and Bristol, leading to an erosion of the rural character and the visual amenity of the Green Belt. No very special circumstances have been demonstrated that outweigh the identified harm. The proposal is therefore considered contrary to policies Policy GB.1 and GB.2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) 2007 and paragraphs 88 and 89 of the National Planning Policy Framework.

2 The proposed residential development would generate a significant educational need which in the absence of any satisfactory proposals from the developer to meet that need is considered not to be satisfactorily provided for. The proposed development is therefore contrary to Policies CF3 and IMP1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007 and adopted Supplementary Planning Document Planning Obligations 2009 and paragraph 38 of the National Planning Policy Framework.

3 Inadequate information has been submitted to demonstrate that the development would not result in an unacceptable impact on the highway network and sustainable transport routes, and it is therefore contrary to Policies T.24 and T.25 of the Local Plan and paragraph 34 of the National Planning Policy Framework.

PLANS LIST:

This decision relates to the following list 189-000, 189-001 REV. C, 189-002 189-003 REV. C, 189-004, H.0250_02-12, H370/4 REV A, H.0250_01-5

Statement of proactive working

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding the advice that was provided to the applicant in connection with this current application and discussions in relation to the issues arising during the consideration of the current planning application whereby the unacceptable nature of the proposals have been clearly conveyed to the applicant, and the applicant has been offered opportunities to address the concerns and / or withdraw the proposals submitted the applicant has chosen to pursue the development in its current form and has chosen not to withdraw the application.

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

Item No:	08	
Application No:	12/05546/OUT	
Site Location:	Parcel 5400, Fosseyway South, Westfield, Midsomer Norton	
Ward: Midsomer Norton Redfield	Parish: Midsomer Norton	LB Grade: N/A
Application Type:	Outline Application	
Proposal:	Outline planning permission for up to 164 residential dwellings (C3), a 60 bed care home (C2), 200 sq m of retail/business/community space (A1/A3/B1/D1) along with 2 points of access and public open space.	
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenfield site,	
Applicant:	Strategic Land Partnerships	
Expiry Date:	4th April 2013	
Case Officer:	Daniel Stone	

DECISION

Authorise the Development Manager to Permit subject to (A) consultation with the Planning and Environmental Law Manager to enter into a S106 Agreement to secure the following;

Affordable Housing

1. The provision, on site, of 35% Affordable Housing the housing mix to be agreed in writing with Bath and North East Somerset Council

Education

2. Contributions to fund the need for primary and secondary school places and Youth Services provision places arising from the development, the amount of the contribution to be calculated prior to reserved matters consent being granted and calculated in accordance with the Supplementary Planning Document entitled Planning Obligations, adopted July 2009. The agreed contributions shall be provided prior to the commencement of development.

Open Space and Recreational Facilities

3. Contributions to fund the provision of formal open space and allotments off-site to serve the population, and fund the maintenance of any open space provided within the development, the amount of the contribution to be calculated prior to reserved matters consent being granted in accordance with the Supplementary Planning Document entitled Planning Obligations, adopted July 2009. The agreed contributions shall be paid prior to the occupation of the development. The allocation of funds within the local area will be determined by the Local Planning Authority following the determination of the application.

Transport

4. The implementation of the travel plan submitted in April 2013 in accordance with the timetable set out in Appendix C of the Travel Plan, including but not limited to the following measures:

- Up to £87,757 for a Toucan crossing over A367 and the creation of a widened footway / cycleway from the site to the new pedestrian crossing near Charlton Lane, incorporating signage to the town centre,
- £6,000 for the securing and introduction of a Traffic Regulation Order for the relocation of the 30mph speed limit on the A367
- £8,500 for the introduction of a 'gateway' feature at the location of the proposed relocated speed limit
- £25,000 per year for a period of 5 years for enhancement and ongoing operation of bus-services
- Provision of on-site bus-stop(s) including bus-shelters, timetables, raised kerbs and real-time information.
- The appointment of a Travel Plan co-ordinator to implement the measures set out in Appendix C of the Travel Plan.

5. A programme of travel monitoring (looking at modal shift) and traffic counts over a 3-year period to be assessed against agreed modal targets for travel patterns and critical thresholds for traffic levels, to be agreed by the Council. The methodology of traffic counts, reporting procedures to the Council, modal targets and critical thresholds are to be agreed. If the agreed targets are not met or thresholds are exceeded the following additional traffic demand measures are to be triggered:

- Extension of Area wide Travel Planning to include Norton Hill and Westfield at a cost of £30,000
- £10,000 towards the implementation, consultation and administration of traffic management measures along Charlton Park to combat "rat running".

and (B) upon completion of the S106 Agreement, the following conditions:

1 The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: As required by Section 92 of the Town and Country Planning Act (as amended), and to avoid the accumulation of unimplemented planning permissions.

2 Approval of the details of the (a) layout, (b) scale, (c) appearance, and (e) landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before any development is commenced.

This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Articles 1 and 3 of the General Development Procedure Order 1995 (as amended).

3 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:

- Details of native hedgerow planting and boundary treatment to provide wildlife habitat, together with details of long term wildlife friendly management specifications
- Details of all other wildlife habitat provision, native planting and ecological enhancements

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

4 Details of a surface water drainage masterplan shall be submitted to, and agreed in writing by the Local Planning Authority as part of subsequent applications for reserved matters consent. The masterplan shall be in accordance with the Flood Risk Assessment (FRA) and Addendum (prepared by Robson Liddle and dated 25th February 2013) and include details of the phasing of surface water drainage infrastructure including source control measures. The development shall be implemented in accordance with the approved scheme.

REASON:

To prevent the increased risk of flooding as a result of the development in accordance with the National Planning Policy Framework (NPPF).

5 No development shall take place on land to which reserved matters relate until the detailed drainage design for each plot, phase or parcel of land, incorporating sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, have been submitted to and approved by the LPA. The scheme shall subsequently be implemented in accordance with the approved details before the plot or parcel is completed.

REASON:

To prevent the increased risk of flooding as a result of the development in accordance with the NPPF.

6 No development shall commence until a foul water drainage strategy has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory method of foul sewage drainage and in compliance with policy ES.5 of the adopted Local Plan.

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 proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly bound and compacted footpath and carriageway to at least base course level between the dwelling and existing highway.

Reason: To ensure that the development is served by an adequate means of access.

9 The development hereby permitted shall not be occupied until the visibility splays shown on the submitted plan have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety.

10 Plans showing on-site access, parking and turning areas shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. All areas 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 development commences.

Reason: In the interests of amenity and highway safety.

11 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.

Reason: To ensure the safe operation of the highway.

12 No ground preparation or development activity shall take place until an Arboricultural Method Statement with Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority and details within that implemented as appropriate. The method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, location of site office, service run locations and movement of people and machinery.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals and to ensure that the approved method statement is complied with for the duration of the development.

13 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
 - (ii) an assessment of the potential risks to:
 - human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;
 - (iii) an appraisal of remedial options, and proposal of the preferred option(s).
- This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the

remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 13, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 14, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 15.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18 No development shall take place within the site (including any site clearance or demolition works) until the applicant, or their agents or successors in title, has produced detailed drawings of all underground works, including foundations, drainage and those of statutory undertakers, which have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, extent and depth of all excavations and these works shall be carried out and completed in accordance with details as approved.

Reason: The site is within an area of major archaeological interest and the Council will wish to protect the archaeological remains.

19 No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled excavation of all significant deposits and features, which are to be disturbed by the proposed development, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation. Thereafter the building works shall incorporate any building techniques and measures necessary to mitigate the loss or destruction of any further archaeological remains.

Reason: The site is within an area of major archaeological interest and the Council will wish record and protect the archaeological remains.

20 The development shall not be brought into use or occupied until the applicant, or their agents or successors in title, has secured the implementation of a programme of postexcavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site has produced significant archaeological findings and the Council will wish to publish or otherwise disseminate the results.

21 Prior to the commencement of development at the site details of a Construction Dust Management Plan for all works of construction and demolition shall be submitted to and approved in writing by the Local Planning Authority. The Construction Dust Management Plan shall comply with the guidance the BRE Code of Practice on the control of dust from construction and demolition activities. The details so approved shall be fully complied with during the construction of the development.

Reason: To protect the amenities of the occupants of adjacent residential properties.

PLANS LIST:

This decision relates to drawing nos:

INDICATIVE MASTERPLAN LAYOUT Drawing MP2 REV C
SITE LOCATION PLAN - OS Extract - Drawing 26126/SB002
SITE SURVEY Drawing 26126/004/SS1
SUPERSEDED PROPOSED SITE ACCESS Drawing 26126/002/002 REVISION
A

AFFORDABLE HOUSING STATEMENT Jan 2013
AIR QUALITY ASSESSMENT
ARBORICULTURAL IMPACT ASSESSMENT REPORT
ARCHAEOLOGICAL EVALUATION
ARCHAEOLOGICAL GEOPHYSICAL SURVEY
CARE HOME LETTER AND REPORT
COVERING LETTER

DESIGN AND ACCESS STATEMENT
DESK-BASED HERITAGE ASSESSMENT
DORMOUSE AND BAT HABITAT ASSESSMENT
ECOLOGICAL REPORT
ENERGY STATEMENT
ENVIRONMENTAL NOISE ASSESSMENT
FOUL DRAINAGE ASSESSMENT
LANDSCAPE AND VISUAL APPRAISAL
LEVEL 2 FLOOD RISK ASSESSMENT V5 09.01.2013
PHASE 1 GEOENVIRONMENTAL DESK STUDY
PLANNING STATEMENT
TRANSPORT ASSESSMENT REPORT
SURFACE WATER DRAINAGE SURVEY
FLOOD RISK ASSESSMENT ADDENDUM - received 25 Feb 2013

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.

Decision Taking Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in the case officer's report, a positive view of the submitted proposals was taken and consent was granted.

Reasons for Approval

Taking account of Section 38(6) of the Planning and Compulsory Purchase Act 2004, it has been concluded that the development accords with the National Planning Policy Framework - March 2012 and emerging Core Strategy policies.

The site falls outside of the adopted development boundary as defined in the adopted Local Plan. However, the authority neither has an Adopted Core Strategy or up-to-date Local Plan and as set out in the draft amended Core Strategy, the Authority is only able to demonstrate a 5-year-housing land supply by allowing additional sites to come forward outside the Development Boundary including (through amended Core Strategy policy SV1) an additional 300 dwellings in the Somer Valley.

Therefore, in accordance with the guidance in the National Planning Policy Framework the application is to be considered against the policies in the NPPF, with consent being

granted unless there are any adverse impacts in doing so that would "significantly or demonstrably outweigh the benefits of the scheme".

In this case the development would give rise to locally significant landscape harm, due to its location on an agricultural field beyond the established footprint of the settlement, and would give rise to additional traffic congestion in the vicinity of the site. However the adverse impacts of the development would not significantly or demonstrably outweigh the benefits of the scheme in terms of the delivery of housing and therefore, in accordance with national policy, the application has been approved.

Informative: Drainage Conditions

Conditions 4 - 6 inclusive have been recommended to ensure that the principles of the agreed FRA are delivered as the development comes forward. It is important that sufficient attenuation storage is provided for each phase of development and this should be clearly demonstrated in an updated FRA / masterplan which show discharge rates and SuDs control measures for each plot.

Each reserved matters application will need to demonstrate a suitable drainage scheme in accordance with the approved masterplan to allow us to recommend approval for any detailed layout proposals.

The surface water drainage scheme for the proposed development must meet the following criteria:

1. Any outflow from the site must be limited to 5l/s/ha or Greenfield run-off rates whichever is lowest.
2. The surface water drainage system must incorporate enough attenuation to deal with the surface water run-off from the site up to the critical 1% Annual Probability of Flooding (or 1 in a 100-year flood) event, including an allowance for climate change for the lifetime of the development. Drainage calculations must be included to demonstrate this (e.g. Windes or similar sewer modelling package calculations that include the necessary attenuation volume).
3. If there is any surcharge and flooding from the system, overland flood flow routes and "collection" areas on site (e.g. car parks, landscaping) must be shown on a drawing. CIRIA good practice guide for designing for exceedance in urban drainage (C635) should be used. The run-off from the site during a 1 in 100 year storm plus an allowance for climate change must be contained on the site and must not reach unsafe depths on site.

IMPORTANT:

Maintenance of the drainage infrastructure on site must be set out within a comprehensive legal agreement and any commuted sums required agreed within the outline permission. An as-built volume check of the drainage infrastructure must be undertaken once constructed because it is critical that the agreed attenuation volumes are provided for and maintained for the lifetime of the development.

The Council will need to see the following information when the applicant applies to discharge these conditions:

- o A clearly labelled drainage layout plan showing the pipe networks and attenuation. This plan should show any pipe node numbers referred to in the drainage calculations, volume of attenuation provided and the invert and cover levels of manholes.
- o A manhole schedule
- o Simulations to demonstrate how the system functions in a 1 in 100 year plus climate change storm and showing how the storage has been modelled.
- o Confirmation of the agreed discharge rate, with any flow control devices indicated on the plan with the rate of discharge stated.
- o If overland flooding occurs, a plan should also be submitted detailing the location of overland flow paths and the likely depths of flooding. A 30% allowance for climate change should be incorporated into the scheme in accordance with The NPPF.

Item No:	09	
Application No:	13/00127/OUT	
Site Location:	Parcel 5400, Fosseyway South, Westfield, Midsomer Norton	
Ward: Midsomer Norton Redfield	Parish: Midsomer Norton	LB Grade: N/A
Application Type:	Outline Application	
Proposal:	Outline planning permission for up to 165 residential dwellings (C3) and 60 bed care home (C2), 2 points of access and public open space.	
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenfield site,	
Applicant:	Strategic Land Partnerships	
Expiry Date:	15th April 2013	
Case Officer:	Daniel Stone	

DECISION

Authorise the Development Manager to Permit subject to (A) consultation with the Planning and Environmental Law Manager to enter into a S106 Agreement to secure the following;

Affordable Housing

1. The provision, on site, of 35% Affordable Housing the housing mix to be agreed in writing with Bath and North East Somerset Council

Education

2. Contributions to fund the need for primary and secondary school places and Youth Services provision places arising from the development, the amount of the contribution to be calculated prior to reserved matters consent being granted and calculated in accordance with the Supplementary Planning Document entitled Planning Obligations,

adopted July 2009. The agreed contributions shall be provided prior to the commencement of development.

Open Space and Recreational Facilities

3. Contributions to fund the provision of formal open space and allotments off-site to serve the population, and fund the maintenance of any open space provided within the development, the amount of the contribution to be calculated prior to reserved matters consent being granted in accordance with the Supplementary Planning Document entitled Planning Obligations, adopted July 2009. The agreed contributions shall be paid prior to the occupation of the development. The allocation of funds within the local area will be determined by the Local Planning Authority following the determination of the application.

Transport

4. The implementation of the travel plan submitted in April 2013 in accordance with the timetable set out in Appendix C of the Travel Plan, including but not limited to the following measures:

- Up to £87,757 for a Toucan crossing over A367 and the creation of a widened footway / cycleway from the site to the new pedestrian crossing near Charlton Lane, incorporating signage to the town centre,
- £6,000 for the securing and introduction of a Traffic Regulation Order for the relocation of the 30mph speed limit on the A367
- £8,500 for the introduction of a 'gateway' feature at the location of the proposed relocated speed limit
- £25,000 per year for a period of 5 years for enhancement and ongoing operation of bus-services
- Provision of on-site bus-stop(s) including bus-shelters, timetables, raised kerbs and real-time information.
- The appointment of a Travel Plan co-ordinator to implement the measures set out in Appendix C of the Travel Plan.

5. A programme of travel monitoring (looking at modal shift) and traffic counts over a 3-year period to be assessed against agreed modal targets for travel patterns and critical thresholds for traffic levels, to be agreed by the Council. The methodology of traffic counts, reporting procedures to the Council, modal targets and critical thresholds are to be agreed. If the agreed targets are not met or thresholds are exceeded the following additional traffic demand measures are to be triggered:

- Extension of Area wide Travel Planning to include Norton Hill and Westfield at a cost of £30,000
- £10,000 towards the implementation, consultation and administration of traffic management measures along Charlton Park to combat "rat running"

and (B) upon completion of the S106 Agreement, the following conditions:

1 The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: As required by Section 92 of the Town and Country Planning Act (as amended), and to avoid the accumulation of unimplemented planning permissions.

2 Approval of the details of the (a) layout, (b) scale, (c) appearance, and (e) landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before any development is commenced.

This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Articles 1 and 3 of the General Development Procedure Order 1995 (as amended).

3 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:

- Details of native hedgerow planting and boundary treatment to provide wildlife habitat, together with details of long term wildlife friendly management specifications
- Details of all other wildlife habitat provision, native planting and ecological enhancements

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

4 Details of a surface water drainage masterplan shall be submitted to, and agreed in writing by the Local Planning Authority as part of subsequent applications for reserved matters consent. The masterplan shall be in accordance with the Flood Risk Assessment (FRA) and Addendum (prepared by Robson Liddle and dated 25th February 2013) and include details of the phasing of surface water drainage infrastructure including source control measures. The development shall be implemented in accordance with the approved scheme.

REASON:

To prevent the increased risk of flooding as a result of the development in accordance with the National Planning Policy Framework (NPPF).

5 No development shall take place on land to which reserved matters relate until the detailed drainage design for each plot, phase or parcel of land, incorporating sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development, have been submitted to and approved by the LPA. The scheme shall

subsequently be implemented in accordance with the approved details before the plot or parcel is completed.

REASON:

To prevent the increased risk of flooding as a result of the development in accordance with the NPPF.

6 No development shall commence until a foul water drainage strategy has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a satisfactory method of foul sewage drainage and in compliance with policy ES.5 of the adopted Local Plan.

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 proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly bound and compacted footpath and carriageway to at least base course level between the dwelling and existing highway.

Reason: To ensure that the development is served by an adequate means of access.

9 The development hereby permitted shall not be occupied until the visibility splays shown on the submitted plan have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety.

10 Plans showing on-site access, parking and turning areas shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. All areas 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 development commences.

Reason: In the interests of amenity and highway safety.

11 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.

Reason: To ensure the safe operation of the highway.

12 No ground preparation or development activity shall take place until an Arboricultural Method Statement with Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority and details within that implemented as appropriate. The method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, location of site office, service run locations and movement of people and machinery.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals and to ensure that the approved method statement is complied with for the duration of the development.

13 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 13, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 14, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 15.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the LPA, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18 No development shall take place within the site (including any site clearance or demolition works) until the applicant, or their agents or successors in title, has produced detailed drawings of all underground works, including foundations, drainage and those of statutory undertakers, which have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, extent and depth of all excavations and these works shall be carried out and completed in accordance with details as approved.

Reason: The site is within an area of major archaeological interest and the Council will wish to protect the archaeological remains.

19 No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled excavation of all significant deposits and features, which are to be disturbed by the proposed development, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation. Thereafter the building works shall incorporate any building techniques and measures necessary to mitigate the loss or destruction of any further archaeological remains.

Reason: The site is within an area of major archaeological interest and the Council will wish record and protect the archaeological remains.

20 The development shall not be brought into use or occupied until the applicant, or their agents or successors in title, has secured the implementation of a programme of postexcavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site has produced significant archaeological findings and the Council will wish to publish or otherwise disseminate the results.

21 Prior to the commencement of development at the site details of a Construction Dust Management Plan for all works of construction and demolition shall be submitted to and approved in writing by the Local Planning Authority. The Construction Dust Management Plan shall comply with the guidance the BRE Code of Practice on the control of dust from construction and demolition activities. The details so approved shall be fully complied with during the construction of the development.

Reason: To protect the amenities of the occupants of adjacent residential properties.

PLANS LIST:

This decision relates to drawing nos:

INDICATIVE MASTERPLAN LAYOUT Drawing MP2 REV C
SITE LOCATION PLAN - OS Extract - Drawing 26126/SB002
SITE SURVEY Drawing 26126/004/SS1
SUPERSEDED PROPOSED SITE ACCESS Drawing 26126/002/002 REVISION
A

AFFORDABLE HOUSING STATEMENT Jan 2013
AIR QUALITY ASSESSMENT
ARBORICULTURAL IMPACT ASSESSMENT REPORT
ARCHAEOLOGICAL EVALUATION
ARCHAEOLOGICAL GEOPHYSICAL SURVEY
CARE HOME LETTER AND REPORT
COVERING LETTER
DESIGN AND ACCESS STATEMENT
DESK-BASED HERITAGE ASSESSMENT
DORMOUSE AND BAT HABITAT ASSESSMENT
ECOLOGICAL REPORT
ENERGY STATEMENT
ENVIRONMENTAL NOISE ASSESSMENT
FOUL DRAINAGE ASSESSMENT
LANDSCAPE AND VISUAL APPRAISAL
LEVEL 2 FLOOD RISK ASSESSMENT V5 09.01.2013
PHASE 1 GEOENVIRONMENTAL DESK STUDY
PLANNING STATEMENT
TRANSPORT ASSESSMENT REPORT
SURFACE WATER DRAINAGE SURVEY
FLOOD RISK ASSESSMENT ADDENDUM - received 25 Feb 2013

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.

Decision Taking Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in the case officer's report, a positive view of the submitted proposals was taken and consent was granted.

Reasons for Approval

Taking account of Section 38(6) of the Planning and Compulsory Purchase Act 2004, it has been concluded that the development accords with the National Planning Policy Framework - March 2012 and emerging Core Strategy policies.

The site falls outside of the adopted development boundary as defined in the adopted Local Plan. However, the authority neither has an Adopted Core Strategy or up-to-date Local Plan and as set out in the draft amended Core Strategy, the Authority is only able to demonstrate a 5-year-housing land supply by allowing additional sites to come forward outside the Development Boundary including (through amended Core Strategy policy SV1) an additional 300 dwellings in the Somer Valley.

Therefore, in accordance with the guidance in the National Planning Policy Framework the application is to be considered against the policies in the NPPF, with consent being granted unless there are any adverse impacts in doing so that would "significantly or demonstrably outweigh the benefits of the scheme".

In this case the development would give rise to locally significant landscape harm, due to its location on an agricultural field beyond the established footprint of the settlement, and would give rise to additional traffic congestion in the vicinity of the site. However the adverse impacts of the development would not significantly or demonstrably outweigh the benefits of the scheme in terms of the delivery of housing and therefore, in accordance with national policy, the application has been approved.

Informative: Drainage Conditions

Conditions 4 - 6 inclusive have been recommended to ensure that the principles of the agreed FRA are delivered as the development comes forward. It is important that sufficient attenuation storage is provided for each phase of development and this should be clearly demonstrated in an updated FRA / masterplan which show discharge rates and SuDs control measures for each plot.

Each reserved matters application will need to demonstrate a suitable drainage scheme in accordance with the approved masterplan to allow us to recommend approval for any detailed layout proposals.

The surface water drainage scheme for the proposed development must meet the following criteria:

1. Any outflow from the site must be limited to 5l/s/ha or Greenfield run-off rates whichever is lowest.
2. The surface water drainage system must incorporate enough attenuation to deal with the surface water run-off from the site up to the critical 1% Annual Probability of Flooding (or 1 in a 100-year flood) event, including an allowance for climate change for the lifetime of the development. Drainage calculations must be included to demonstrate this (e.g. Windes or similar sewer modelling package calculations that include the necessary attenuation volume).
3. If there is any surcharge and flooding from the system, overland flood flow routes and "collection" areas on site (e.g. car parks, landscaping) must be shown on a drawing. CIRIA good practice guide for designing for exceedance in urban drainage (C635) should be

used. The run-off from the site during a 1 in 100 year storm plus an allowance for climate change must be contained on the site and must not reach unsafe depths on site.

IMPORTANT:

Maintenance of the drainage infrastructure on site must be set out within a comprehensive legal agreement and any commuted sums required agreed within the outline permission. An as-built volume check of the drainage infrastructure must be undertaken once constructed because it is critical that the agreed attenuation volumes are provided for and maintained for the lifetime of the development.

We will need to see the following information when the applicant applies to discharge these conditions:

- o A clearly labelled drainage layout plan showing the pipe networks and attenuation. This plan should show any pipe node numbers referred to in the drainage calculations, volume of attenuation provided and the invert and cover levels of manholes.
- o A manhole schedule
- o Simulations to demonstrate how the system functions in a 1 in 100 year plus climate change storm and showing how the storage has been modelled.
- o Confirmation of the agreed discharge rate, with any flow control devices indicated on the plan with the rate of discharge stated.
- o If overland flooding occurs, a plan should also be submitted detailing the location of overland flow paths and the likely depths of flooding. A 30% allowance for climate change should be incorporated into the scheme in accordance with The NPPF.

Item No:	10	
Application No:	12/04590/OUT	
Site Location:	Parcel 0025, Monger Lane, Welton, Midsomer Norton	
Ward: Midsomer Norton North	Parish: Midsomer Norton	LB Grade: N/A
Application Type:	Outline Application	
Proposal:	Residential development comprising up to 135 dwellings, vehicular access from Monger Lane, public open space, and other associated infrastructure	
Constraints:	Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Coal - Referral Area, Forest of Avon, Public Right of Way,	
Applicant:	Taylor Wimpey	
Expiry Date:	14th February 2013	
Case Officer:	Rachel Tadman	

DECISION REFUSE

1 The site of the proposed development forms part of a visually important hillside with a traditional rural character on the edge of Midsomer Norton that should be protected from development. The proposed development would have a suburbanising impact on the prominent hillside and the associated works to Monger Lane would also significantly

detract from and have a harmful impact on the rural character of the application site which is contrary to Policies NE.1, NE.3, D.2 and D.4 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007 and the provisions of the National Planning Policy Framework.

2 The proposed development will introduce additional traffic onto the existing rural highway network immediately surrounding the site which will result in increased traffic congestion and risk to highway safety. This is contrary to Policy T.24 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007 and the provisions of the National Planning Policy Framework.

3 The location of the development site is unsustainable being remote from local bus routes and lacking safe pedestrian routes to local schools. This is contrary to Policies T.1, T.3 and T.24 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007 and the provisions of the National Planning Policy Framework.

4 The proposed development would be likely to have an adverse effect on existing flooding within the local area including the neighbouring Thicket Mead development. This is contrary to the guidance within the National Planning Policy Framework and its associated technical guide

PLANS LIST:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The application was considered by the Development Control Committee and Members took the view that the proposal was unacceptable for the above reasons and in order to ensure a swift decision the application was refused.

Item No:	11	
Application No:	13/00689/FUL	
Site Location:	The Glebe, Church Hill, High Littleton, Bristol	
Ward: High Littleton	Parish: High Littleton	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Conversion and extension of garage for form family room, new entry hall, bathroom, garage and attic storage following removal of carport and provision of a pitched roof to existing open oil storage tank.	
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Coal - Referral Area, Forest of Avon, Housing Development Boundary, Tree Preservation Order,	
Applicant:	Mr R P Hooke	
Expiry Date:	11th April 2013	
Case Officer:	Heather Faulkner	

DECISION Delegate to PERMIT

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 take place until an arboricultural method statement with tree protection plan identifying measures to protect the neighbouring Yew trees, has been submitted to and approved in writing by the Local Planning Authority. The statement shall include a schedule of proposed tree works, protection measures during site preparation and construction and confirmation of the use of pile and beam foundations. The statement should also include the control of potentially harmful operations such as the position of service runs and soakaways, storage, handling and mixing of materials on site and movement of people and machinery.

Reason: To ensure that no excavation, tipping, burning, storing of materials or any other activity takes place which would adversely affect the neighbouring trees.

3 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.

4 All external walling and roofing materials to be used shall match those of the existing building in respect of type, size, colour, pointing, coursing, jointing, profile and texture.

Reason: In the interests of the appearance of the development and the surrounding area.

5 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 all received on 14th February 2013:
Site Location Plan, RPH/01, RPH/02, RPH/03, RPH/04, RPH/05 and RPH/06.

DECISION TAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The application was application was presented to the committee and subsequently approved.

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.

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.decc.gov.uk

Item No:	12	
Application No:	13/00690/FUL	
Site Location:	The Hay Barn, Camerton Hill, Camerton, Bath	
Ward: Bathavon West	Parish: Camerton	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Increase in roof pitch and ridge height, insertion of 5no. conservation rooflights, new door and window opening on the South West elevation and internal reorganisation to provide 4no. bedroomed holiday accommodation (Retrospective).	
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Listed Building,	
Applicant:	John Scott Builders (Somerset) Ltd	
Expiry Date:	12th April 2013	
Case Officer:	Heather Faulkner	

DECISION PERMIT

1 The development hereby approved shall not be occupied other than for the purposes of holiday lets or other short term lettings and shall not be used by the same person for more than 3 months duration, or any other period as may be first approved in writing by the Local Planning Authority. Written records of lettings and occupiers shall be made available for inspection by the Local Planning Authority up to three times in a calendar year within 7 days of a written request.

Reason : The buildings are by reason of their close position to one another, lack of suitable parking and access arrangements are unsuitable for permanent residential use.

2 Before the accommodation hereby approved is first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed between the public highway and the proposed parking area, details of which shall have first been submitted to the Local Planning Authority for approval.

Reason: In the interests of highway safety.

3 Before the accommodation hereby approved is first occupied provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the public highway, details of which shall have first been submitted to the Local Planning Authority for approval.

Reason: In the interests of highway safety.

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 following drawings and documents all received on 15th February 2013:

Approved Drawings

1119/01

1119/10

1119/11

1119/12

119/13

Planning Statement

Previously approved drawing for information

825/4C

REASONS FOR GRANTING APPROVAL:

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.

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.

The proposed development would not materially affect the amenities of the neighbours or result in any detrimental impact on the character of the area and would not significantly harm any interests of acknowledged importance.

Therefore the proposed development accords with Policies BH.2, BH.4, ET.8, ET.9, T.1, T.24, D.2 & D.4 Bath & North East Somerset Local Plan including waste and Minerals Policies 2007.

DECISION TAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given and expanded upon in the related case officer's report a positive view of the proposals was taken and the application approved.

Item No:	13	
Application No:	13/00691/LBA	
Site Location:	The Hay Barn, Camerton Hill, Camerton, Bath	
Ward: Bathavon West	Parish: Camerton	LB Grade: N/A
Application Type:	Listed Building Consent (Alts/exts)	
Proposal:	Internal and external alterations for the increase in roof pitch and ridge height, insertion of 5no. conservation rooflights, new door and window opening on the South West elevation and internal reorganisation to provide 4no. bedroomed holiday accommodation (Regularisation).	
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Listed Building,	
Applicant:	John Scott Builders (Somerset) Ltd	
Expiry Date:	16th May 2013	
Case Officer:	Heather Faulkner	

DECISION CONSENT

1 At no time shall any flues, vents, meter boxes or other fixtures be attached to the exterior of the building other than those approved as part of this permission, without the prior approval in writing by the Local Planning Authority.

Reason: To enable the Local Planning Authority to be satisfied with the completed appearance of the building.

2 There shall be no external meter boxes whatsoever. The position of meter units internally shall be submitted to and approved by the Local Planning Authority and shall

once agreed be implemented and maintained in strict accordance with these details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting the character of the Listed Building.

3 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 and documents all received on 15th February 2013:

Approved Drawings

1119/01

1119/10

1119/11

1119/12

119/13

119/14

1119 Images

Planning Statement

Previously approved drawing for information
825/4C

REASONS FOR GRANTING CONSENT

The decision to grant consent subject to conditions has been made in accordance with Planning (Listed Buildings o& Conservation Areas) Act 1990 and Government Policy: Section 12 'Conserving and enhancing the historic environment' of the National Planning Policy Framework, which sets out the government's high-level policies concerning heritage and sustainable development; the Historic Environment Planning Practice Guide published jointly by CLG, DCMS and English Heritage, which provides more detailed advice with regard to alterations to listed buildings, development in conservation areas and world heritage sites, and in light of views of third parties. The Council regards that the proposal because of its location, design, detailing and use of materials preserves the building and its features of special architectural or historic interest.

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in the related case officer's report a positive view of the revised proposals was taken and consent was granted.

Item No:	14
Application No:	12/04318/OUT

Site Location:	Land Between Old Lane And Conygre Brook, Old Lane, Farmborough, Bath		
Ward:	Farmborough	Parish:	Farmborough
		LB Grade:	N/A
Application Type:	Outline Application		
Proposal:	Erection of 12no dwellings and construction of vehicular and pedestrian accesses following demolition of bungalow		
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary, Sites of Nature Conservation Imp (SN),		
Applicant:	The Executors Of The Estate Of The Late Miss M R James		
Expiry Date:	31st January 2013		
Case Officer:	Jonathan Fletcher		

DECISION DEFER consideration to allow members to visit the site to view the application site in context to the surroundings.

Item No:	15		
Application No:	12/05105/FUL		
Site Location:	Parcel 0087, Walley Lane, Chew Magna, Bristol		
Ward:	Chew Valley North	Parish:	Chew Magna
		LB Grade:	N/A
Application Type:	Full Application		
Proposal:	Change of use of field from agriculture to equestrian and erection of block of 4no stables (Resubmission)		
Constraints:	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt, Public Right of Way, Water Source Areas,		
Applicant:	Mr David Baron		
Expiry Date:	26th February 2013		
Case Officer:	Richard Stott		

DECISION REFUSE

1 The proposed material change of use of the land from its use as agriculture, to recreational use (equestrian), in the absence of very special circumstances to outweigh any harm to the Green Belt, would comprise inappropriate development within the Green Belt which is, by definition, harmful and therefore unacceptable in principle. The proposed material change of use of the land is contrary to Chapter 9 of the National Planning Policy Framework, 2012.

PLANS LIST:

This decision relates to the Design and Access Statement, Floor Risk Assessment, Agricultural Appraisal, Site Location Plan and drawings 1571A and 1572A date stamped 19th November 2012 and to the gable elevation drawings date stamped 27th November 2012.

DECISION TAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework.

Item No:	16	
Application No:	12/05281/FUL	
Site Location:	Bubblers Dytch, High Street, Wellow, Bath	
Ward: Bathavon South	Parish: Wellow	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of 2no detached two storey houses with attached garages following demolition of existing single storey house (Resubmission).	
Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt, Housing Development Boundary,	
Applicant:	Hesketh Ventures Ltd	
Expiry Date:	28th February 2013	
Case Officer:	Tessa Hampden	

DECISION Withdrawn from agenda pending submission of a further bat survey.

Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	5th June 2013
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)
TITLE:	APPLICATIONS FOR PLANNING PERMISSION – SITE VISITS
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	12/04318/OUT 31 January 2013	The Executors Of The Estate Of The Late Miss M R James Land Between Old Lane And Conygre Brook, Old Lane, Farmborough, Bath, Erection of 12no dwellings and construction of vehicular and pedestrian accesses following demolition of bungalow	Farmborough	Jonathan Fletcher	Delegate to PERMIT

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

Item No: 01
Application No: 12/04318/OUT
Site Location: Land Between Old Lane And Conygre Brook Old Lane Farmborough Bath



Ward: Farmborough **Parish:** Farmborough **LB Grade:** N/A
Ward Members: Councillor S Davis
Application Type: Outline Application
Proposal: Erection of 12no dwellings and construction of vehicular and pedestrian accesses following demolition of bungalow
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary, Sites of Nature Conservation Imp (SN),
Applicant: The Executors Of The Estate Of The Late Miss M R James
Expiry Date: 31st January 2013
Case Officer: Jonathan Fletcher

REPORT

REASON FOR REPORTING THE APPLICATION TO COMMITTEE: The consultation response from Farmborough Parish Council raises an objection to the application and a request has been received from Councillor Sally Davis for the application to be referred to the Development Control Committee (DCC) if officers are minded to approve. The Chair has agreed for the item to be considered by the DCC.

This application was considered by the Committee at its meeting on 08 May 2013 however the application was deferred in order to allow members to undertake a site visit.

DESCRIPTION OF SITE AND APPLICATION: The application relates to a site located within the Farmborough housing development boundary. The site forms part of a large open field which is bounded by residential development to the north, west and south. The application seeks outline planning permission for the erection of twelve dwellings and the construction of an access road. The layout, appearance and landscaping are indicated to be reserved matters with access and scale to be determined at this stage.

The development is comprised of a mixture of single storey, two storey and split level dwellings. An existing access from Old Lane is proposed to be altered to serve ten dwellings with the two remaining dwellings fronting onto Bridge Gardens to the south boundary of the site. There is a single storey detached dwelling located to the west of the access from Old Lane which is proposed to be demolished to accommodate the layout of the development.

RELEVANT PLANNING HISTORY:

11/05112/OUT - RF - 6 February 2012 - Erection of 8no. bungalows and construction of access.

11/05123/OUT - RF - 8 February 2012 - Erection of 2no. dwellings and formation of access (adjacent to 13 Bridge Gardens).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSULTATIONS AND REPRESENTATIONS:

Affordable Housing: The development generates an affordable housing contribution of 4 dwellings which should be secured by legal agreement.

Arboricultural Officer: The revised layout of the site is welcomed with the retention of T7 and T10. A Tree Preservation Order has since been made on T7 (Walnut). No objection is raised to the proposal subject to a condition to secure an Arboricultural Method Statement.

Ecologist: The information submitted indicates that no European Protected Species licence is needed for this proposal with respect to bats and the proposal would not cause harm to otters. No objection is raised to the proposal subject to a condition to secure a Wildlife Protection and Enhancement Scheme.

Environment Agency: No comments

Environmental Health Officer: No objection is raised to the proposal subject to a condition to ensure appropriate sound attenuation measures are incorporated into the development.

Flood Risk Management Technician: A surface water drainage strategy following Sustainable Drainage (SuDS) principles should be submitted to support the application.

Highway Development Officer: The new access incorporating a 'left out only' arrangement is considered to be sufficient to serve 10 dwellings. The impact of the addition of two dwellings on Bridge Gardens is not considered to be significant. No objection is therefore raised to the development subject to five conditions relating to layout, surfacing materials, off-street parking and turning provision, retention of garages and management of the construction phase of the development.

Landscape Architect: The revised scheme is considered to provide a better use of the available land and the footpath is welcomed. No objection is raised to the proposal subject to conditions to secure a landscape scheme and tree protection measures.

Parks and Open Spaces: A contribution of £20,220.75 is sought for formal open space provision and £921.69 for allotment provision.

Urban Designer: The level of development being proposed is considered to create potential issues in relation to residential amenity. Landscape boundaries would need to be considered in light of these issues. The more comprehensive approach to the development of the site is considered to create an improved indicative landscape strategy.

Wessex Water: Waste water connections will be required from Wessex Water to serve the proposed development. It is recommended that the applicant contacts Wessex Water Sewer Protection Team for further advice in relation to the relocation of the sewer.

Representations: 46 representations have been received in objection to the application which raise concern in relation to;

- the unsustainable location of the site
- the loss of an open space/amenity land
- highway safety
- residential amenity
- the visual impact of the development
- flood risk
- drainage
- access to mains services
- ecology
- over supply of housing within the village
- the provision for waste collection.

POLICIES/LEGISLATION

Bath and North East Somerset Local Plan (including minerals and waste policies) - adopted October 2007.

The following policies are relevant in this case:

SC.1: Settlement classification

HG.4: Residential development in the urban areas and R.1 settlements
HG.8: Affordable housing on allocated and large windfall sites
D.2: General design and public realm considerations
D.4: Townscape considerations
T.24: General development control and access policy
T.26: On-site parking provision
NE.1: Landscape character
NE.4: Flood Risk
SR.3: Provision of recreational facilities to meet the needs of new development
BH.15: Visually important open spaces

Bath & North East Somerset Draft Core Strategy December 2010

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. However for those policies concerning housing given the significant unresolved objections in respect of housing only limited weight is attached to these policies.

The following policies are relevant in this case:

RA2: Development in Villages outside the Green Belt not meeting Policy RA1 Criteria
CP5: Flood Risk Management
CP6: Environmental Quality
CP9: Affordable Housing
CP10: Housing Mix

National Planning Policy Framework (NPPF) - March 2012

The NPPF guidance in respect of the issues which this particular application raises does not conflict with the Local Plan policies set out above.

OFFICER ASSESSMENT

INTRODUCTION: The primary issues to consider when determining this application relate to the principle of new residential development in this location, the visual impact of the development, highway safety, residential amenity, affordable housing and ecology. The application site was previously divided into two sites with planning permission being sought for two dwellings on Bridge Gardens and eight dwellings accessed from Old Lane. Both applications were refused due to concerns relating to urban design, residential amenity, landscaping and the lack of affordable housing. The current application seeks to overcome these concerns through a comprehensive approach to the development of both sites within a single site boundary.

PRINCIPLE OF THE DEVELOPMENT: The site lies within the Farmborough housing development boundary and policy HG.4 of the Local Plan confirms that new residential development is acceptable in principle in this location. The representations which have been submitted draw attention to the criteria set out in policy RA1 of the draft Core Strategy which requires a village to possess three key facilities in order to accommodate

new development in and adjoining the housing development boundary. Firstly, it should be noted that this document can only be given limited weight as it is not adopted and does not therefore form part of the development plan for Bath and North East Somerset. It is recognised however that Farmborough does not meet the criteria of policy RA1 as there is currently no local convenience shop or post office within the village. Policy RA2 should therefore be considered instead which confirms that new residential development is acceptable in principle within the housing development boundary.

It should be noted that residential development on other sites within Bath and North East Somerset which fall outside of housing development boundaries are currently being considered on the basis of the presumption in favour of sustainable development, as set out in the NPPF unless restrictive designations dictate otherwise. Although the Local Plan policies relating to housing development boundaries are not considered to be up-to-date for the purposes of the assessment within the NPPF, the current proposal does not represent a departure from these Local Plan policies and the provision of housing is in line with a key aim of the NPPF therefore the principle of development does not need to be considered on this basis. The delivery of housing is however a key material consideration which can be taken into account when determining the application.

VISUAL IMPACT: The application site forms part of an open field which is bounded by residential development to the north, south and west. The ten dwellings proposed to the upper part of the site would be closely related to the properties located to the north of the application site on Bath Road which are predominantly two storey buildings, constructed from natural rubble stone. The application site is also bounded to the east by the curtilage of two properties which have recently been completed following planning permission being granted in 2010 (ref: 09/04896/FUL). The topography of the surrounding landscape slopes down from north to south and the development area for the ten dwellings has been defined in response to these contours utilising the plateau to the northwest corner. The two dwellings to the south of the site would be constructed between the existing rows of properties on Bridge Gardens and Bellifants.

A key consideration in relation to this proposal is the value of retaining this field as undeveloped land due to its importance as an open space in accordance with policy BH.15. This land was previously designated as a visually important open space under the Wansdyke Local Plan however, following the comments set out in the Inspector's Report for the Bath and North East Somerset Local Plan Inquiry, such sites under policy BH.15 must now be assessed on a case-by-case basis. In this instance the open field is deemed to be a significant characteristic of this part of the village and therefore careful consideration has been given to the impact of the proposed development in this regard. The Council's Landscape Architect has raised particular concern in relation to the loss of open space adjacent to Timsbury Road however a development within the red line boundary set out in this application is deemed to be less contentious. These properties would be contained between the existing residential development surrounding the site and would be sufficiently separated from the remaining undeveloped section of the field by virtue of the topography of the landscape. The proposal is not therefore deemed to be contrary to policy BH.15 in that the application site does not form part of a visually important open space.

Concern was raised in relation to the two previous applications regarding the lack of a comprehensive approach to the development of the site with reference to the fact that the

area within the blue line is entirely under the ownership of the applicant. The revised scheme has been submitted under a single application with a red line boundary incorporating all twelve dwellings and a landscaped footpath. This approach would support an improved layout which would facilitate connectivity for pedestrian movement through the site and an appropriate landscape setting. It should be noted however that layout and landscaping are reserved matters which would need to be given further consideration under a subsequent application. It is recommended that conditions are attached at this stage to secure the provision of a landscape scheme incorporating the footpath.

The scale of the development proposed is considered to be acceptable in this context. The Council's Urban Designer has noted that the incorporation of two storey buildings on the upper part of the site would not harm local character. The demolition of the existing bungalow on the site and the rerouting of the sewer line provides greater flexibility to form the curtilages of the ten properties to the north of the site. The scale of the two dwellings fronting onto Bellifants would be consistent with the existing properties adjacent to the site. The layout, appearance and landscaping of the development will be critical in assessing the visual impact of the final scheme which there will be an opportunity to revisit at reserved matters stage. An appropriate pallet of materials would be expected which respond to the properties surrounding the application site.

Although further details will need to be considered in relation to the layout, appearance and landscaping for the development, the scale of the dwellings proposed is deemed to be acceptable at this stage.

HIGHWAY SAFETY: A number of concerns have been raised through the consultation process for the previous and current applications in relation to the impact of the development on highway safety. The Council's Highway Development Officer has undertaken an assessment of the revised proposal and has concluded that the proposed access arrangement, which is to be determined at outline stage, would be acceptable to serve the development.

It is recognised that the junction of Old Lane onto Timsbury Road provides a substandard level of visibility for vehicles egressing at this point and therefore the intensified use of this junction could not be supported. The junction of Old Lane onto the A39, Bath Road meets current design standards and could accommodate additional traffic movements. The application has been submitted with a left turn only egress from the application site in order to force traffic to use the junction to the west onto the A39. This would need to be supported by a Traffic Regulation Order. The increase in the number of dwellings from eight to ten which would be served by this access is considered to be acceptable given that the existing bungalow would be demolished.

The impact of the vehicular movements created by the two dwellings to the south of the site would not be significant in terms of the operation of Bridge Gardens and Bellifants. The majority of the existing properties benefit from at least two parking spaces and consequently the demand for on-street parking does not adversely impact on road safety.

RESIDENTIAL AMENITY: The representations which have been received through the consultation process for the previous and current applications have raised concern in relation to the loss of privacy and the increased levels of disturbance which would be

created by the development. The introduction of two storey development has increased the potential for overlooking and indeed the Council's Urban Designer has recommended that the proposal is not acceptable in its current form on this basis. As noted above however, the rerouting of the sewer line would allow greater flexibility for the layout of the site. The previous application for eight dwellings was refused on the basis of the proximity of Plot 4 to Rose Cottage located to the north of site. The indicative layout which has been provided includes annotations to demonstrate the outlooks from the primary habitable rooms of the proposed dwellings. The restriction of windows to specific elevations and a commitment to achieving adequate separation distances between the existing and proposed properties could ensure that overlooking is prevented. Moreover, it may be necessary to reduce the level of two storey development where overlooking is unavoidable from individual plots once the floorplans are available for consideration.

The indicative layout is considered to be sufficient to demonstrate that a finalised scheme could be formulated to prevent an adverse impact on residential amenity. Separation distances of at least 20m would be maintained from the adjacent dwellings to the north and south of the site where there is an outlook from a primary habitable room. Plot 6 would be located 16m from the adjacent property and consequently two storey development is unlikely to be acceptable in this area. In general terms it is noted that the proposed layout is however heavily reliant on the limitation of windows to certain elevations and the orientation of properties to achieve outlooks at an oblique angle. These issues would need to be given careful assessment under a subsequent application for reserved matters, the siting of windows being considered under appearance and the siting of buildings under layout.

It is considered to be necessary to remove permitted development rights for extensions and alterations to the dwellings given that the development will be reliant on restricting outlooks to certain elevations and maintaining separation distances.

The Council's Environmental Health Officer raised an objection to the previous applications based on the lack of a noise survey. The current application is supported by a noise assessment which demonstrates the site falls into noise exposure category C and consequently it is recommended that sound attenuation measures are secured by condition.

The wider issues which have been raised in relation to the level of disturbance created by the development are not considered to be sufficient to warrant a refusal of the application. The level of noise generated by a residential development of this density would not exceed levels which are to be expected in this context. The site is capable of providing adequate facilities for refuse collection and this issue could also be addressed by condition.

ECOLOGY: A Phase 1 Habitat Survey has been provided which confirms that the demolition of the existing bungalow would not have an adverse impact on bats. An updated survey was provided in response to a representation indicating that an otter had been sighted in the area which concluded that the adjacent brook is not a suitable habitat for otters.

PLANNING OBLIGATIONS: The previous applications were refused as the proposals amounted to the piecemeal development of the site which circumvented the requirement

for affordable housing. The current application for a net development of eleven dwellings on a site area of over 0.5 hectares would generate an affordable housing requirement of four dwellings. This is recognised in the heads of terms provided with the application. Further contributions of £21142.44 are sought in relation to the enhancement of existing open space and allotment provision.

A request has been received from the Council's Highway Development Officer for a contribution of £36002.74 for strategic highways works to fund transport schemes within Bath. These contributions are sought on the basis that a proportion of the future occupiers of the site are likely to regularly travel to Bath which would place demand on transport services within the City. The tests set out in The Community Infrastructure Levy Regulations 2012 require that planning obligations must be; necessary to make the development acceptable in planning terms, directly related to the development; and fairly and reasonably related in scale and kind to the development. In this instance the provision of transport scheme are not considered to be directly related to the development and consequently a contribution would not be necessary to make the development acceptable in planning terms. It is therefore not deemed to be reasonable to request this contribution. Aside from the strategic highways contributions, the local works relating to clearance and kerbing of the north side of Old Lane opposite the access to the development are considered to be appropriate.

CONCLUSION: In light of the points raised above the proposal for outline planning permission is considered to be acceptable and is recommended for approval. The issues relating to residential amenity could be reassessed under a subsequent application for reserved matters. Financial contributions would be sought on the basis of a section 106 legal agreement as set out in the heads of terms below.

RECOMMENDATION

Authorise the Development Manager, in consultation with the Planning and Environmental Law Manager, to enter into a section 106 agreement to secure the following:

1. Transport

Clearance and kerbing of the north side of Old Lane, from opposite the access to the development towards its junction with the A39, to maximise the carriageway width.

2. Affordable Housing

The provision, on site, of 35% Affordable Housing the housing mix to be agreed in writing with Bath and North East Somerset Council.

3. Open Space and Recreational Facilities

£20,220.75 to fund the enhancement of existing open space provision.

£921.69 to fund the enhancement of existing allotment provision.

and grant permission subject to the following conditions:

1 The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: As required by Section 92 of the Town and Country Planning Act (as amended), and to avoid the accumulation of unimplemented planning permissions.

2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

3 Approval of the details of the layout, appearance and landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Articles 1 and 3 of the General Development Procedure Order 1995 (as amended).

4 No development shall commence until a sample panel of all external walling and roofing materials to be used has been erected on site and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details and the samples shall be kept on site for reference until the development is completed.

Reason: In the interests of the appearance of the development and the surrounding area.

5 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 finished ground levels; a planting specification to include numbers, density, size, 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.

6 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.

7 No demolition or development shall take place until a Detailed Arboricultural Method Statement with 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 a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records. The statement should also include the control of potentially harmful operations such as the demolition of the existing building and ground preparation; proposed level changes; the storage, handling and mixing of materials on site, burning, location of site office, service run locations and movement of people and machinery.

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

8 No development or other operations shall take place except in complete accordance with the approved Detailed 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.

9 On completion of the works but prior to any occupation of the approved development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise in accordance with BS8233:1999. The following levels shall be achieved: Maximum internal noise levels of 30dBLAeq,T for living rooms and bedrooms. For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax.

Reason: In the interest of residential amenity

10 The proposed roads, including footpaths and turning spaces where applicable, shall be constructed in such a manner as to ensure that each dwelling before it is occupied shall be served by a properly bound and compacted footpath and carriageway to at least base course level between the dwelling and existing highway.

Reason: To ensure that the development is served by an adequate means of access.

11 No development shall commence until plans showing the access, parking and turning areas have been submitted to and approved in writing by the Local Planning Authority. All areas 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 before the dwellings are occupied and shall not be used other than for the access, parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of amenity and highway safety.

12 The garaging hereby approved shall be retained for the garaging of private motor vehicles associated with the dwelling 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.

13 No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority which shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management.

Reason: To ensure the safe operation and ongoing condition of the highway.

14 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 extension, external alteration or enlargement of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority to safeguard the amenities of the surrounding area.

15 No dwelling shall be occupied until its associated screen walls/fences or other means of enclosure have been erected, details of which shall have first been submitted and approved in writing by the Local Planning Authority. The means of enclosure shall thereafter retained in accordance with these approved details.

Reason: In the interests of privacy and/or visual amenity.

16 No development shall commence until plans detailing the existing and proposed site levels have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To clarify the terms of the planning permission.

PLANS LIST:

SITE LOCATION PLAN received 19 November 2012.

1580/02 REV G, 1580/03 REV C received 21 January 2013 subject to details approved under a subsequent application for reserved matters.

REASONS FOR GRANTING APPROVAL:

1. New residential development is acceptable in principle in this location. Further consideration can be given to the impact of the development under a subsequent application for appearance, layout and landscaping which are reserved matters. The scale of the development would not have an adverse impact on the visual amenity of the surrounding area. The proposed access to the site would not have an adverse impact on highway safety. The development could be implemented in a manner which would maintain the residential amenity of adjacent 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

BH.15, NE.1, HG.4, HG.8, T.24, T.26, D.2 and D.4 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

Decision-taking statement:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Policy Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the revised proposals was taken and planning permission was granted.

Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	5th June 2013
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	

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	12/04654/CA 4 January 2013	Batheaston New Village Hall Church Hall, School Lane, Batheaston, Bath, Bath And North East Somerset Demolition of the existing Church Hall	Bathavon North	Rachel Tadman	PERMIT
02	12/04653/FUL 4 January 2013	Batheaston New Village Hall Church Hall, School Lane, Batheaston, Bath, Bath And North East Somerset Erection of a new single storey village hall building including multi-use main hall, activity rooms, kitchen, toilets and stores and associated external works to provide accessible access to the hall and fields following demolition of the existing Church Hall	Bathavon North	Rachel Tadman	PERMIT
03	13/01529/FUL 12 June 2013	Mr Mehmet Iltas 169 Newbridge Hill, Newbridge, Bath, BA1 3PX, Erection of a 11 bed care home to the rear of the existing care home and associated works	Newbridge	Sarah James	Delegate to PERMIT
04	05/00723/VAR 3 September 2009	Hinton Organics (Wessex) Limited Hinton Organics Ltd, Charlton Field Lane, Queen Charlton, BS31 2TN, Variation of condition 13 and 16 of Planning Permission: 97/02626/MINW dated 02/12/1998 to allow permanent recycling of cardboard waste and increase in truck movements.	Farmboroug h	Anthea Hoey	PERMIT
05	05/01993/FUL 3 September 2009	Hinton Organics (Wessex) Ltd Hinton Organics Ltd, Charlton Field Lane, Queen Charlton, BS31 2TN, Increase size of concrete storage area and variation of condition 13 of planning permission 97/02626/MINW to accept wood waste.	Farmboroug h	Anthea Hoey	PERMIT

06	11/00022/VAR 2 March 2011	Hinton Organics Ltd Parcel 5319, Charlton Field Lane, Queen Charlton, Bristol, Bath And North East Somerset Variation of conditions 13,16 and 19 of permission no. 97/02626/MINW to extend composting operations, increase vehicle movements and permit cardboard and wood recycling (Temporary use of land for 10 years for manufacture of organic green compost as amended by revised drawings received 14th April 1998 at land formerly Queen Charlton Quarry)	Farmboroug h	Anthea Hoey	PERMIT
07	13/00533/FUL 16 May 2013	Mr Kevin Tranter Yard Adjoining 2 The Bungalows, Durcott Lane, Camerton, Bath, Erection of 2no work/live units	Bathavon West	Daniel Stone	REFUSE
08	13/00846/FUL 16 May 2013	Mr Nick Pollett Whiteways, White Cross, Hallatrow, Bristol, Bath And North East Somerset Erection of 2no. holiday cottages to expand existing B&B business following the demolition of existing residential outbuildings	High Littleton	Daniel Stone	REFUSE
09	13/00483/FUL 17 May 2013	Bathampton Anglers Association Parcel 5900, Hunstrete, Marksbury, Bristol, Erection of educational facility, store and office (Resubmission)	Farmboroug h	Rachel Tadman	REFUSE
10	13/01569/FUL 24 June 2013	Mr S Bolton 1 Sycamore Road, Radstock, Bath And North East Somerset, BA3 3NJ, Erection of attached, two storey dwelling	Radstock	Tessa Hampden	PERMIT
11	13/00903/FUL 29 April 2013	Kathan Ltd 15 Livingstone Road, Oldfield Park, Bath, BA2 3PQ, Change of use from mixed use comprising retail (A1) to ground floor and residential (C3) above, to solely a C4 use and the erection of a small stone boundary wall to the front	Oldfield	Chris Griggs- Trevarthen	PERMIT
12	13/01380/FUL 29 May 2013	Mr De Beer 39 Grove Wood Road, Haydon, Radstock, Bath And North East Somerset, BA3 3QY Erection of a PVCu conservatory to the rear of the property	Radstock	Tessa Hampden	PERMIT
13	13/00357/FUL 25 April 2013	Mrs Catherine McCabe And Mr Richard McCabe 25 Pulteney Gardens, Widcombe, Bath, Bath And North East Somerset, BA2 4HG Change of use from B&B (C1) to holiday let (C3) (Retrospective).	Widcombe	Sasha Coombs	PERMIT

14	13/01157/FUL 13 May 2013	Mr Cole 6 Fairfield View, Ragland Lane, Fairfield Park, Bath, Bath And North East Somerset Provision of a loft conversion to include 1no. rear dormer and front rooflights.	Lambridge	Sasha Coombs	REFUSE
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REPORT OF THE DEVELOPMENT MANAGER OF PLANNING AND TRANSPORT
DEVELOPMENT ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 12/04654/CA
Site Location: Church Hall School Lane Batheaston Bath Bath And North East Somerset



Ward: Bathavon North **Parish:** Batheaston **LB Grade:** N/A
Ward Members: Councillor M Veal Councillor Gabriel Batt Councillor Geoff Ward
Application Type: Conservation Area Consent
Proposal: Demolition of the existing Church Hall

Constraints:	Agric Land Class 3b,4,5, Conservation Area, Forest of Avon, Hotspring Protection,
Applicant:	Batheaston New Village Hall
Expiry Date:	4th January 2013
Case Officer:	Rachel Tadman

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application has been the subject of an objection by Batheaston Parish Council and the Chair made the decision that it should be dealt with by Development Control Committee.

PROPOSAL: Demolition of the existing Church Hall.

The application relates to the demolition of the existing Church Hall in School Lane which is a single storey building located adjacent to an area of open space and an existing Scout Hall. The site is within the Batheaston Conservation Area and the building exceeds 115 cubic metres in volume and therefore conservation area consent is required for its demolition.

RELEVANT HISTORY:

There is a concurrent application for planning permission ref: 12/04653/FUL for the erection of a new single storey village hall building including multi-use main hall, activity rooms, kitchen, toilets and stores and associated external works to provide accessible access to the hall and fields following demolition of the existing Church Hall.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSERVATION OFFICER: I have visited the site and assessed the impact of the proposed development on the character, appearance and setting of the local heritage assets (ie conservation area and listed buildings). My comments are as follows:

Local historic character

The character of this part of the conservation area is semi-rural, located on the edge of the built area with the green backdrop setting of the field and mature trees to the east of the village hall. Several listed buildings are in close proximity, forming attractive groupings of built form with other local heritage assets. The site abuts the green space and is set at a lower level than the adjoining Youth Centre, respecting the topography of this part of Batheaston where the land levels drop away to the east.

The existing building to be demolished is unattractive and has a negative effect on local historic character. Its demolition provides opportunity for improvement and enhancement.

The settings of listed buildings close to the site are currently harmed by the poor quality design of the existing Youth Centre and Village Hall. Replacing the existing hall as proposed is considered to improve these settings, and these would be further improved by a new Youth Centre or other replacement building, designed to respect the visually important corner site location.

Conclusion

From the heritage aspect it is considered that removing the existing unsightly prominent building and replacing it with a good quality new design this will result in significant improvement to local built character and appearance.

BATHEASTON PARISH COUNCIL: The Parish Council formally Objects for the following reasons:-

- 1 The Parish Council is supportive of a Replacement Building with adequate parking - as advised in earlier consultations.
- 2 The proposed replacement building appears well designed with good acoustic and energy-saving features.
- 3 The proposed building is 63% larger in footprint and is said to accommodate 155 persons.
- 4 The parking policy T10 requires one off-street parking space for every 10 persons.
- 5 Fails to comply with transport policies T3, T5, T6, T15, Para D10, T24(7)(8) and T25
- 6 In earlier consultations it was proposed that additional parking would be provided inside the walling fronting onto School Lane. No such proposal in this Application
- 7 The Application's "Green Travel Plan" does not offer the required additional parking spaces.
8. The Hall will enjoy good acoustics - but events run until midnight. Noise and disturbance on drop off and pick up have not been addressed.
9. The Green Travel Plan confers no powers of compliance or enforcement. Major functions will attract car-borne attendees. The site is difficult to reach on foot from the further parts of the Parish.

Further comments on revised proposals received on 9 April 2013:

1. Reaffirms the Recommendations of 12th December 2012
 2. The resubmitted documents do not address the lack of dedicated parking to service the development in accordance with Local Plan Policy T24, T26
 3. The revised illustrative drawings indicate the scale and size of the proposed building to be some 25% to 30% bigger than that previously shown. The new drawings show trees to be cut down still in full leaf and therefore even these drawings are inaccurate and mis-represent the real impact on the Conservation Area and heritage assets. The proposal does not comply with Local Plan Policy BH6 and BH15.
 4. The new drawings and supporting documents do not show how irreversible harm can be prevented to off- site trees in the Conservation Area, as will arise from construction and excavation and placing of foundations for the new building. The proposal contravenes Local Plan Policy NE4 and NE12.
 5. The proposal will result in loss of amenity to local residents as it does not address late night noise, and disturbance from users and traffic and contravenes Local Plan Policy D2 and ES12 6. The existing Church Hall use is an ancillary use to St John's Church and falls under the category of D1 Non-residential institution use, which covers 'non resident social services'.
- Case law has determined this use will be extinguished as and when the existing building is demolished. The operating policy states the hall is to be used for 'entertainment events, concert and performances' as well as for dance and sport. These activities, in circular

03/2005 are classified as D2 assembly and leisure use. The proposal, is not a replacement building, and must be evaluated on its merit against all relevant development plan policies specifically D2, ES12, NE4, NE12, BH6, BH15, T24, T25 and T26.

7. The Travel Plan is not complemented and does not explicitly relate to a Transport Assessment or follow the guidelines published by the Dept. of Transport - 'Delivering Travel Plans through the Planning process ' The guidelines state travel plans cannot be used as a justification for unacceptable development and as presented is not sustainable or enforceable. The proposal as submitted does not satisfy Local Plan Policies T24 T25 and T26

8. The approved Application 10/05185/REG03 Feb 2011 for off-street parking besides the Methodist hall was not included in this submission.

OTHER REPRESENTATIONS / THIRD PARTIES

Representations from a total of 33 addresses have been received. Of these 29 have objected to the development along with 1 general comment raising the following concerns:

1. The proposed building is too large for the site, would represent overdevelopment and encroaches on land outside the red line plan.

2. The proposed building would cause increased traffic, lack of on street and/or off street parking and impact on Highway Safety within an already congested area. Access by emergency vehicles would be compromised and events at the adjacent School already cause unacceptable levels of congestion.

3. The submitted Green Transport Plan is inadequate.

4. The proposed building would have a detrimental impact on residential amenity as a result of the use of the hall including light pollution, noise and disturbance, particularly late at night and from people leaving the hall.

5. The proposed building would result in a loss of trees and hedgerow and unacceptable impact on the retained trees.

6 The proposed building would have a detrimental impact on the setting of the adjacent Grade II listed property.

6. The proposed building would have a detrimental impact on Batheaston Conservation Area.

7. Inadequate information on the use of the proposed building with particular concerns relating to the number and frequency of late night events, concerts, performances and weddings. There are also specific concerns that the building will be used as a theatre and that the proposal actually constitutes a change of use to sui generis or Use Class D2.

8. Green Travel Plan is unenforceable.

9. The plans for the proposed building are inaccurate and do not fully show the impact on the surrounding area including the street scene, neighbouring properties or the Batheaston Conservation Area, trees and also residential amenity.

10. That the results of the community consultation exercise were not sufficiently acted upon.

11. That the proposed development does not accord with the Batheaston Vision Plan which identified that a new village hall should be located on the Garden High Street site (the public car park site on London Road East).

Finally representations from 3 addresses have been received supporting the proposal.

It should be noted that the above concerns relate, in the majority, to the concurrent application for planning permission to replace the existing Church Hall which is also being considered on the Committee agenda.

POLICIES/LEGISLATION

The primary consideration is the duty placed on the Council under S 72 to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area.

The Bath and North East Somerset Local plan including minerals and waste policies adopted October 2007

Policy BH7 - Demolition in the Conservation Area.

Bath and North East Somerset Submission Core Strategy (May 2011). At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

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

OFFICER ASSESSMENT

Impact on the Batheaston Conservation Area:

The character of this part of the conservation area is semi-rural, located on the edge of the built area with the green backdrop setting of the field and mature trees to the east of the village hall. Several listed buildings are in close proximity, forming attractive groupings of built form with other local heritage assets. The site abuts the green space and is set at a lower level than the adjoining Youth Centre, respecting the topography of this part of Batheaston where the land levels drop away to the east.

The existing building was constructed in the 1950's and is now coming to the end of its life and is in a poor state of repair. Due to this, and its inflexible layout, the building is not being used to its full capacity at the present time with significantly reduced bookings compared to historic levels when the building was in better condition. The existing building, due to its deteriorating condition and 1950's design, is unattractive and has a negative impact on the character of this part of the Batheaston Conservation Area and street scene.

It is therefore proposed to demolish the existing Church Hall building and replace it with a new high quality Village Hall of a contemporary design. The replacement Village Hall would be of a larger size but would provide flexible community space for the village of Batheaston.

The proposals for this site have attracted a high level of objection from local residents and Batheaston Church Hall, however the majority of the concerns relate to the replacement building rather than demolition of the existing building.

In light of the above it is considered that the proposed demolition of the existing Church Hall is acceptable and, due to its poor condition, would result in an enhancement to this part of the Batheaston Conservation Area.

CONCLUSION:

It is considered that removing the existing unsightly prominent building and replacing it with a good quality new design will result in significant improvement to local built character and appearance and an enhancement to this part of the Batheaston Conservation Area.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 The works hereby approved shall be begun before the expiration of three years from the date of this consent

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

2 No demolition shall take place until (a) a contract for the carrying out of redevelopment of the site has been made; and (b) planning permission has been granted for the redevelopment for which that contract provides.

Reason: To safeguard the character of the Conservation Area and the World Heritage Site

3 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 drawing nos, 6186 D 0001 A, 6186 D 0101 A, 6168 D 0104 F, 6186 D 0105 A, 6186 D 0102 D, 6168 D 0301 E, 6168 D 0302 E, 6186 D 0201 A, 6186 D 0303.

REASONS FOR GRANTING APPROVAL:

The decision to grant approval has taken account of the Development Plan and approved Supplementary Planning Guidance.

The proposed development is in accordance with Policies BH.7 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007.

Bath and North East Somerset Submission Core Strategy (May 2011). At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the

Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

The existing Church Hall is in a very poor condition which is unsightly and prominent building within the Batheaston Conservation Area. Its demolition and replacement with a good quality Village Hall will result in significant improvement to local built character and appearance and an enhancement to this part of the Batheaston Conservation Area.

DECISION MAKING STATEMENT:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the revised proposals was taken and consent was granted.

Item No: 02
Application No: 12/04653/FUL
Site Location: Church Hall School Lane Batheaston Bath Bath And North East Somerset



Ward: Bathavon North **Parish:** Batheaston **LB Grade:** N/A
Ward Members: Councillor M Veal Councillor Gabriel Batt Councillor Geoff Ward

Application Type: Full Application

Proposal: Erection of a new single storey village hall building including multi-use main hall, activity rooms, kitchen, toilets and stores and associated external works to provide accessible access to the hall and fields following demolition of the existing Church Hall

Constraints: Agric Land Class 3b,4,5, Conservation Area, Forest of Avon, Hotspring Protection,

Applicant:	Batheaston New Village Hall
Expiry Date:	4th January 2013
Case Officer:	Rachel Tadman

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application has been the subject of an objection by Batheaston Parish Council and the Chair made the decision that it should be dealt with by Development Control Committee.

PROPOSAL: Erection of a new single storey village hall building including multi-use main hall, activity rooms, kitchen, toilets and stores and associated external works to provide accessible access to the hall and fields following demolition of the existing Church Hall.

DESCRIPTION OF SITE AND APPLICATION:

The application relates to the site of the existing Church Hall and an area of land surrounding it. The site is located on School Lane between the existing Youth Club to the west and the open amenity field to the east. The site is within Batheaston Conservation Area.

The proposal is for the erection of a village hall to replace the existing. The proposed building has been designed as a number of elements using a combination of pitched and flat roofs. The building would be single storey in size under mainly flat roofs with the exception of the pitched roof over the main hall. It would be constructed of natural Bath rubble stone and timber cladding to the walls with mixture of natural slate, sedum and membrane would be used on the flat roof areas. Externally the building would have level access at the front with two disabled parking spaces. To the side, fronting the adjoining field, would be a stepped access to a side entrance.

PLANNING HISTORY:

There is a concurrent application for Conservation Area Consent Ref: 12/04654/CA for the demolition of the existing Church Hall

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAY DEVELOPMENT: The hall is currently served by a vehicular access off School Lane, and this will be retained to provide for pedestrian and cycle access, together with access to two disabled parking spaces. The access also serves the existing Youth Club.

The proposal has been the subject of a pre-application enquiry, where concerns were expressed regarding the increased size of the hall, and its potential for being more intensively used, which could have implications for access and parking.

The proposed hall will allow for a greater variety of uses, and will also allow for a number of users to occupy the building at the same time.

The size of the proposed main hall is similar to that which exists, but it is being proposed without a fixed stage, to maximise the space for a variety of uses.

The roads surrounding the site are heavily utilised for parking in connection with residential properties and the school, and therefore consideration has been given to the impact of the proposal on these roads, with regard to a demand for parking.

There has been evidence of parking close to the junction of School Lane with Northend, which has both safety and operational issues for the highway, and the access to the hall, and I feel it is appropriate to require a contribution towards the implementation of a Traffic Regulation Order to secure parking restrictions around the junction of School Lane with Northend.

The proposed hall will be more attractive to other users, and could therefore be more intensively used than at present. In order to manage the potential increase in demand for the use of the hall, a Green Travel Plan and Operating Policy were previously requested, and have been submitted, which seeks to give priority of use to local people and groups, and to restrict simultaneous hiring of the main hall and the smaller rooms. There will also be liaison with the school and churches to seek to avoid clashes with other events, and the letting of the hall will tend to avoid the morning drop-off and afternoon pick-up times from the school.

The Travel Plan indicates the existing users of the hall and their respective modes of travel, which indicates a high proportion travelling by foot, and a survey undertaken of parking availability indicated some spare capacity on surrounding roads.

An information leaflet is proposed to be issued to all users of the new hall to advise of the limited parking availability and it will provide details of the available alternative modes of transport. It is also proposed that for larger events, details of the intended management of transport arrangements be submitted and approved by the trustees of the hall, and any failure to comply with such arrangements will result in a penalty of the loss of all or part of the booking deposit.

Having regard to the above, whilst the proposed hall would provide an increase in floor area and would be likely to attract more users, I consider that the applicants have provided sufficient information within the Operating Policy and Green Travel Plan to demonstrate how they can manage the bookings and use of the hall to avoid any material impact on the highway, and I therefore recommend that no highway objection is raised subject to the completion of a legal agreement to secure a contribution of £6,000 towards the implementation of a Traffic Regulation Order for waiting restrictions in the vicinity of the junction of School Lane with Northend.

I would also recommend that conditions be attached to any permission granted.

FURTHER HIGHWAY COMMENTS - 23rd April 2013.

I refer to the submitted revised drawings and additional information, together with subsequent objections and representations.

There have been a number of revisions to the proposals drawings, but none of these changes affect the vehicular access and parking areas proposed within the site.

Two objection reports on the highways/transport issues were submitted on behalf of residents and have questioned the lack of Transport Statement submitted with the application, and also challenges the change in highway comments from the pre-application enquiry to the submission of this application.

The contents of the pre-application enquiry are not on public record, as is always the case, but considerable and lengthy discussions were held between the applicants' team and Council officers to understand the nature of the proposal, and its impact on the highway network.

It is recognised that a replacement village hall, with better facilities, would be likely to generate more interest in its use, and this had previously generated a negative highway response. Furthermore, there was originally a proposal to form a new vehicular access and parking area off School Lane, where visibility would be restricted on a busy pedestrian route to and from the school, and where School Lane already becomes heavily congested at school times.

Whilst the provision of additional parking may well be welcomed by villagers, the access proposed at that time would have resulted in highway safety issues, particularly for the more vulnerable highway users, and would not encourage sustainable travel for the village hall users.

The roads surrounding the site are subject to a high level of on-street parking, and objectors have raised concerns that the proposal would further increase the demand for parking and cause congestion.

The applicants have submitted a travel survey of a production a pantomime by Encore in February of this year to identify the availability of on-street parking during the performance, with the cast and crew being requested to park more remotely from the site. The survey identified a number of free spaces in Northend during these times.

The performances by Encore seem to be raised by objectors as the main generator of traffic, and the survey data does indicate that spare capacity for on-street parking could be available during this most intensive use of the hall.

The proposed layout would formalise the use of the existing vehicular access off School Lane to just disabled parking and emergency access, providing more controls than currently exist.

Whilst one of the objection reports suggests that these disabled spaces would be difficult to manoeuvre into and out of, I am happy that there is sufficient room for vehicles to turn within the site, and to enter and exit in a forward gear.

Cycle parking has been indicated on the submitted plan, and provides for two cycle hoops which can accommodate 4 cycles. This level of provision is the minimum required, and no details have been submitted to support any justification for a greater level of parking, and therefore this is considered acceptable.

The discussions on the pre-application submission sought both an Operational Statement and Travel Plan to address highway concerns over uses of the hall generating additional traffic, and to manage travel to and from the site.

One of the objection reports raises concerns over the content of the Operating Statement and Travel Plan, and how they can be enforced.

It should be noted that the existing Church hall operates without any controls over its usage, and could be refurbished with the potential for an intensification of its use.

The proposed replacement hall would provide for additional capacity, and for a greater variety of uses, but it has been stated that priority of bookings will be given to community uses.

The submitted Operating Statement and Travel Plan were intended to provide some element of control over the booking and use of the hall, together with advising of available modes of travel and limitations to parking around the site. This would help to inform visitors of their intended means of travel.

It has always been recognised that the highway network surrounding the site is far from ideal to serve the proposal, but given that there is already an existing Church hall without any controls, consideration can only be given to any additional traffic generation for the increased capacity of the new hall. Such additional traffic generation can be controlled, to some degree, by informing users of the limitation of parking around the site, and by imposing restrictions on the frequency and any combined letting of the hall.

Furthermore, as the village hall will provide a local facility, where sustainable travel options are available to local residents, I do not feel that I can substantiate an objection, having regard to the existing use and proposals, which can incorporate restrictions and guidance through an Operational Statement and Travel Plan.

I therefore recommend that no highway objection is raised subject to conditions being attached to any permission granted.

ENVIRONMENTAL HEALTH: No observations.

CONSERVATION OFFICER: I have visited the site and assessed the impact of the proposed development on the character, appearance and setting of the local heritage assets (ie conservation area and listed buildings).

From the heritage aspect it is considered that removing the existing unsightly prominent building and replacing it with a good quality new design will result in significant improvement to local built character and appearance. It is also considered that the proposed building would not cause any harm, significant or otherwise to local views or to the appearance and character of this part of the conservation area, and would create improvements.

The settings of listed buildings close to the site are currently harmed by the poor quality design of the existing Youth Centre and Village Hall. Replacing the existing hall as proposed is considered to improve these settings, and these would be further improved by a new Youth Centre or other replacement building, designed to respect the visually important corner site location.

It is recommended that if the application is to be permitted that conditions are included to cover use of 'conservation' roof lights and a significant tree planting schedule to respect the local character.

HIGHWAYS DRAINAGE: No objection subject to Conditions.

ARBORICULTURE: The application includes a tree survey, arboricultural impact assessment, results of trial trenches, a preliminary arboricultural method statement and revised tree protection plan. The contents of these have been noted and are supported. Mitigation is possible for the proposed loss of three trees.

The application is considered to demonstrate due consideration of retained policy NE.4 Trees and Woodlands and there is no objection subject to conditions.

Further comments received 20 May 2013: No objections subject to conditions.

The revised drawings and objection comments relating to tree issues have been reviewed following initial arboricultural comments made on 5th December 2012. A meeting has also been held with the applicant to clarify several outstanding points.

The revised drawings and submissions indicate that the precautionary measures shown on the tree protection plan to the north of the proposed building are achievable providing that, if deemed necessary, shuttering or other solution is used to ensure that no excavations for ground works extend beyond the location of the trial trenches referred to in the arboricultural report. This is particularly relevant in the north western most corner of the proposed building where the ground level alterations are the most significant.

In response to comments received, the root protection areas shown on the tree protection plan relate to the basic guidance contained within BS 5837:2012 Trees in relation to design, demolition and construction. Recommendations. The root protection areas shown are not site specific in that they do not take into account the influence which existing buildings, ground levels and other structures will exert on root growth from adjacent trees into the site.

The majority of tree roots are usually within the top 600-900mm of soil, and this will be influenced by the surrounding topography and soils. The arboricultural report records that the depth of the trial trenches was informed by the size and frequency of roots encountered which is considered a reasonable approach, particularly because the site is below the level of the adjacent trees

The applicant has provided all information which can reasonably be asked to satisfy previous arboricultural concerns regarding the impact on adjacent trees.

BATHEASTON PARISH COUNCIL: The Parish Council formally Objects for the following reasons:-

- 1 The Parish Council is supportive of a Replacement Building with adequate parking - as advised in earlier consultations.
- 2 The proposed replacement building appears well designed with good acoustic and energy-saving features.

- 3 The proposed building is 63% larger in footprint and is said to accommodate 155 persons.
- 4 The parking policy T10 requires one off-street parking space for every 10 persons.
- 5 Fails to comply with transport policies T3, T5, T6, T15, Para D10, T24(7)(8) and T25
- 6 In earlier consultations it was proposed that additional parking would be provided inside the walling fronting onto School Lane. No such proposal in this Application
- 7 The Application's "Green Travel Plan" does not offer the required additional parking spaces.
8. The Hall will enjoy good acoustics - but events run until midnight. Noise and disturbance on drop off and pick up have not been addressed.
9. The Green Travel Plan confers no powers of compliance or enforcement. Major functions will attract car-borne attendees. The site is difficult to reach on foot from the further parts of the Parish.

Further comments on revised proposals received on 9 April 2013:

1. Reaffirms the Recommendations of 12th December 2012
2. The resubmitted documents do not address the lack of dedicated parking to service the development in accordance with Local Plan Policy T24, T26
3. The revised illustrative drawings indicate the scale and size of the proposed building to be some 25% to 30% bigger than that previously shown. The new drawings show trees to be cut down still in full leaf and therefore even these drawings are inaccurate and mis-represent the real impact on the Conservation Area and heritage assets. The proposal does not comply with Local Plan Policy BH6 and BH15.
4. The new drawings and supporting documents do not show how irreversible harm can be prevented to off-site trees in the Conservation Area, as will arise from construction and excavation and placing of foundations for the new building. The proposal contravenes Local Plan Policy NE4 and NE12.
5. The proposal will result in loss of amenity to local residents as it does not address late night noise, and disturbance from users and traffic and contravenes Local Plan Policy D2 and ES12 6. The existing Church Hall use is an ancillary use to St John's Church and falls under the category of D1 Non-residential institution use, which covers 'non resident social services'. Case law has determined this use will be extinguished as and when the existing building is demolished. The operating policy states the hall is to be used for 'entertainment events, concert and performances' as well as for dance and sport. These activities, in circular 03/2005 are classified as D2 assembly and leisure use. The proposal, is not a replacement building, and must be evaluated on its merit against all relevant development plan policies specifically D2, ES12, NE4, NE12, BH6, BH15, T24, T25 and T26.
7. The Travel Plan is not complemented and does not explicitly relate to a Transport Assessment or follow the guidelines published by the Dept. of Transport - 'Delivering Travel Plans through the Planning process' The guidelines state travel plans cannot be used as a justification for unacceptable development and as presented is not sustainable or enforceable. The proposal as submitted does not satisfy Local Plan Policies T24 T25 and T26
8. The approved Application 10/05185/REG03 Feb 2011 for off-street parking besides the Methodist hall was not included in this submission.

OTHER REPRESENTATIONS / THIRD PARTIES

The application has attracted a lot of interest and letters from a total of 163 addresses have been received. Of these 56 have objected to the development along with 2 general comments raising the following concerns:

1. The proposed building is too large for the site, would represent overdevelopment and encroaches on land outside the red line plan.
2. Increased traffic, lack of on street and/or off street parking and impact on Highway Safety within an already congested area. Access by emergency vehicles would be compromised and events at the adjacent School already cause unacceptable levels of congestion.
3. The submitted Green Transport Plan is inadequate.
4. Detrimental impact on residential amenity as a result of the use of the hall including light pollution, noise and disturbance, particularly late at night and from people leaving the hall.
5. Loss of trees and hedgerow and unacceptable impact on the retained trees.
6. Detrimental impact on the setting of the adjacent Grade II listed property.
7. Detrimental impact on Batheaston Conservation Area.
8. Inadequate information on the use of the building with particular concerns relating to the number and frequency of late night events, concerts, performances and weddings. There are also specific concerns that the building will be used as a theatre and that the proposal actually constitutes a change of use to sui generis or Use Class D2.
9. Green Travel Plan is unenforceable.
10. That the plans are inaccurate and do not fully show the impact on the surrounding area including the street scene, neighbouring properties or the Batheaston Conservation Area, trees and also residential amenity.
11. That the results of the community consultation exercise were not sufficiently acted upon.
12. That the development does not accord with the Batheaston Vision Plan which identified that a new village hall should be located on the Garden High Street site (the public car park site on London Road East).

Finally representations from 105 addresses have been received supporting the proposal in addition to a petition containing 32 signatories.

At the time of writing a re-consultation exercise was still being undertaken. The deadline for comments is prior to the Committee date and any additional representations received will be reported in an update report.

POLICIES/LEGISLATION

Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007.

D2 General Design and public realm considerations

D4 Townscape considerations

BH.2 Listed buildings and their settings

BH.6 Conservation Areas

BH.7 Demolition in the Conservation Area

BH.15 Visually important open spaces

CF.2 Community facilities

ES.2 Energy consumption

ES.5 Foul and surface water drainage
ES.9 Pollution and nuisance
ES12 Noise and vibration
NE.1 Landscape Character
NE12 Natural Features
T1 Over-arching access policy
T5 Cycling Strategy: improved facilities
T6 Cycling Strategy
T24 General development control and access policy
T25 Transport assessment and travel plans
T26 On-site parking and servicing provision

Bath and North East Somerset Submission Core Strategy (May 2011). At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan, and as this application does not relate to housing, the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework (NPPF). The following policy is relevant:

RA3 - Community facilities and shops

National Planning Policy Framework - March 2012

OFFICER ASSESSMENT

ACCURACY OF THE INFORMATION SUBMITTED:

The application has been subject to a number of objections pointing out that the original plans submitted were inaccurate and that the development was not contained within the red line plan. These concerns have now been addressed with the submission of revised plans which the Agents have stated are accurate and the development is now wholly contained within the red line.

PROPOSED USE, SIZE AND CAPACITY OF THE DEVELOPMENT:

The application proposes to replace the existing Church/Village Hall with a larger, more modern building offering a flexible community facility primarily for the use of the residents of the Parishes of Batheaston and St Catherine. The existing hall falls within Use Class D1 of the Use Classes Order and it is proposed that the new building will offer a village hall which likewise would fall within a D1 use class. This means that the proposal is not considered to represent a material change of use of the site.

The existing hall has a gross internal floor area of 241 m² and is used for the same general community uses as most other Village/Church Halls located within villages and towns. The supporting information submitted has stated that the existing uses of the building are wide ranging but briefly comprise dance classes, toddlers group, school clubs, local history society talks and meetings, drama and musical rehearsals and other community uses that are considered, by Officers, to fall within typical D1 use classes. The Town and Country Planning (Use Classes) Order 1987 (as amended) identifies Use Class D1 as Non-residential institutions including Clinics, health centres, crèches, day nurseries,

day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court. Non residential education and training centres.

The building is currently made up of a main hall with fixed stage, two activity rooms, a small kitchen and toilets. It has a maximum capacity of 130 people but has an inflexible internal layout meaning that the hall can only be used by one single group/user at a time. The fixed stage also severely compromises the useable floor space within the main hall.

The building was constructed in the 1950's and is now coming to the end of its life and is in a poor state of repair. Due to this, and its inflexible layout, the building is not being used to its full capacity at the present time with significantly reduced bookings compared to historic levels when the building was in better condition. Due to the historic use of this site there are currently no planning conditions controlling the hours of use or capacity and it is on this basis that the application is considered.

The proposed building would increase the gross internal floor area from 241 m² to 347m², an increase of 106m². Whilst this increase is significant it has to be balanced against the proposed maximum capacity of 155 people, an increase of 25 in comparison with the existing.

It is clear that the majority of the increase in floor space comprises improved ancillary facilities such as additional toilets, larger kitchen, storage areas and corridors to allow access around the building without interrupting other users. The building would not have a fixed raised stage but would use raked seating that would fold away against a wall when not in use for talks or performances that may otherwise have required a stage.

The building would continue within its existing Use Class D1 general community use offering a high quality and flexible space for users. The use of the building would be very similar, if not the same, as the existing hall with spaces suitable for meetings, workshops and activities such as dance classes, children's sporting activities along with health and well-being activities such as aerobics etc, theatre productions and other events. It is also anticipated that the building would be used for larger events such as weddings or theatre events although these would be infrequent and wedding ceremonies would not themselves take place at the venue.

The redevelopment of the site with a high quality, flexible community space will inevitably mean that it is more attractive to users and is likely to result in it being used on a more regular basis in comparison with the existing situation, although of significance is the fact that the overall capacity of the building is only marginally increased.

Nevertheless the increase in use is likely to be significant in comparison with the use of the existing dilapidated hall. However such an increase needs to be carefully balanced against the historic use of the building, when it was in better condition and in more frequent use, and also against the fact that the existing building could be refurbished and modernised, possibly without requiring planning permission. This would again provide an attractive space that has the potential to increase the level of its use to one more comparable with other Village Halls of its size.

Notwithstanding this, in order to provide additional information on the use and operation of the building, an Operating Policy has been submitted that includes information on the

hiring policy for the Hall and management of bookings. In summary the document states that:

- The building is primarily for the use of those living within the 'Area of Benefit' i.e. the Parishes of Batheaston and St Catherine and priority will be given to bookings for activities of direct potential benefit to these residents.
- Hirings will not normally be permitted on schooldays for events starting before 9.30am or between 2.45 and 3.30pm
- Weddings will be limited to 12 per annum
- Concerts and performances will be limited to a capacity of 155 people
- The use of the adjoining field in conjunction with the hall will be required to cease by dusk or 9.30pm whichever is the later.
- Activities will normally end by 11pm (10.30pm on Sundays) with a limited number of events on Friday or Saturday evenings ending at Midnight. Such events would be limited to 26 per annum.

It is clear from the Operating Policy that, whilst the existing hall has no such controls over capacity or hours of use, the applicants seek to ensure that bookings are managed in an acceptable way having regard to the amenities of neighbouring occupiers and also highway safety.

The application has attracted a significant level of objection from neighbouring residents and Batheaston Parish Council which includes concerns that the increased size of the building, the number of events, the flexibility of the space and the attractiveness of the new facility will result in an intensification of the use.

Intensification of use is an issue that has to be considered very carefully in light of established policy and case law.

In this respect Circular 03/2005 Changes of Use of Buildings and Land states at Para 12 that:

'The Courts have held that the first thing to consider in determining whether a material change of use has occurred (or will occur) is the existing primary use of the land.'

At Para 16 the Circular goes onto state that:

'Intensification of a use within a class in the Order has been held by the courts as not to constitute development unless and until its effect is to take the use outside of that class altogether.'

In this case, Officers are clear that any intensification of the use would be in relation to the building being used on a more frequent basis, and at times, by a higher number of people when compared with the existing situation. Therefore Officers are satisfied that any intensification of the use would only be within its existing use as a Village Hall and would be very unlikely to constitute a material change of use.

In addition a significant level of objection has also been received raising concerns that the development would provide an auditorium space allowing it to become a theatre and

thereby trigger a material change of use to Use Class D2 - Assembly and Leisure or a sui generis use (meaning a use in its own class).

It would appear that the concerns have come about due to the inclusion of raked seating within the building implying that its overriding use would be for the holding of theatre productions. However, whilst these concerns have been considered, the information provided within the application does not indicate that this would be the case and the application therefore needs to be considered on its merits.

In this regard the existing and proposed use of the site as a Village Hall encompasses a wide range of uses, including various entertainment and sports uses which might suggest a D2 classification. However, provided that the primary use remains as a building available for hire for local community purposes there is little room for suggesting that a community hall is anything else but a D1 use. In this instance the applicant's operational statement and supporting justification clearly indicate this to be the case. It is therefore clear that the primary function of the proposed building is intended to be as a Village Hall, constituting a D1 use, and not a theatre as stated by objectors.

The proposal is also considered to be in line with Policy CF.2 of the Local Plan which seeks to permit the development of community facilities within a settlement such as Batheaston.

Other concerns by objectors have been that the development does not accord with the Batheaston Vision Plan (2009). As stated within the document the Vision Plan has no statutory planning status and was prepared for the benefit and awareness of the residents of Batheaston.

However, notwithstanding this, the document confirms that the results of the village survey suggested a high degree of support for a multipurpose village hall that should satisfy the following requirements;

- Adequate off street parking immediately accessible nearby;
- Relate well to other village facilities;
- Avoid disturbance to its immediate area and neighbours;
- No limiting planning conditions on its use or hours of operations;
- Primarily available for Village activities;
- Suited to hold external functions;
- Suitable changing facilities;
- Flexible and sub-divisible internal spaces;
- Licensed bar;
- Efficiency in use and being maintenance friendly.

It was also identified that the Coalpit Road corridor and the Garden High Street (the public car park on London Road East) were potential sites for a Village Hall, primarily due to the sites being in public ownership and therefore could be made available for a development such as this.

Whilst the Batheaston Vision Plan has little weight in the determination of this application for planning permission it is useful in understanding the aspirations of Batheaston Village

for a multipurpose village hall. Having considered the relevant parts of the document it is clear that the proposed development has been designed to meet many of the requirements summarised above although a notable exception is the lack of off street parking provided by this scheme.

Furthermore, although the Batheaston Village Plan identifies the Garden High Street and Coalpit Road corridor as a suitable location for a village hall this does not necessarily preclude the opportunity for a suitable hall to be sited on the existing Church Hall site.

Ultimately the Local Planning Authority is duty bound to determine any applications received in the light of the policies within the Development Plan and all other material considerations.

DESIGN AND IMPACT ON THE BATHEASTON CONSERVATION AREA, LISTED BUILDINGS AND STREET SCENE:

The character of this part of the conservation area is semi-rural, located on the edge of the built area with the green backdrop setting of the field and mature trees to the east of the village hall. Several listed buildings are in close proximity, forming attractive groupings of built form with other local heritage assets. The site abuts the green space and is set at a lower level than the adjoining Youth Centre, respecting the topography of this part of Batheaston where the land levels drop away to the east. The existing building, due to its deteriorating condition and 1950's design, is unattractive and has a negative impact on the character of this part of the Batheaston Conservation Area and street scene.

The proposed building is of a contemporary design that has the appearance of a community type facility meaning that its use and function within the street scene will be clear to all. The building uses both natural Bath stone and timber cladding to the walls and a mixture of flat and pitched roofs. The use of traditional and natural materials reflects the local vernacular and timber cladding in this semi-rural location is appropriate. The use of flat roofs has reduced the overall bulk of the building and the overall height of the single pitched roof has been kept to a minimum in order to reduce its impact on the street scene and Conservation Area. Although the ridge height of the single pitched roof exceeds that of the existing building, and the neighbouring Youth Club, the ridge is central to the site meaning that the impact from the street scene is lessened. Nevertheless the building would occupy a larger footprint, resulting in a larger building overall, but this, due to its overall design and location, is not considered to be harmful to the street scene or surrounding area.

When viewed from public viewpoints, from School Lane, as well as from the adjacent recreational field, the proposed building, specifically the ridge of the roof, would be visible in views across the site from the higher level at Northend. However, such a small protrusion is not considered to cause harm. Other longer distance views of the building from the Conservation Area street scene would be partly restricted by its set-back positioning from the lane frontage, and short distance views will be improved by removing the existing building and its replacement by the proposed high quality building.

It is therefore considered that the proposed building would not cause any harm, significant or otherwise to local views and would enhance the character and appearance of this part of the Batheaston Conservation Area. The proposed building is considered to be of a high

quality design that would fit well within the street scene and, whilst the majority of buildings adjoining the site are of a more traditional or historic form and design, the introduction of a contemporary community building in this location is considered to be acceptable.

Turning to the impact of the development on the Grade II listed building at the rear the height of the building has been kept to a minimum in order to reduce any impact. The Conservation Officer has specifically considered this point and is of the view that the settings of the surrounding listed buildings are currently harmed by the poor quality design of the existing Youth Centre and Village Hall. The replacement of the existing hall is considered to improve this situation and therefore the setting of the listed buildings will not be harmed by the proposed development.

IMPACT ON RESIDENTIAL AMENITY:

The site is located close to existing residential properties, sharing a boundary with one dwelling and with other dwellings located across School Lane and Brow Hill. The proposal would replace the existing hall. The neighbouring residents therefore already experience some level of noise and disturbance from the existing hall, and the adjacent Scout Hall, both through the use of the hall but also the coming and going of users. Whilst the replacement building is proposed to be larger and will accommodate an increased number of people the existing situation is a material consideration. Therefore the impact of this development on the residential amenity of neighbouring occupiers has to be considered with this in mind and it is the increase in noise and disturbance as a result of the new building, over and above that already experienced, that is under specific consideration.

In this respect it has been stated that the existing building has a very poor acoustic performance and is one of the reasons why a replacement is being proposed. This issue appears to have caused significant levels of disturbance to neighbours in the past and, although there are no planning conditions controlling hours of use or noise, has led to a reduction of late night bookings in order to accommodate residents concerns and reduce complaints.

These existing problems have been raised by objectors and there are significant concerns that the proposed building will exacerbate these due to its larger size and design in conjunction with its increased capacity. The concerns also relate to the increased numbers of people potentially leaving the building, particularly late at night.

In order to prevent such problems reoccurring and to provide a development that would not have a detrimental impact on residential amenity, the proposed building has been carefully designed with measures included specifically to minimise any potential impact from noise and disturbance. Furthermore, and as explained above, an Operating Policy has been submitted that includes information on the hiring policy for the Hall and management of bookings.

In particular the building has been designed to ensure that all noise from the main hall is contained within the envelope of the building by proposing that the main hall has no opening windows. Furthermore the building has buffer zones of doors and spaces between the main hall and the external space to prevent noise escaping. An acoustically attenuated natural ventilation system is also proposed and use of the adjacent open space

by users of the hall would be restricted by the Operating Statement. Whilst the activity rooms and kitchen will have opening windows it is unlikely that noise from these rooms would be significant enough, given their distance from the boundaries with neighbouring dwellings, to have a detrimental impact on the residential amenity of neighbouring occupiers.

With regard to concerns relating to users leaving the building late at night and the disturbance that this could potentially cause neighbouring residents, this also has to be considered in light of the existing, uncontrolled, situation. The increase in capacity of the building will inevitably give rise to additional numbers leaving the building late at night but, as the total capacity of the building will rise to 155 compared with 130 at present, it is considered that the increase would not be overly significant.

Furthermore the number of times that people would be leaving late at night would be on an infrequent basis as late night events, as specified within the Operating Policy, would nevertheless be limited to 26 per annum. The chances that the building would also be at capacity for all 26 of these events, is also considered unlikely. Nevertheless the site is within a central location in Batheaston village, at the heart of the community and surrounded by the Church, Scout Hall and School where some impact from traffic movements and events, potentially late at night, are to be expected.

It is therefore considered that the levels of noise and disturbance from the use of the building itself, even with the increased capacity, would be very unlikely to reach levels that would be detrimental to the residential amenity of neighbouring occupiers. Furthermore, when the existing situation is also taken into consideration, Officers are of the view that the building would result in a significant improvement in levels of noise and disturbance. With regard to noise from users leaving the hall late at night it is also considered that the level of potential disturbance or the frequency is not significant both given the existing situation and the location of the site at the heart of the village where some late night noise is to be expected. Finally the submitted Operating Policy gives further reassurance that the building will be operated in a responsible manner by taking all reasonable steps to reduce any impact on the residential amenity of any neighbouring occupiers.

Turning to concerns received in relation to overlooking, the building has also been designed to ensure that neighbouring properties would not be adversely affected. The majority of windows are at ground floor level which would have no impact on residential amenity. The clerestorey windows at high level at the rear of the hall would face a neighbouring garden but would be obscure glazed and fixed shut thereby preventing any overlooking.

Finally the location and design of the building is not considered to give rise to any overbearing impact on any neighbouring dwellings or their gardens.

In consideration of all the above matters it is considered that the proposed development is acceptable and would not have an unacceptable detrimental impact on the residential amenity of any neighbouring occupiers.

IMPACT ON TREES:

The application has provided information on the impact of the development on existing trees including a tree survey, arboricultural impact assessment. These documents also include the results of trial trenches, a preliminary arboricultural method statement and revised tree protection plan.

The proposal will result in the loss of 3 existing trees (False Acacia trees) and the location of the rear elevation of the building, and its foundations, will affect a number of other trees, particularly 4 trees located outside of the site boundary and within a neighbouring garden. In particular the development would impact on the root protection area of a large Copper Beech, located in the neighbouring garden.

As a result of this, objections have been received outlining concerns that the information provided was not clear enough to enable Officers to fully consider the impact on existing trees and that therefore the impact could be significantly worse than anticipated. The concerns expressed have been in relation to both the identified loss of trees and the impact on the remaining trees.

The Arboricultural Officer, in her initial comments, was of the view that the scheme was acceptable, but following the concerns raised realised that further information was required. Therefore additional information has been provided in the form of an addendum to the Arboricultural Impact Assessment and additional plans identifying the location of the trial trenches and the location of shuttering at the rear of the site.

The revised information now confirms, as far as possible, that the development can be constructed without having a significant adverse impact on the neighbouring trees. Whilst the development is in close proximity to existing trees, and will in parts impinge on the root protection areas shown on the plans, the Arboricultural Officer, having regard to the results of the trial trenches, and the influence which existing buildings, ground levels and other structures have on root growth, is confident that the existing trees will not be harmed to an unacceptable degree.

Replacement planting as mitigation for the loss of 3 trees was originally requested by the Arboricultural Officer but, as there is no room within the red line plan to plant any further trees, and considering that there are a significant number of trees already surrounding, in particular around the adjacent open space, it was concluded that mitigation planting was not necessary.

In answer to specific concerns raised in relation to the root protection areas shown on the tree protection plan, the Arboricultural Officer has commented that these areas follow the basic guidance contained within BS 5837:2012 Trees in relation to design, demolition and construction. Therefore the root protection areas shown on the plan are not site specific and do not take into account the influence which existing buildings, ground levels and other structures will exert on root growth from adjacent trees into the site. On this site the ground conditions are considered too heavily influence the direction and depth of root growth of the surrounding trees meaning that, although the development does encroach into the identified root protection area, the actual impact would be significantly lower allowing a departure from the 'standard' approach.

With regard to the construction phase, the additional information submitted has clarified what precautionary measures are achievable to ensure that the trees are not also harmed

by the actual construction of the building. It is now clear that, if deemed necessary, shuttering or other solutions can be used to ensure that no excavations for ground works extend beyond the location of the trial trenches referred to in the Arboricultural Impact Assessment. This is particularly relevant in the north western most corner of the proposed building where the ground level alterations are the most significant. The final details will form part of an Arboricultural Method Statement to be submitted by condition.

Overall it is considered that the applicant has provided all information which can reasonably be asked to satisfy previous arboricultural concerns regarding the impact on adjacent trees and, having fully considered all the information submitted, in conjunction with objections made, the proposed development is considered to be acceptable subject to conditions.

PLANNING OFFICER ASSESSMENT OF HIGHWAY ISSUES:

The proposal has been subject to a significant number of objections which raise concerns with regard to the impact on highway safety but also specifically challenge the change in highway comments from the pre-application enquiry to the submission of this application

It therefore useful for background information to explain the initial development considered through the pre-application process enquiry and the response that Officers made at that time.

The initial pre-application proposal was very similar to the application proposal although it did include a new vehicular access and parking area off School Lane. Overall Officers raised similar concerns to the objectors in that the development would provide a larger, more attractive facility that would result in an intensification of its use and result in additional cars using the already congested surrounding highway network. With regard to the proposed parking area, this was found to be unacceptable, due in part to the restricted visibility on a busy pedestrian route to and from the school, and where School Lane already becomes heavily congested at school times. At that time it was appreciated that the provision of additional parking may well have been welcomed by villagers, but the access proposed at that time would have resulted in highway safety issues, particularly for the more vulnerable highway users, and would not encourage sustainable travel for the village hall users. This therefore resulted in a negative response from Officers.

In order to overcome the concerns, the access and parking area off School Lane was removed from the scheme and Officers were involved in considerable and lengthy discussions with the applicants resulting in the submission of an Operating Policy and Green Travel Plan. These documents explained how the building would be used, how it would be managed, the travel modes of the users and the impact on the highway network and were, at that time, considered to address the outstanding concerns. The application now being considered was submitted shortly after.

The current application was therefore accompanied by a similar Travel Plan and Operational Statement which includes a number of measures to manage bookings and reduce the impact of the development on the surrounding highway network and off street parking situation. The documents seek to give priority of use to local people and groups with liaison between the Hall and the neighbouring school and church to seek to avoid

clashes with other events. Furthermore the letting of the hall will seek to avoid the morning drop-off and afternoon pick-up times from the school.

Nevertheless the concerns raised at pre-application stage were reiterated by the Highways Development Officer in their comments on this application although they were also of the view that the submitted Travel Plan and Operating Policy had provided sufficient information to demonstrate that the bookings could be managed to avoid any material impact on the highway. At this time they recommended that no highway objection was raised subject to the completion of a legal agreement to secure a contribution of £6,000 towards the implementation of a Traffic Regulation Order (TRO) for waiting restrictions in the vicinity of the junction of School Lane with Northend.

The TRO was recommended in order to secure parking restrictions around the junction of School Lane with Northend as there is evidence of parking close to the junction of School Lane with Northend, which, in the view of the Highways Development Officer, has both safety and operational issues for the highway, and the access to the hall.

However, whilst a TRO may still be necessary, it is considered that the need is not as a direct result of this development and it would therefore be inappropriate to require a contribution for such a measure through this application.

In the meantime a significant level of objection was received from local residents and the Parish Council in relation to the impact of the development on highway safety and the intensification of the use. The representations have raised concerns in relation to the lack on-site parking provision, the content of the Operating Statement and Travel Plan, and their enforcement, along with the impact that the development would have on existing on street parking provision and the adjoining highway network. Furthermore the objections have questioned the lack of a Transport Statement, culminating in the submission of a Transport report commissioned by an objector to the scheme.

Members can be assured that all the concerns and objections received as a result of the development, including the submitted Transport report, have since been considered very carefully but also have been viewed against the existing situation.

Throughout this process it has always been recognised by Officers that that the highway network surrounding the site is narrow with a high level of on street parking that is far from ideal to serve the proposal, and that a replacement village hall, with better facilities, would be more attractive to users and likely to generate more interest in its use. Concerns have also been expressed by objectors that access by emergency vehicles is very difficult at present and will only get worse as a result of the application. Again, it is acknowledged that the existing situation is far from ideal but it is unlikely that this scheme will prevent access by emergency vehicles any more than at present.

However, as the application has progressed it has become clear that the weight that can be given to concerns of the impact on highway safety is actually less than had been given at pre-application stage. It is now considered, as has been stated throughout this report, that any increase resulting from the proposed building needs to be carefully balanced against the historic use of the building, the potential for the building to be refurbished and modernised, thereby increasing the frequency of use, and the lack of conditions to control its use at present.

In light of this it is the Officer's view that only limited weight can be given to the impact of the development on highway safety and parking in relation to its current capacity of 130 people. However, as a direct result of the development, the capacity of the hall would be increased to 155 and its layout would enable more than one group to use the hall at any one time, which could potentially have a corresponding impact on the highway network. Therefore it is correct that this additional impact should be considered in full and given appropriate weight.

Therefore it is with this in mind that Officers have considered the scheme and the supporting information including the Travel Plan and Operations Policy.

It is clear from the Operating Policy that, whilst the existing hall has no such controls over capacity or hours of use, the applicants seek to ensure that bookings are managed in an acceptable way having regard to the amenities of neighbouring occupiers and also highway safety.

As has been outlined within this report it is clear from the content of these documents that the applicants seek to ensure that the impact of the development on highway safety and on street parking provision is kept to an absolute minimum.

The Travel Plan includes an indication of the existing users of the hall and their respective modes of travel which shows a high proportion travelling by foot, and a survey undertaken of parking availability also indicated some spare capacity on surrounding roads. A travel survey of a pantomime production held by Encore in February of this year was also undertaken to identify the availability of on-street parking during the performance, with the cast and crew being requested to park more remotely from the site. The survey identified a number of free spaces in Northend during these times.

The performances by Encore seem to be raised by objectors as the main generator of traffic but the survey data does indicate that spare capacity for on-street parking could be available during this most intensive use of the hall, especially if it is managed properly.

The submitted Operating Statement and Travel Plan do include measures to provide some element of control over the booking and use of the hall, together with advising of available modes of travel and limitations to parking around the site. In addition to those measures already outlined within this report the Travel Plan and Operations Policy would also seek to implement the following additional measures:

Provision on site for cycle parking to accommodate 4 cycles. Whilst this is the minimum level of provision required, in the absence of any details to support a greater level of cycle parking, this is considered acceptable.

The issue of an information leaflet to all users of the new hall to advise of the limited parking availability and also provide details of the available alternative modes of transport.

For larger events, as part of the booking conditions, details of the intended management of transport arrangements are to be submitted and approved by the trustees of the hall, and any failure to comply with such arrangements will result in a penalty of the loss of all or part of the booking deposit.

It is therefore considered that the measures within the Travel Plan and Operating Statement would enable any additional traffic generation to be controlled to a satisfactory degree, especially as the Village Hall will provide a local facility, where sustainable travel options are available to local residents. When full consideration is given to the existing, uncontrolled, situation it is felt that the development would not have a significant detrimental impact on highway safety even when the increased use and capacity of the building is taken into account.

CONCLUSION:

The application seeks to replace an existing inflexible and outdated 1950's Church Hall that is in poor condition with a modern Village Hall that will offer enhanced facilities and a flexible space for the use of the community. The capacity of the building would be increased from 130 people to 155 but only two off street parking spaces for the use of disabled users would be provided.

The proposed building is of a high quality design using mainly natural materials that would sit well within the existing street scene and would not have a detrimental impact on this part of the Batheaston Conservation area or surrounding area.

The proposal would not result in a change of use of the site which is a material consideration that should be given significant weight.

Nevertheless objections have been received from local residents and third party representatives in relation to the impact of the development, and the intensification of the use, on off street parking and highway safety but also on the residential amenity of neighbouring occupiers. However a significant number of letters of support have also been received.

The proposed building, due to the high quality space and facilities it will provide will undoubtedly result in a higher level of use than the existing building. It appears that the use of the existing building has been declining in recent years due to its poor condition, inadequate heating and inadequate facilities. Therefore, whilst the proposed building may result in what could be viewed as an intensification of the use, this has to be considered against the fall back position that the site is already in use as a Village Hall. It may be the case that the existing hall could be refurbished to a good standard resulting in a significant rise in use that would also have increased impact on residential amenity and highway safety without requiring planning permission. Furthermore the existing hall currently operates without any control from planning conditions which, again, is a material consideration to be given significant weight.

In relation to Highway Safety, similar concerns to those of objectors have also been raised by the Highways Development Officer. However the Highways Development Officer is satisfied that the submitted Travel Plan and Operation Policy shows that the Hall would be managed so that there would be no significant impact on highway safety and would be enforceable. They also initially recommended that a legal agreement for a contribution towards the provision of a Traffic Regulation Order is also necessary.

Again these comments and objections have to be considered against the fall back position of the existing use of the site. Therefore, as the proposed development would not lead to a material change of use, the objections and concerns about the intensification of the use and the resulting impact on Highway Safety can only be given limited weight. Furthermore, whilst a TRO may still be necessary, this would not be as a direct result of this development and it would be inappropriate to require a contribution for such a measure through this application. It is therefore considered that the development would not have a material impact on highway safety over and above that which is, or could be, experienced at present.

With regard to residential amenity, the building includes a number of measures to ensure that the use of the building would not have a detrimental impact either through noise and disturbance or overlooking. The building, in particular the main hall, has been designed to keep all noise within its envelope using buffer zones between the main hall and external doors, un-opening windows and an acoustically attenuated natural ventilation system to achieve this. All relevant windows are also obscure glazed to prevent any overlooking and avoid any unnecessary impact on residential amenity.

It is therefore considered unlikely that the development would result in any increased detrimental impact on the residential amenity of neighbouring occupiers over and above that which is, or could be, experienced at the present time. Particular concerns have been raised regarding noise and disturbance from people leaving the site late at night, but again this is something that would be experienced at present and would not be significantly increased as a result of this development.

The proposed building is in close proximity to a number of trees, including 4 within a neighbouring garden, and would necessitate the loss of 3 trees. However, following the submission of additional information to clarify a number of issues, the Arboricultural Officer is of the view that the loss of 3 trees is acceptable and that the impact on the existing trees would not be significant. Therefore, subject to appropriate conditions, there are no objections to the development in relation to the impact on existing trees both on and adjacent to the site.

Overall the proposed development is considered to be acceptable and the recommendation is to Permit subject to relevant conditions.

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 and external hard surfacing, 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 ground preparation, demolition or construction activities shall take place until a Detailed Arboricultural Method Statement with scaled Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. It should include the following details:

- Provisional programme of works;
- Supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion.
- Details of the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning,
- Location of any site office
- Service run locations including soakaway locations and movement of people and machinery.
- Details of the method of tree removal to avoid the use of herbicides on tree stumps to avoid any transfer to adjacent trees
- Construction details to ensure that no ground works extend beyond the position of the tree root trial trenches.

The development shall thereafter be carried out in strict accordance with the approved details.

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

4 The local planning authority is to be notified in writing 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.

5 The area allocated for disabled parking on the submitted plan shall be provided in accordance with the approved details and provided to the building being first brought into use. The disabled parking shall thereafter be kept clear of obstruction and shall not be used for any other purpose.

Reason: In the interests of amenity and highway safety.

6 The cycle parking on the submitted plan shall be provided prior to the building being first brought into use, in accordance with details of the cycle hoops which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable travel.

7 The development shall operate only in accordance with the submitted Operating Policy dated 27.09.2012 unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

8 The development shall operate only in accordance with the submitted Green Travel Plan dated 10.09.2012 unless otherwise agreed in writing by the Local Planning Authority.

Reason: in the interests of sustainable development.

9 The high level windows to the main hall on the north elevation shall be obscure glazed and fixed shut and shall remain so in perpetuity.

Reason: In the interests of residential amenity.

10 Provision shall be made within the site for the disposal of surface water, details of which shall be submitted to and approved in writing by the Local Planning Authority prior to construction.

Reason: To prevent flood risk to the site and to third parties.

11 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 drawing nos 6186 D 0001 A, 6186 D 0101 A, 6186 D 0303, 130307-BVH-TPP-Rev B-LI&AM, 6186 D 0102 D, 6186 D 0105 A, 6186 D 0201 A, 6168 D 0104 F, 6168 D 0301 E, 6168 D 0302 E.

INFORMATIVE:

Information regarding Condition 10: Surface water from the proposed redevelopment should be discharged via SUDS features. Due to the close proximity of an ordinary watercourse, we would encourage surface water discharge into that watercourse. Applicant would need to apply for a Land Drainage Consent from this office in order to do this .

The applicant has indicated that surface water will be disposed of via soakaways. Infiltration testing to BRE Digest 365 should be carried out to ensure a suitable soakaway design is possible (the test results should be submitted to support the discharge of the above condition).

Discharge to the main sewer is the least favourable method of surface water discharge and should be considered as the last resort. A confirmation from Wessex Water would be required to confirm that they are happy with the applicant proposal and that there is a sufficient capacity within their network to accept the additional flows.

REASONS FOR GRANTING APPROVAL

The decision to grant approval has taken account of the Development Plan and approved Supplementary Planning Guidance.

The proposed development is in accordance with Policies D2, D4, BH.2, BH.6, BH7, BH.15, CF.2, ES.2, ES.5, ES.9, ES12, NE.1, NE12, T1, T5, T6, T24, T25, T26 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007.

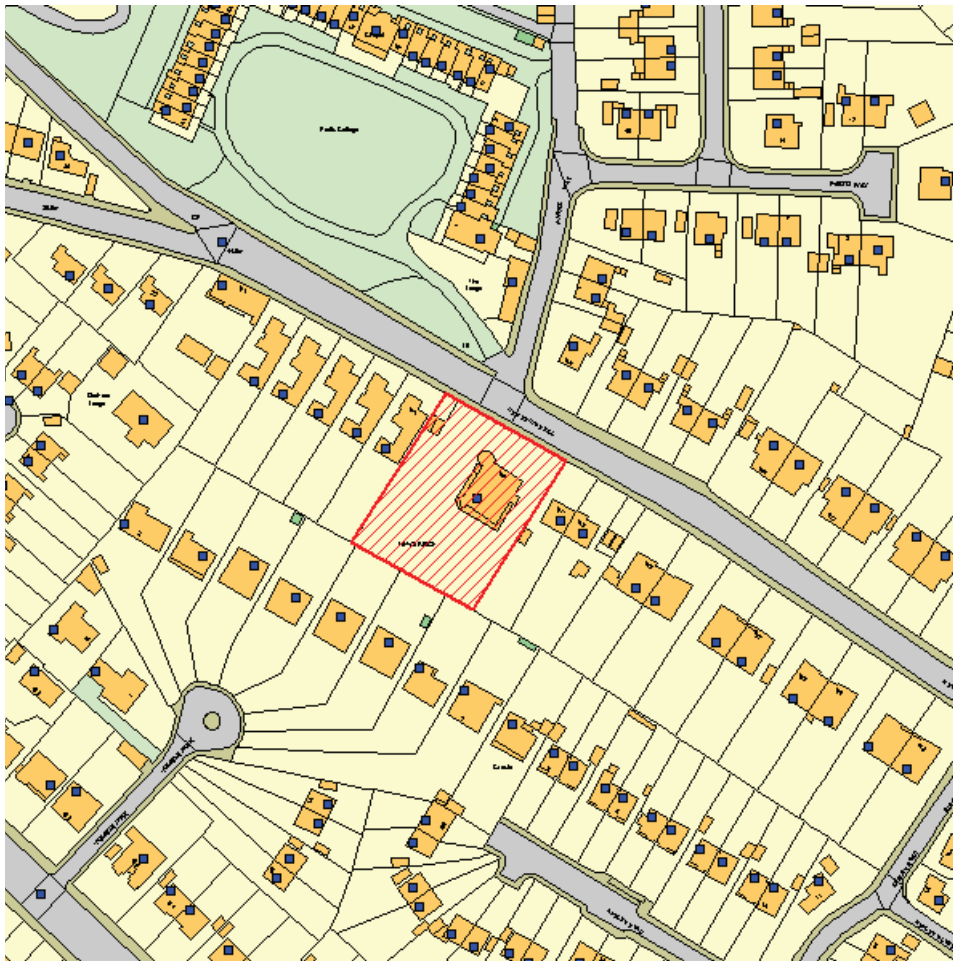
Bath and North East Somerset Submission Core Strategy (May 2011). At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

The proposed development would replace an existing building within Use Class D1 which offers a community facility to the village of Batheaston. The replacement building, although larger than the existing, would not trigger a material change of use as its use would remain the same. The proposal is not considered to, despite the increase in capacity, have a significant detrimental impact on the residential amenity of the neighbouring occupiers or have an unacceptable impact on highway safety. The proposed building is considered to be of a good quality contemporary design which would not have a detrimental impact on the street scene and, in comparison with the existing building, would represent an enhancement to this part of the Batheaston Conservation Area. The development is also not considered to have a detrimental impact on the setting of any adjacent listed buildings.

DECISION MAKING STATEMENT:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the revised proposals was taken and consent was granted.

Item No: 03
Application No: 13/01529/FUL
Site Location: 169 Newbridge Hill Newbridge Bath BA1 3PX



Ward: Newbridge **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor L Morgan-Brinkhurst Councillor C M L Roberts
Application Type: Full Application
Proposal: Erection of a 11 bed care home to the rear of the existing care home and associated works
Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Tree Preservation Order, World Heritage Site,
Applicant: Mr Mehmet Iltas
Expiry Date: 12th June 2013
Case Officer: Sarah James

REPORT
REASON FOR REPORTING APPLICATION TO COMMITTEE

The application has been requested to be reported to Committee if approval is recommended on the request of Cllr Roberts due to the potential for impact on several nearby residents.

THE SITE

The site which measures 0.2ha is located on the south side of Newbridge Hill, within the urban area of the City of Bath. The site is broadly rectangular, 43 metres x 55 metres, with an existing residential care home "Newbridge Towers" located towards the north-east corner of the site, fronting Newbridge Hill. Newbridge Towers is a large 3 storey red brick property built in 1904. It contains 20 bedrooms. The building is set back from the road with a small tarmac area and soft landscaping with some large trees between the retirement home and the road. A gate in the site's north-eastern corner provides pedestrian access to the retirement home.

Vehicular access is located in the north west corner of the site, which leads to a double garage on the site's western boundary. Between the garage and the retirement home are a number of trees covered by a TPO, the largest and most significant of which is a Copper Beech located on the road frontage.

The surrounding area is predominately residential, with large detached and semi-detached houses fronting Newbridge Hill, set back from the road. Partis College which is a grade 1 listed building used as almshouses and the RUH hospital are in the general vicinity of the site being located to the north side of Newbridge Road. The houses in the immediate area are a mix of ages and architectural styles. To the east of the site on the south side of Newbridge Hill are modern dwellings and large Victorian semi-detached properties. To the west of the application site on the south side of Newbridge Hill are more modern detached houses. Directly to the south of the site are single storey bungalow type properties. These back onto the site and front Yeomede Road, which is a residential cul-de-sac.

THE PROPOSAL

The proposal seeks permission for the erection of a new build care home within the rear grounds of the existing Newbridge Towers residential care home. The proposed new care home would be a two storey building located in the south west corner of the site. Because of the natural slope of the site, the building would appear single storey from the north (Newbridge Hill) and the main entrance of the building would be from first floor level. The building would contain a total of 11 en suite bedrooms and would include associated communal areas. The proposed building would have a total floor space of 478 m² (GIA). The building would be equipped and suitable for dementia patients. The building would have an overall total height (taken from the rear two storey element) of 9.5 metres to the top of the gable and 8 metres to the ridge.

Materials would comprise of black slate roof, red facing brick (to match the existing development) and Bath stone detailing.

The proposed building would utilise the existing vehicular access in the north west corner of the site. The existing garage building would be demolished. The internal access would provide occasional vehicular access into the site e.g for ambulances and mini buses. The development would operate on a car free basis as the existing care home does.

HISTORY

DC - 11/00552/FUL - PERMIT - 22 March 2011 - Provision of 2no. dormers, replacement of staircase, re-cladding of bathroom annexe and internal alterations to top floor.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highway officer comments made 7th May 2013 - No highway objections are raised subject to conditions to encourage sustainable transportation.

Arboricultural officer comments made 16th May 2013 - Potential alterations to the surfacing of the existing drive and the extended drive down to the front (north) of the building would affect protected trees. Further detail is required as to the impacts of the construction to ensure these matters are properly controlled.

Archaeology Officer comments made 30th April 2013 - The proposed new care home lies close to Partis College in an area of Roman burial and occupation evidence recorded on the B&NES Historic Environment Record. Consequently a watching brief condition is suggested.

Landscape officer comments made 21st May 2013 - I have no objection to the principle of development in this location as long as the proposed building is subservient to the main one, which it clearly is. Newbridge Towers is a large and imposing building and there is ample space for an appropriately scaled new development.

The existing trees are of primary importance and must be retained and protected. The large Copper Beech is magnificent and the longer term treatment of the space below it is very important as it forms an important part of the overall street frontage. Likewise the hedge to the southern property boundary is particularly important and a comprehensive scheme of tree and shrub planting designed specifically to respond to this area is sought. A range of plant heights will allow for some selected views out of the site. The new development will not have any significant visual impact as there are few longer distance views and local views are restricted. The building would sit low down in relation to the adjacent taller buildings. Whilst the character of the immediate garden will change, it will make much better use of the space and I do not think this change would be unacceptable. Should permission be granted then a high quality scheme of hard and soft landscape works should be agreed by condition before any clearing or construction works commences.

Urban design officer comments made 21st May 2013 - No objections in principle. The garden is of a large enough scale to accommodate an annex of the size proposed comfortably and that redevelopment might actually improve the setting because the garden is scruffy and scrubby. Reservations about the design of the building being a miniature in the style of the main building on site are raised on the basis that there is scope for the building to be designed specifically for its own context in the corner of the site. It could potentially be possible to lower the height of the building with a different architectural approach. The sustainable construction checklist refers to environmental orientation being considered for building design, fenestration, etc. which is supported by policy.

An adequate rear boundary is essential. The trees on site are really important for the character of Newbridge Hill. All hard surfacing must be permeable and the development should include retrofitting energy efficiency measures.

Historic Buildings officer comments made 16th May 2013. - The site is in the conservation area and the proposed development indicates a traditional design approach which would respect this context. The existing care home is an imposing early C20 red brick building with a distinct architectural character. It acts as a visual landmark in this part of the conservation area and in long views from the Twerton area. It adjoins 1960s two storey housing to the west.

It is considered that the architectural approach proposed for the detached extension is acceptable. It is separated from the existing building and reflects local built characteristics such as form, spans, use of traditional materials, proportions of openings and so on. It is set back from the Newbridge Hill frontage and its stepped form would respect the local topography and avoid any detrimental visual impact on the local street scene.

At the rear it will be seen in long distance views from further down the hill, but its design avoids any sky-line intrusion and it is not considered to have any harmful effect on the character, appearance or setting of this part of the conservation area.

There are therefore no objections from the historic environment aspect. It will be important to ensure use of high quality detailing and materials which reflect the local vernacular.

Wessex Water comments made 21st May 2013 advise of the need to agree points of connection onto existing drainage systems and/or new drainage systems with Wessex Water.

Third parties

- 18 Objections have been received from residents on the basis of the following:-
- The density of the development is inappropriate for the site
 - The impact of additional parking on the local area, which is already adversely affected by overspill parking from the hospital
 - The adverse impact on the eastern views
 - The height of the development
 - The inappropriate style and scale of development within a conservation area
 - Inappropriate backland development that may set a precedent
 - Overdevelopment
 - Inadequate waste storage/disposal
 - Overlooking/loss of privacy
 - Light pollution
 - Inappropriate landscaping
 - Inadequate drainage
 - Loss of light
 - Noise
 - Design
 - Smells
 - Impact on property values

POLICIES/LEGISLATION ADOPTED LOCAL PLAN

"Bath & North East Somerset Local Plan (including Minerals and Waste policies) 2007" was adopted October 2007. Policies relevant to this site in the Bath and North East Somerset Local Plan, including Minerals and Waste Plan are:

- SC.1 Settlement classification
- D2 General Design and public realm considerations
- D4 Townscape considerations
- T24 General development control and access policy
- T25 Transport assessment and travel plans
- T26 On-site parking and servicing provision
- ES.2 Energy conservation
- ES3 Gas and Electric Services
- ES.4 Water supply
- ES.5 Foul and surface water drainage
- ES.9 Pollution and nuisance
- ES12 Noise and vibration
- NE14 Flood Risk
- BH1 World Heritage Site
- BH6 Development within a conservation area
- BH.12 Archaeology
- BH22 External lighting
- CF2 Provision of new or replacement community facilities
- CF6 care Home facilities

The B&NES Local Development Framework Core Strategy is at an advanced stage of preparation, with consultation on the Draft Core Strategy having been completed in February 2011 and examination of the Draft Core Strategy took place early 2012.

Policy CP2 is relevant

NATIONAL PLANNING POLICY FRAMEWORK

National Planning Policy Framework (March 2012) can be awarded significant weight. In this case there are no conflicts between the NPPF and the local plan policies..

Adopted supplementary Planning Guidance The Bath City -wide Character Appraisal (adopted 2005) - The site is included within Area 4: Newbridge

Sustainable Construction and Retrofitting SPD adopted 2013

OFFICER ASSESSMENT

HIGHWAYS

The proposed Care Home would utilise the existing access into the site from Newbridge Road. This would permit access into the site for servicing and emergency vehicles as currently provided, with no car parking for visitors or staff proposed. The existing care home operates on a car free basis and the proposed care home would operate in a similar way. The new accommodation would employ an additional 12 staff, as well as some part-time staff. Due to the health of the residents, it is extremely unlikely that any would own a car. Therefore the highway impact has been considered on the basis of movements

generated by the new staff, and additional visitors. In accordance with the Local Plan parking standards, a development of this scale would require a maximum of 8 parking spaces. Any compromise to this maximum is based on the accessibility of the site and the potential to travel by alternative means, as well as the potential impact on-street. The applicant's Transport Statement has therefore considered the impact of the additional parking demand (8 cars maximum), and a basic 'snapshot' survey has been undertaken of existing parking demand in the local area. At the times when demand from the development is at its maximum (at 9.15 when staff arrive, and at 21.45 when demand from residents is likely to be greatest). There remains on-street capacity and the Council's highway officer is raising no objection to the development subject to travel plan conditions.

ECOLOGY

The site has no special interest for ecology that would be affected by these proposals.

NOISE

The use as proposed is acceptable in a residential area. In the event that unacceptable noise nuisance was created there are mechanisms through other legislation to address this. The occupants of the site would have the same requirements for quiet as residents surrounding the site and therefore noise is not expected to be issue on a daily basis. Emergencies may arise but these are anticipated to be occasional and not create levels of disturbance that would warrant refusal.

DESIGN

Notwithstanding that there are alternative designs that might be equally appropriate there is no objection raised on design grounds. Both the conservation officer and urban design officer accept that the development is not harmful in terms of design and it is agreed that is the case. It has been suggested to the applicant that further consideration is given to the roof of the proposal as it is felt this could be reduced in height, assisting in meeting some of the concerns of residents. However this would require a redesign and withdrawal of the current scheme and the applicant has chosen not to take this further at this stage. Consequently the building has been considered on its merits. The building is in that regard considered to be acceptable in its appearance, including its height. It would appear as single storey in views into the site from Newbridge Hill and wider views would be maintained. From the south, looking back toward the site, the development would be seen against the backdrop of the existing site and the development is not considered harmful to the conservation area or World Heritage Site.

Although this development would be of a reasonable size in terms of its footprint, it would be subservient to the existing home, Newbridge Towers, which is a very substantial three storey building with 20 bedrooms. In the context of this site, which is also substantial relative to surrounding plots, being effectively double the width, it is considered that the site can accommodate the level of development as proposed acceptably. It is also considered that the characteristics of the site and in particular the plot size is unusual and in that regard it is not considered this ancillary building would set a precedent for similar schemes in the vicinity.

Residential amenity in relation to design is discussed below.

ADJOINING RESIDENTS

The key issue in this case is considered to be the effect on adjoining neighbours in particular those to the south of the site as a consequence of the scale and massing of the proposals relative to adjoining neighbours. The proposed development would be located toward the rear of the site close to the rear boundary which would be between 7.5 and 9.5 metres away from the rear boundary. There are no opportunities to move the development further from the boundary due to the location of the protected trees to the immediate north at the front of the site. Nearest properties to the south have rear gardens of approximately 18 metres; the distance between existing rear walls and the proposal being consequently over 25 metres. This distance between residential properties would usually be regarded as acceptable.

In this case there are 2 other factors of significance in that the existing nearest residential properties to the south are on lower land and they are single storey albeit some have roof accommodation. In this case however the slope of the land and differentiation in heights is considered to have some advantage, reducing direct relationships between the two developments. At ground floor (or lower ground floor level in the case of the split level proposal) it is considered that adequate screening (as discussed in the landscape section) can be conditioned. The upper floor of the proposal (ground floor level) would have an eyeline above the single storey buildings and that would reduce direct overlooking between the properties.

Notwithstanding that the principle of bedrooms at the upper levels of the proposal is accepted and not found to be harmful, the proposal includes a south facing communal room and this would be more intensively used. This is not agreed to be acceptable. However the applicant has agreed to design amendments to address this issue which could be easily achieved through revised window positions. Amended plans will be presented to the committee which show this revision.

The proposed development is located to the north of its closest adjoining neighbours and its location would minimise any loss of light and direct sunlight would not be lost and there would be no direct overshadowing of properties to the south. There may be some overshadowing to the west but this is minimised due to the design of the roof (hipped on the west side) and the slope of the site and in that regard this is not considered an unacceptable impact sufficient to warrant refusal.

The applicant has been encouraged to consider design amendments with a view to making reductions to the roof height, which is achievable. However that would necessitate a redesign and withdrawal of the application and is not being pursued by the applicant. Notwithstanding this, the current development, taking account of all mitigating factors, the nature of surrounding development, the slope of the site and the design which incorporates a roof design which slopes away from the south side and is hipped to the west side are on balance factors which make the overall relationship of the development to its neighbours acceptable.

TREES

The submitted Arboricultural Impact Assessment confirms that the proposed development would only involve the removal of one small tree and there is no objection to that removal. The proposed access path would run down the western boundary of the site. Whilst acceptable in principle, more detail is sought to ensure that construction would be adequately controlled so as not to impact on protected trees and that would be provided and suitable conditions imposed. However it is considered that there is an acceptable solution and the Arboricultural officer does not consider this would warrant refusal and therefore no objection on grounds of tree impact is raised.

LANDSCAPING

A landscaping scheme has been proposed and includes the provision of additional planting around the boundaries of the site and the provision of a sensory garden which provides useable outdoor space for those requiring dementia care. Landscaping has a key significance in this case with regard to the acceptability of the landscaping of the boundary and whilst a landscape scheme has been proposed officers are not satisfied that this is sufficiently detailed at this stage. A landscape scheme would be conditioned that would provide a mix of shrubs of different heights and densities along the rear boundary allowing selective views into and out of the site rather than a dense and unrelenting hedge.

ARCHAEOLOGY

Archaeological conditions are applied as a precautionary measure taking account of local archaeological evidence.

DRAINAGE

Points of connection onto drainage systems will need to be agreed with Wessex Water. In light of concerns raised by residents a condition to ensure that details are provided to the Local Planning Authority is suggested.

JOB CREATION AND COMMUNITY BENEFITS

The provision of additional nursing home care for which there is a demand and the creation of jobs are both benefits in this case.

WASTE

Proposals to dispose of waste will need to be provided and are conditioned.

CONCLUSION

Taking all of the above into account the recommendation in this case on balance is approval of the development. It is considered there would be no significant highway impact, the design is acceptable and the relationship of the proposal to off site development is acceptable.

RECOMENDATION

Authorise the Development Manager of Planning and Transport Development to PERMIT subject to receipt of satisfactory amended plans which reposition the communal living area window located in the south elevation to the east elevation and subject to conditions.

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 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.

3 No development shall commence until a sample panel of all external walling materials to be used shall be erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed. The panels shall be of a size to be agreed in writing with the local planning authority.

Reason: In the interests of the appearance of the development and the surrounding area.

4 Plans showing a secure and sheltered parking area (providing for at least 8 cycles) shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. This area shall be provided before the development is occupied and shall not be used other than for the parking of cycles in connection with the development hereby permitted.

Reason: In the interests of amenity and highway safety.

5 Prior to the occupation of the development a Travel Statement 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 Statement.

Reason: In the interests of sustainable development.

6 No development shall commence until sewage disposal and surface water drainage works have been carried out in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the adequate provision of drainage infrastructure.

7 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 finished ground levels; a planting specification to include numbers, density, size, 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.

8 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.

9 No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features encountered, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of significant archaeological interest and the Council will wish to examine and record items of interest discovered.

10 No ground preparation, demolition or construction activity shall take place until a Detailed Arboricultural Method Statement with 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 a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion. The statement should also include the control of potentially harmful operations such as the demolition of the existing garage, removal of existing concrete; storage, movement and mixing of materials on site, burning, location of site office, service run locations including soakaway locations and movement of people and machinery.

Reason: To ensure that the protected trees to be retained are not adversely affected by the development proposals and to ensure that the approved method statement is complied with for the duration of the development.

11 No ground preparation, demolition or construction activity shall commence until the protective measures as stated in the approved Detailed 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.

12 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 lines, mains, pipes, cables or other apparatus shall be installed or laid on the site other than in accordance with drawings first submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the existing and proposed trees, vegetation and open spaces on the site.

13 No works or deliveries required to implement this development shall take place outside the hours of 8.00 am and 6.00 pm Monday to Saturday and at no time on Sundays or bank holidays.

Reason: To safeguard the amenity of nearby occupiers.

14 The development hereby approved shall not be used other than for purposes ancillary to the existing nursing home located within the site ('Newbridge Towers') as shown on site location plan drawing P001.

Reason: In the interests of residential amenity of the existing and proposed occupiers and surrounding residents.

15 No development shall commence until details of refuse storage have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the refuse storage has been provided in accordance with the details so approved, and thereafter shall be retained solely for this purpose. No refuse shall be stored outside the building(s) other than in the approved refuse store(s).

Reason: In the interests of the appearance of the development and of the amenities of the area.

16 The use hereby approved shall not commence until details of proposed extract/ventilation systems have been submitted to and approved in writing by the local planning authority. The system shall thereafter be retained in accordance with the approved details.

Reason: To safeguard the amenities of local occupiers.

17 Prior to commencement of development a detailed external lighting scheme shall be submitted and approved in writing by the Local Planning authority. No external lighting shall be erected other than that approved by virtue of the details submitted by this condition.

Reason: In the interests of residential amenity.

18 No development shall take place until a plan showing existing and proposed ground levels across the site and details of slab levels for the new development has been

submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance to the development

PLANS LIST:

290101-B1-E-010, 011, 012, 013, P - 001, 002, 003, Site - D - 01, 02, 03, 04, Site - P - 001, 002, 010, 011, Site - S 001, 002.

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.

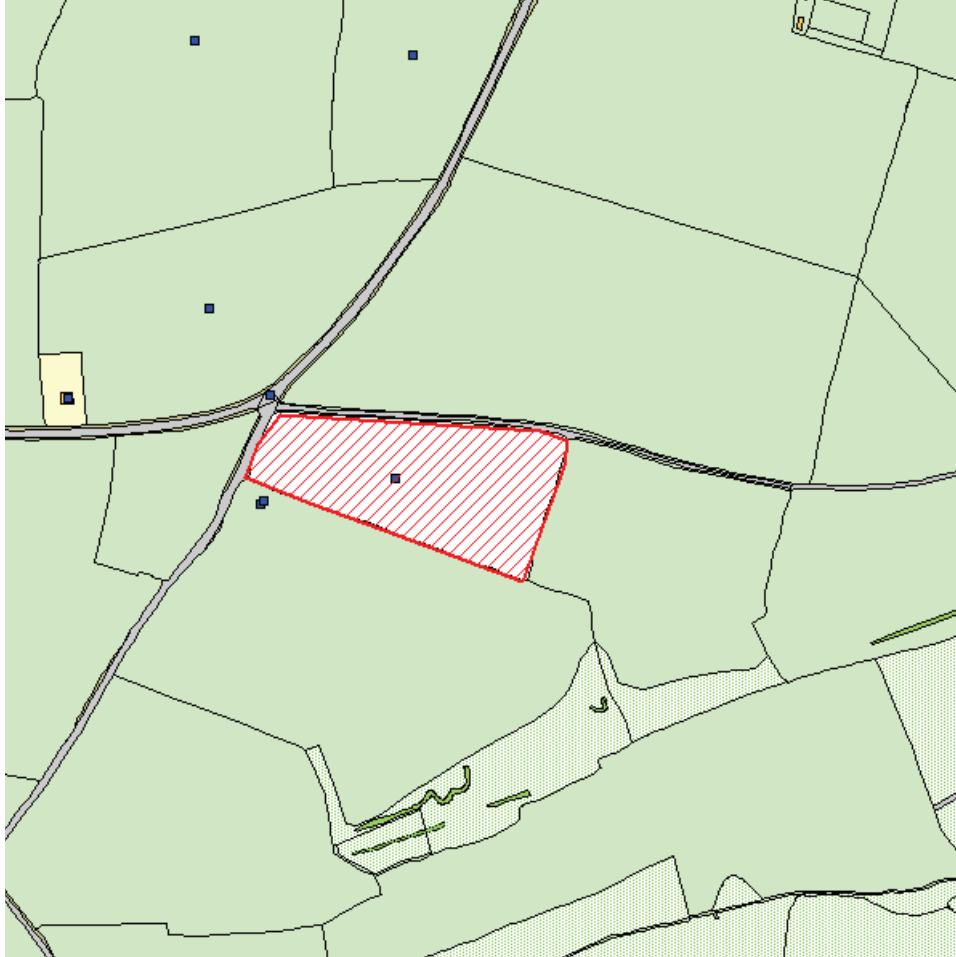
(A) BH1, BH6, SC.1, D2, D4, T24, T25, T26, ES.2, ES3, ES.4, ES.5, ES.9, ES12, NE14, BH12, BH22, CF2, CF6

2. The proposed development is considered acceptable in this location. The scheme will provide for a use on site that is locally in demand and would be an acceptable addition to the mix of uses currently in the vicinity. It would provide some local employment. The development would not be visually harmful and would take account of trees within the site so as not to adversely impact upon them. There would be no harm created by traffic. The development would not unacceptably reduce neighbouring amenities.

STATEMENT OF PROACTIVE WORKING:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, a positive view of the submitted proposals was taken and permission was granted.

Item Nos: 04 to 06
Application No: 05/00723/VAR, 05/01993/FUL & 11/00022/VAR
Site Location: Parcel 5319 Charlton Field Lane Queen Charlton Bristol Bath And North East Somerset



Ward: Farmborough **Parish:** Compton Dando **LB Grade:** N/A

Ward Members: Councillor S Davis

Application Type: Application for Variation of Condition

Proposals: 05/00723/VAR - Variation of condition 13 and 16 of Planning Permission: 97/02626/MINW dated 02/12/1998 to allow permanent recycling of cardboard waste and increase in truck movements.

05/01993/FUL - Increase size of concrete storage area and variation of condition 13 of planning permission 97/02626/MINW to accept wood waste.

11/00022/VAR - Variation of conditions 13, 16 and 19 of permission no. 97/02626/MINW to extend composting operations, increase vehicle movements and permit cardboard and wood recycling (Temporary use of land for 10 years for manufacture of organic green

	compost as amended by revised drawings received 14th April 1998 at land formerly Queen Charlton Quarry)
Constraints:	Agric Land Class 1,2,3a, Forest of Avon, Greenbelt,
Applicant:	Hinton Organics Ltd
Expiry Date:	2nd March 2011
Case Officer:	Anthea Hoey

1. Reason for Reporting Application to Committee

The proposals in the applications have been held to be Environmental Impact Assessment (EIA) development by the Secretary of State. The Committee considered the applications at their meeting on 13 February 2103 with a recommendation for refusal as it was advised that there were deficiencies in the submitted information which meant that it could not be considered to constitute an Environmental Statement (ES) in compliance with the 1999 EIA Regulations. The Committee resolved to defer the applications for three months to allow time for further information to be submitted to enable the submission to be considered as an Environmental Statement. The further information has now been submitted and is it considered to amount to an Environmental Statement.

2. Description of the site and proposed development

The site is an existing composting facility, which is located off Charlton Field lane, between Queen Charlton and Keynsham. The site was previously used as the processing works for the adjacent former Queen Charlton Quarry, now in the final stages of restoration by inert landfilling.

The site is in the Green Belt and is part of the Forest of Avon. The surrounding land is designated as a Site of Nature Conservation Importance.

Planning permission for the temporary use of the site for 10 years for the manufacture of organic green compost use of the site as a composting facility was granted in 1998 under reference 97/02626/MINW. The composting use actually commenced on 31 January 2001.

The applications seek variations to conditions on the planning permission 97/02626/MINW. It is logical for the applications to be considered together, and this report covers all three.

The details of the proposals in each application are as follows:-

05/00723/VAR, Variation of condition 13 and 16 of Planning Permission: 97/02626/MINW dated 02/12/1998 to allow permanent recycling of cardboard waste and increase in truck movements.

Conditions 13 and 16 of planning permission 97/02626 state:

"13 No material other than green garden and parks waste (and no kitchen or animal waste) shall be imported to the site without the prior written approval of the Local Planning Authority."

"16 No more than five heavy goods vehicles shall enter the site on any day. From the date of this permission the site operators shall maintain daily records of vehicle movements and make them available to the Local Planning Authority at any reasonable time upon request."

These conditions were temporarily varied under planning permission 04/00105/VAR granted on the 15 March 2004 to allow the composting of cardboard waste and to allow 82 HGV movements a week between March 2004 and October 2004 and 60 HGV movements a week between November 2004 and February 2005.

Application 05/00723 seeks authorisation to retain those changes until the completion of composting operations permitted under 97/02626.

The site has in fact continued to receive cardboard waste and to operate to the higher limits of HGV movements since March 2005.

05/01993/FUL - Increase size of concrete storage area and variation of condition 13 of planning permission 97/02626/MINW to accept wood waste.

This application seeks authorisation for an increase in the size of the concrete hardstanding from 2048 square metres to 4082 square metres and for a further variation of condition 13 (quoted above) to allow the receipt of wood waste.

The increase in the size of the hardstanding was applied for retrospectively, and due to the earlier granting of the proposals sought in the application, the site has received wood waste since November 2006.

11/00022/VAR Variation of conditions 13, 16 and 19 of permission no. 97/02626/MINW to extend composting operations, increase vehicle movements and permit cardboard and wood recycling

This application incorporates the proposals to allow composting of cardboard and of wood waste, and to increase the number of HGV movements from both the above applications, and in addition seeks a variation of condition 19 of permission no. 97/02626/MINW.

Condition 19 of permission no. 97/02626/MINW states:-

"The green waste composting operations authorised by this permission shall cease not later than 10 years from the commencement of composting operations."

The variation sought is to allow operations to continue for a period of 18 months from the determination of the application. The application was submitted in January 2011, less than a month before the original 1998 permission expired.

3. Relevant background

The first judicial review was against the Council's view that the two 2005 applications did not require to be screened under the 1999 Regulations. The Court held that Council's

understanding of the Regulations was correct, but that the Regulations failed to implement the relevant EU Directive properly and that the Directive required the applications to be screened. The Council promptly screened the applications, negatively. However in January 2010 the Secretary of State intervened and took upon himself the responsibility for screening the applications. He then spent over two years doing this. By the time he made a screening direction, on 9 March 2012, application 11/00022 had also been submitted and the Secretary of State screened this also.

The Secretary of State directed that each application was for EIA development because the development was considered likely to have significant effects on the environment because the possibility of unacceptable odours originating from the operations and because the likelihood of a release of nitrogen rich effluent into the Nitrogen Vulnerable Zone (NVZ). The possible sources for the release of nitrogen rich effluent were a leak of leachate and the spreading of non PAS 100 compost onto the NVZ.

In response to the screening direction Officers made it clear to local objectors that they would give the applicant an opportunity to submit an environmental statement and stated that –

‘Officers accept that, if Hinton does not avail itself of the opportunity to submit an environmental statement, the Council will be obliged to serve an enforcement notice requiring the complete cessation of all activities on the Composting Site and the restoration of the Site.’

This was a correct statement of the legal position.

Despite this statement, objectors started a further judicial review against the Council, challenging its failure to take immediate enforcement action. A ‘rolled-up’ hearing of the judicial review proceedings took place in the High Court in Bristol on 21 and 22 February 2013. The Judge granted permission for Judicial Review but dismissed the substantive claim. The claimant has now served the Council with a Notice of Appeal against the Judge’s decision to the Court of Appeal. The Court has yet to decide whether to grant permission to appeal.

The submissions which comprise the ES have been submitted in three stages:-

- The first submission was made on 17 July 2012;
- the second, in response to the Regulation 19 Notice, was submitted on 17 December 2012,
- the third part of the information for the ES, the ‘further information’, was submitted on 2 April 2013, with a minor correction to page 10 of the Non Technical summary submitted on 8 April 2013, and a further revised version of the Non Technical Summary submitted on 24 April 2013.

The ‘further information’ covered the following subject areas:-

- A contents page for each of the submissions,
- A Non-Technical Summary;
- Ecology;
- Water balance and nitrate runoff; and
- Restoration plans for the site after the composting operations cease.

4. Summary of Consultation/Representations:

COMPTON DANDO PARISH COUNCIL

The response to the 'further information' is as follows:-

Compton Dando Parish Council does not feel it has the technical expertise to comment on the environmental impact assessment.

We would like to see site improvements resolved before next winter, when problems of mud on the road are more likely to recur.

We would also like to see wheel washing equipment regularly used, as we believe was required by the original planning permission.

Subject to these observations, we would support the temporary extension of 97/02626/MINW

Comments received in respect of the earlier submission area as follows:-

The Parish Council received the consultation request on the Reg 19 response too late to be considered at the January meeting and the next meeting was not until after the February committee meeting.

The Parish Council has asked for its original comments on the applications to be reported instead and advised that the Parish Council been invited to the liaison group meetings with local residents, and this has been a positive move. However, complaints are still received about mud on road, lorry movements, smell etc

In addition the Chair of Compton Dando Parish Council sent an email on 7 February which stated:-

As chairman of the parish council, I would like to state that I now believe that odour and traffic movements associated with the composting business have not been an issue in the last 12 – 18 months, and that I have no objection in principle to the application , but would like any extension to the composting business to be finite.

If the committee determination is delayed, I will ask Planning if we can give them a full council decision after our February meeting and add it to the agenda.

The previous responses from Compton Dando Parish Council are:-

11/00022/VAR –

Response dated April 2012

Compton Dando Parish Council would like to raise the following comments on the above application:

- The Parish Council supports the cessation of operations in July 2012;
- The Parish Council requests that consideration be given to the proposed clause 5 of the Joint Waste Strategy Policy 8 (Landfill);
- It is noted that an Environmental Impact Assessment is required at the site;
- It is strongly recommended that scientific monitoring of the operating procedures at this site be undertaken.

Response dated March 2011

The Parish Council recommend that this application goes to committee as the Parish Council feel there is insufficient scientific monitoring, they have reservations with regard to the proposed increase of lorry movements, they are concerned about the visual impact of the site, they have received complaints that the conditions of the original application are not being adhered to, they have received complaints that there are inaccuracies within the application documentation in respect of the distance from the compost site to the nearest receptor.

Copies of letters from a local resident – (reported separately in this report) and from Council officers were attached together with an extract from the Joint Waste Core Strategy Pre-Submission Document:

**05/00723/VAR and 05/01993/FUL
Response dated July 2009,**

Due to insufficient information the Council are not clear on what they are being asked to comment on but would remind you of their previous comments which was that they had reservations, Hinton Organics have not needed the number of lorries specified so the limit should be reduced. Permission should only be granted for another 12 months and reviewed annually. There is strong feeling that there is insufficient scientific monitoring of the operating procedures and the Council still receive complaints/concerns regarding the operation.

PUBLOW AND PENSFORD PARISH COUNCIL.

On April 28 the Parish Council responded as follows:-

We believe these applications will be superseded by a later application for the development of the site on which we will comment in due course. We would object to the above developments on the grounds that our residents have already had to put up with additional deliveries to the site and can see no reason why the composting activity should be extended to wood and cardboard and question the demand for the product. There have been time limits placed on these activities which seem to have been ignored and we feel it is time to finally enforce the conditions which were placed on earlier applications.

We also, as you may know have concerns about the interference with the water courses and the strong possibility of contamination, these concerns have also been expressed to the Environment Agency, but with no response.

WHITCHURCH PARISH COUNCIL:

Any comments will be reported verbally at the meeting.

KEYNSHAM TOWN COUNCIL:

In respect of all submissions the Town Council has expressed support for all the applications.

ENVIRONMENT AGENCY:

The EA response to the 'further information' is as follows:-

We are satisfied that the proposed operations at ReOrganics represent a low risk to the Nitrate Vulnerability Zone.

However, in ReOrganic's Environment Statement dated 2 April 2013, the first paragraph of

Page 34 the report states that "the leachate in the lagoon has been tested and analysed..... and found to contain such low levels of nitrates and other additives that it may be discharged to a water course without harm to the environment". We would disagree with this assertion as the sample results appear to show elevated levels of Ammonium Nitrogen that could cause environmental harm if discharged to a watercourse. ReOrganics do not have permission to discharge effluent from the site (under any circumstances) and any such discharge would be regarded as a breach of permit.

That said, we are satisfied that ReOrganics have an Environment Management System (EMS) that sets out how they would manage their leachate lagoon and deal with any problems that arise. At all times we would expect ReOrganics to comply with the conditions of their Environmental Permit and EMS.

Therefore, we can agree to the variation of conditions 13, 16 and 19 of planning permission **97/02626/MINW** as set out in the applications.

In response to specific queries about the issues highlighted by the Secretary of State in the Screening Opinion, the EA responded as follows on 13 February 2013:-

Thank you for your emails dated 29 January and 1 February 2013, concerning the above proposal.

The Environment Agency can now make the following comments in response to the points you raised:

Size of lagoon and increase in hardstanding

A Construction Quality Assurance report was provided in 2005 which was accepted by the Environment Agency. This report has been provided as part of the application process by ReOrganics. We do not have any calculations to demonstrate that the increase in the size of the pad did not require any increase in the size of the lagoon. Rainfall data has been provided to the operator to enable them to calculate the correct lagoon requirements.

Within the Environmental Management System, the site must monitor the levels of the lagoon to ensure they do not breach their permit condition, which states that the lagoon must not breach 90% of its capacity. The leachate can be re-circulated on some parts of the composting process if moisture levels require it. If they do not the leachate would need to be removed from site via tanker to a suitably permitted facility. If the lagoon was to breach its capacity, and there was an accidental release to the environment, then the Environment Agency would take enforcement action as per our usual procedures.

Considerations for improvements:

- The site could consider an alarmed gauging device for the lagoon level.
- Covering the lagoon would help reduce volumes of rainwater adding to the levels.

Impacts on the Nitrate Vulnerable Zone (NVZ) - if the leachate were to be spread to land, or Non-Pas compost were to be spread on land.

Leachate

Assuming the leachate from the composting site has high readily available Nitrogen (N), it will be subject to the closed period for spreading under NVZ rules. If the applicant wishes to challenge a high N content, we would need laboratory analysis to confirm that the leachate was of low readily available N. If the feedstock varies considerably we would need to see several analyses to prove that leachate composition stayed relatively constant.

Based on the above and an assumption that the liquid produced is high available N the applicant must not apply this liquid to land during a closed period (this will vary depending on soil type and cropping – the earliest date the closed period can start is 1st Aug, latest ending on 15th January).

Waste Compost (Non-PAS compost)

If the site wanted to spread waste compost on land, the applicant would need to apply for an Environmental Permit. As part of this application process they would need to submit waste analysis, which will determine if there is any benefit to spreading the waste. This will prevent any additional N being added to areas that are at risk, or that do not require any further N to be added.

This will also be subject to closed periods for NVZs, the soil type of the area to be spread on, and the crop intended for the land.

In summary if it is a planned release of either leachate or waste compost, the above controls would apply. If it is a leak of leachate there are controls and required actions within the Environmental permit which should control any releases to the environment. Please see above comment regarding the lagoon controls.

Odour Control

With regard to Point 7 information, Odour control is required under the Environmental Permit, as part of the Odour Management Plan (OMP). The information provided in Point 7 is as stated in the OMP. We have no reason to believe that this is not carried out as stated. As stated in point 7, there have been no substantiated odour incidents since 2009, the incidents that were substantiated in 2009 came to court in 2011 as stated in the previous enforcement history information.

The EA responses to the applications in respect of the original submission and the response to the Reg 19 are:-

05/00723

The Environment Agency has no objection to the variation of conditions 13 and 16 to allow permanent recycling of cardboard waste and truck movements.

05/01993

The Environment Agency has no objection to the variation of condition to increase the concrete pad area. The Operator must comply with its Environmental Permit with regard to the amounts of waste stored onsite at any one time, which at this time is 800 tonnes.

Drainage from this area runs to a slurry lagoon. Please note that this slurry lagoon is only permitted to reach up to 90% full, with any excess required to be tankered away. Otherwise there will be a breach of the Environmental Permit.

In response to a specific query about the increase in the hardstanding and the NVZ, the EA sent a further reply dated 3 April 2013, which stated:-

In response I can confirm that the Environment Agency would have no concerns over the increase in hardstanding from 2048m² to 4082m², subject to the current slurry lagoon arrangements.

Please see my earlier correspondence dated 13 February 2013 for the application 11/00022VAR at this site. This letter covers increase in hardstanding, lagoon arrangements and Nitrate Vulnerable Zones, which is relevant for this application.

11/00022/VAR

The Environment Agency has no objection to the variation of conditions 13, 16 and 19, for this proposal.

However, as a matter of completeness, and to make corrections to the accompanying documentation, wish to make the following comments:

Previous correspondence regarding this application sent on the 9th Feb 2011 should be taken into consideration. Since Feb 2011 the site then operating under the name Hinton Organics (Wessex) Limited were prosecuted for three offences for breaches of their permit, relating directly to odour control and waste acceptance criteria. A post conviction plan was provided and accepted. The site permit was transferred to ReOrganics Limited on the 16th November 2012.

ReOrganics Limited currently holds permit number EPR/LB3339RK. They do not hold any other Environment Agency permits or exemptions.

The following points should be noted:

The previous company in charge of this permitted facility Hinton Organics (Wessex) Limited, had a long history of non-compliance and enforcement history from the Environment Agency. ReOrganics have not yet had a routine inspection for compliance. The Compliance Rating of a site shows the total Compliance Classification Scheme (CCS) score during that calendar year. All sites start the calendar year with no breaches and hence a Band A Compliance Rating. As the year progresses breaches may be recorded against permit requirements, points are accrued and band ratings go down.

Information provided under Point 2, the odour management plan.

The Odour Management plan provided by the site is not yet accepted by the Environment Agency as further improvements have been suggested. We are in the process of providing feedback for improvements to this document.

Information provided under Point 13 of the documents provided states that the Environment Agency tests the leachate lagoon. This has been done on one occasion, which indicated that the results were within the working plan limits, that was in place at the time. The EA does not regularly test the leachate in the lagoon.

Information provided under Point 15 of the documents provided states that it is not uncommon for the lagoon to run dry, and that leachate is recirculated if the lagoon reaches 90%. The Environmental Permit allows for leachate to be recirculated during the sanitisation phase only and only if the compost requires moisture. It does not allow the recirculation of leachate in order to lower the lagoon levels. An annual inspection of the lagoon liner is required by the environmental permit. Inspecting Environment Agency Officers have not noted any other occasion when the lagoon has run dry.

Information not received for incidents:

Incident information was sent to Jo Downes on the 18th Dec. The EA attached a document detailing odour related incidents for which enforcement action was taken. This information is also available on the public register at

<http://epr.environment-agency.gov.uk/ePRInternet/SearchRegisters.aspx>

ReOrganics refers to an odour report carried out in 2007 stating in several places that the level of odour was insignificant. The attached information listed incidences of enforcement action taken for breaches of the Environmental Permit with regard to Odour.

The Environment Agency does hold rainfall data for a number of rain gauges. To calculate predicted effect from climate change various scenarios are available on the UKCIP website. <http://www.ukcip.org.uk/bacliat/>

Please refer to the current environment agency position statement on permitting of Open Windrow Composting sites which is:

<http://www.environment-agency.gov.uk/research/library/position/41211.aspx>

The initial response to application 11/00022 dated 9 February 2011 raised no objection in principle to the proposal but wish the following to be taken into consideration:

Advice to Planning Authority/Applicant:

The site currently operates to Permit Number EPR / DP349LJ. The closest residential property is approximately 150m from the site boundary.

On 30 November 2009 the permit was varied to require Bioaerosol Monitoring to be undertaken. The most recent report submitted as part of the Planning Statement is a draft version; the accepted final version is available through the Environment Agency's public register if required by the LPA.

The permit outlines the cardboard and wood waste streams which the site is permitted to accept.

Information was provided regarding the rules set out in the permit for the use of the compost from the site in the restoration of the adjacent inert landfilling site

The EA advised that the assertion in the planning statement that '*there have been no issues with in terms of any pollution to air, land or water over that period*' is not considered to be accurate, and a reference was given to records of past complaints pursued by the EA.

The response also gave a reference to the Environment Agency's position statement on sites which operate composting operations within 250 metres of a 'sensitive receptor' (typically a dwelling or workplace).

HIGHWAY DEVELOPMENT OFFICER:

No response has been received to date to the 'further information'. The Highway Development Officer's responses to the applications in respect of the original submission and the response to the Reg 19 are:-

05/00723, 05/01993 and 11/00022/VAR

Response dated 10th January 2013

The highway response remains one of NO OBJECTION, subject to the conditions set out in the response to 11/00022 dated February 2011.

11/00022/VAR

14th February 2011

In highway terms, this application is broadly the same as 05/00723/VAR and 05/01993/FUL, to which no highway objections were raised.

Charlton Lane is subject to a local 7.5 tonne environmental weight restriction to the north of the site, commencing at the Redlynch Lane junction. Vehicles exceeding this weight limit are not permitted to pass through the area of restriction, so it is likely all HGVs accessing and egressing the site will need to do so via Woollard Lane and A37. Drivers should be informed of this restriction.

Expressed concern about the lack of a wheel wash as required by condition 11 of 97/02626/MINW. This all the more importance given the proposed increase in vehicles

Bearing the above in mind, the highway response is one of NO OBJECTION, subject to the following conditions;

1. Vehicles carrying material to or from the site shall not exceed in size an eight wheel tipper lorry and be restricted in number to a maximum of 100 vehicles (200 movements) per seven day week.

Reason: To control the size and movement of vehicles in the interests of highway safety.

2. Each vehicle attending the site shall be properly logged with the load recorded in cubic metres (for preference). A certified summary of the records shall be submitted in writing to the Local Planning Authority on a bi-monthly basis within 10 working days of the end of each second month.

Reason: To maintain and overview of the traffic conditioned above.

3. All vehicles leaving the site shall be inspected to ensure that they are in a condition not to emit dust or deposit mud, slurry or other debris on the highway, and wheel cleaning facilities shall be installed prior to the commencement of works, in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Thereafter, the wheel wash facilities shall be maintained in operation at all times during the life of the planning permission.

Reason: In the interests of highway safety.

4. The deposit of materials or slurry from the site on the public highway shall be treated as an emergency and will be cleared regularly by a vacuum/road sweeper and/or hand picked in the case of litter. Visual inspections of the site access road will be carried out daily and staff will report any problems with mud on the site surface immediately to the site manager. Vehicles will be visually inspected before exit to check that loads are safe and that no mud is carried on the wheels or body of the vehicle.

Reason: In the interests of highway safety.

ENVIRONMENTAL HEALTH OFFICER:

In response to the 'further information' the Environmental Health Officer commented as follows:-

With regard to the above application variation of conditions 13, 16 & 19 of permission 97/02626/MINW.

I make reference to my previous consultation response of 4th February 2013.

Your email of 16.04.2013 and the attached documents addresses the concerns with regard to the odour management Plan and the recording of wind direction.

The Environmental Health Officer's responses to the applications in respect of the original submission and the response to the Reg 19 are:-

Environmental Protection has no objection.

The Odour Management Plan submitted as item 2 in the Reg 19 Response from the applicant is sufficient and satisfies the points listed below:

1. Precise details of proposed odour monitoring and mitigation measures
2. Height of windrows to be maintained (Page 8, Para 3.1.2 30m x 5m x 3m)

With regard to the need to identify triggers for management measures by reference to specific wind speeds, odour intensity and character, temperature and weather conditions, we consider that the OMP is considered adequate with regard to all of the above, however the reference made to specific wind speeds is poorly addressed.

We conclude that the wind direction is the important trigger with regard to potential odour complaints from nearby receptors and that specifying wind speeds as a trigger is not necessary as this is addressed within the OMP (3.2.7, 4.2.1, 4.3.1 4.5, 5.6)

3. The monitoring form is considered adequate as part of the OMP
4. Generally the OMP is considered adequate however the daily monitoring process could require external checks to ensure compliance

COUNCIL ECOLOGIST:

The comments on the 'further information' which included information on ecology is as follows:-

No Objection subject to conditions described below

Further to my previous comments of 8th February (copy below), the EIA document has been revised and an ecological assessment has also now been submitted.

The ecology survey report includes a statement that “No protected species have been identified on the site prior to this survey.” It should be noted that this is not quite correct, for example there are prior records of badger at the site, however the current survey did not find them at the site at present.

The survey identified the presence of one stand of Japanese Knotweed; this indicates there is a risk of this species occurring at the site and rigorous measures must be continued or put in place as appropriate to regularly monitor for this species, and eradicate where it is found. This can be secured by condition.

The ecological survey and assessment are satisfactory. There is a proposed restoration plan which includes removal of the bund and reinstatement of the hedgerow along the northern boundary, which also is considered to be satisfactory.

I note the response of the Environment Agency, which includes the following statement:

We are satisfied that the proposed operations at ReOrganics represent a low risk to the Nitrate Vulnerability Zone.

However, in ReOrganic’s Environment Statement dated 2 April 2013, the first paragraph of Page 34 the report states that "the leachate in the lagoon has been tested and analysed..... and found to contain such low levels of nitrates and other additives that it may be discharged to a water course without harm to the environment". We would disagree with this assertion as the sample results appear to show elevated levels of Ammonium Nitrogen that could cause environmental harm if discharged to a watercourse. ReOrganics do not have permission to discharge effluent from the site (under any circumstances) and any such discharge would be regarded as a breach of permit.

That said, we are satisfied that ReOrganics have an Environment Management System (EMS) that sets out how they would manage their leachate lagoon and deal with any problems that arise.

Water sample test results have been provided as follows for sample points around the site:

	Total Dissolved Solids (mg/l)	Total Nitrogen (mg/l)	Total Nitrate (mg/l)	Total Ammonium (mg/l)
1 NW Goat Pen	1,395	3.6	0.50	2.50
2 N Compacted Hard	1,616	2.4	0.60	< 0.1
3 NE Corner	2,700	32.6	0.30	11.9
4 Reception	1,003	3.9	1.40	0.70

Based on this and the response from the Environment Agency I am satisfied that operations on the site do not cause unacceptable pollution within the adjacent

watercourse or in groundwater. I would however request some specific measures, to be secured by condition, to add confidence to this as follows:

- Details of proposals for continued monitoring of water quality at reasonable intervals using the same locations tested for this application
- Provision of one or more raised highly visible marker/s demarking the edge of the concrete pad along its western boundary, for use both by site operatives and visitors to the site to enable a safe gap between the edge of deposited waste and the edge of the concrete pad to be clearly visible and for remedial action to be taken if the gap reduces

Suggested Condition:

Full details of the following measures must be submitted to and approved in writing by the local planning authority within *xx months* of this decision. These details shall include:

- (i) a programme of ongoing screening, control, eradication and monitoring procedures for Japanese Knotweed in accordance with current best practice guidance
- (ii) details of proposed ongoing water quality monitoring programme
- (iii) details of proposed marker for the edge of the concrete pad and remedial action to be taken if necessary

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 with immediate effect for the duration of this consent.

The Council Ecology Officer's responses to the applications in respect of the original submission and the response to the Reg 19 are:-

The operational site for the proposal is surrounded by land all of which adjacent is part of the Wooscombe Complex designated Site of Nature Conservation Interest (SNCI).

There is a need for the submitted documents to assess likely ecological impacts of the proposal, on land within the site boundary and any potential impacts on adjacent land and further afield.

The submitted documents do not provide sufficient information to properly assess likely impacts of the proposals on ecology, ecological value of the watercourses / drainage channels and bankside habitats, and ground water quality, and impacts of the existing and proposed operations.

The consideration of such information by the LPA is likely to require further specialist input (hydrological / water quality assessment and pollution).

However I am confident that the documents provided so far for these applications do not in any case sufficiently address the ecological issues.

There is no ecological assessment – including provision of information regarding previous and existing ecological value at and adjacent to the site (such as ecological survey &

mapping of habitats and habitat quality; botanical value; species diversity; protected species; water quality in drainage channels; identification of non-native invasive species); recognition of historical ecological value of land including land within the designated SNCI; provision of assessment of likely impacts of all operations and these proposals on habitats, species and overall ecological value of the area. A significant proportion of the submitted information that would relate to potential impacts on ecology is theoretical, and fails to provide data or factual evidence of current or historical conditions of the above features at and adjacent to the site, on which assessment can confidently be made.

I object to the proposal due to insufficient information to assess ecological value at the site (prior to and existing) and demonstrate that the proposals will not harm ecology and water quality. The likelihood that ecological damage has in the past already resulted from operations at the site cannot be eliminated; any such historical impacts need to be addressed.

Should the LPA decide to consent these proposals, I would expect the above issues to be properly addressed by:

- Full EIA and ecological assessment by suitably experienced and qualified personnel that comply with best practice methods and meet all current good practice standards
- Detailed proposals for ecological mitigation, compensation and enhancement (on and off site) and long term provision of new ecological benefits on and adjacent to the site to compensate for impacts
- Details for prevention of spread of non-native species (eg Japanese knotweed) and treatment of such when found to occur on the site or adjacent or nearby land (when it may have originated from the site)

PLANNING POLICY SECTION OF BANES PLANNING

The response concerning the 'further information' is:-

Planning Policy will not be commenting on the applications.

The Planning Policy Officer's responses to the applications in respect of the original submission and the response to the Reg 19 is:-

No comment.

NATURAL ENGLAND:

In response to the 'further information' EN had responded as follows:-

The advice provided in our previous response applies equally to this amendment although we made no objection to the original proposal.

The proposed amendment to the original application relates to variation of conditions and is unlikely to have significantly different impacts on the natural environment than the original proposal.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

In response to the earlier submissions the EN response was:-

'Natural England does not consider that these applications pose any likely or significant risk to those features of the natural environment for which we would otherwise provide a more detailed consultation response and so does not wish to make specific comment on the details of this consultation' The features requiring more detailed consideration include SSSIs, Natura 2000 site, National Park, Area of Outstanding Natural Beauty or a large population of a protected species which may affect a significant quantity of habitat across the country.

The lack of case specific comment from NE should not be interpreted as a statement that there are no impacts on the natural environment.

In particular, NE would expect the LPA in determining the applications to assess and consider the possible impacts resulting from this proposal on Protected species and Local wildlife sites, and to consider the scope for biodiversity enhancements.'

Initial response dated April 2012 was written on the basis that the development was not EIA development. NE raised no objections but asked to be consulted again if any changes to the application were made.

ENGLISH HERITAGE

Do not consider that it is necessary for these applications to be referred to EH.

OTHER REPRESENTATIONS/THIRD PARTIES:

81 letters of objection have been received from 21 different local residents and a solicitor acting on behalf of one of them.

The letters raise objections on the grounds of :-

- impact on health,
- inaccuracies in the information submitted re distances to nearest sensitive receptors, this should include adjacent farmland, which retains permitted use rights for changes to their current grazing use. Livestock should also be included as sensitive receptors.
- impact from odour and air pollution from bio-aerosols,
- impact from noise,
- impact on traffic safety, mud on roads unsuitable roads leading to the site and damage to surface and verges,
- impact on Green Belt,
- proximity to houses, the site is in the wrong place and should be restored to agriculture
- impact on wildlife,
- impact from fly tipping/litter,
- failure to comply with existing conditions and limits, including a compound on adjacent land.
- The supporting information does not satisfy the requirements for an Environmental Statement. The ES fails to adequately describe the project, mitigation, data to measure impacts and alternatives. An incorrect baseline has been used.
- The applicant has provided insufficient information about the waste imported into the site since 2001, or the sources of that waste and its content; consideration of alternatives is inadequate; the statements are inconsistent about the number of employees, and about the amount of material that is allowed to be held on the site. Other matters are also inaccurate.

- The unauthorised sale of wood from the site
- Suspicion at the applicant's change of name.

Several of the respondents requested that enforcement action be taken to ensure the use of the site is discontinued.

51 letters of support have been written by 17 local residents. The points made are:-

- The site is a good operation and serves a useful and valued role to local businesses and there is no alternative.
- It provides much needed jobs and work for local people, which are important particularly in this period of economic adversity.
- The business is doing its bit for the environment by producing great compost from waste, also used as farm fertiliser.
- The staff are very helpful people.
- The site is being held back by red tape and it seems inappropriate to remove the consent with the consequential detrimental effects on a sustainable local business.
- It would not be appropriate to close the business because of a misinterpretation of the purposes of an EIA by Environmental Officers .

5. PLANNING POLICY

Planning applications should be determined in accordance with the provisions of the development plan unless material considerations indicate otherwise.

The **development plan** includes the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007, and The West of England Joint Waste Core Strategy adopted in March 2011. The relevant policies in these plans are as follows:-

Bath and North East Somerset Local Plan:

Paragraph B1.5 states that within rural areas the overriding objectives for development are the protection and enhancement of the character of the countryside and its settlements and the maintenance of economic and social vitality of rural areas.

Policy GB.1 sets out general policy for development in the Green Belt. In particular, it sets out a list of the types of development that are acceptable within the Green Belt. The list includes *'other development and material changes of use which maintain the openness of the Green Belt and do not conflict with the purposes of including land in it'*. Policy GB.1 makes it clear that permission for other types of development will not be given except in "very special circumstances".

The purposes of including land in the Green Belt and objectives for the use of land in the Green Belt are set out in Table 10 of the Local Plan. The latter list includes item 4 – 'To improve damaged or derelict land'.

Policy GB.2 seeks to protect the visual amenities of the Green Belt.

Policy NE.5 states that development in the Forest of Avon will only be permitted where it respects the existing and developing woodland setting and does not conflict with the objectives of the Forest Plan and has regard to its aims in the layout of development, including landscaping

Policy NE.9 relates to locally important species and habitats. Development which would adversely affect either directly or indirectly the nature conservation value of Sites of

Nature Conservation Importance, Local Nature Reserves or Regionally Important Geological and Geomorphological Sites as shown on the Proposals Map, or any other sites of equivalent nature conservation value, will not be permitted unless; material factors are sufficient to override the local biological geological / geomorphological and community/amenity value of the site; and any harm to the nature conservation value of the site is minimised; and compensatory provision of at least equal nature conservation value is made.

Policies ES.9 and ES.10 deal with pollution, nuisance and air quality.

Policy ES.10 states amongst other things that development will not be permitted where it would have an adverse impact on health, the natural or built environment or amenity of existing or proposed uses by virtue of odour, dust and/or other forms of air pollution.

Reference is made to composting in the Waste Section of the Local Plan, but the relevant policies have been superseded by The West of England Joint Waste Core Strategy.

Policy M.9 of the BNESLP deals with transport.

The West of England Joint Waste Core Strategy (JWCS):

Paragraph 5.6.7 confirms that the JWCS does not replicate or replace local development management policies. However, it explains that some local plan policies will be superseded by the JWCS and they are listed in Appendix 3 to that document. LP policies WM1, WM3, WM5, WM6, WM7, WM8, WMN10, WM12, WM13, WM14 and WM15 are all thereby superseded.

Overall the JWCS seeks to increase the capacity for recycling and composting available within the sub region by an additional 800,000 tonnes per annum (Para 6.3.1). The Plan does not identify sites where this might take place, but Policy 3 sets out the approach to open windrow composting. The supporting text explains that open windrow composting has different land use implications to other waste management facilities not least because it generally requires minimal support buildings. The operations are comparable to agricultural activities and may therefore be appropriate to locate in the open countryside.

Policy 3 states:-

Planning permissions for open windrow composting, with sufficient distance, as defined in Environment Agency guidance¹², from any sensitive receptor will be granted, subject to development management policy:

- 1. on existing or proposed waste management sites, subject in the case of landfill and landraising sites or other temporary facilities, to the waste use being limited to the life of the landfill, landraising or other temporary facility;*
- 2 . on sites in the countryside which constitute previously developed land, or redundant agricultural and forestry buildings and their curtilages for proposals for the composting of waste and;*
- 3. sites in agricultural use proposing composting of waste for use within that agricultural unit.*

(12) Policy 405_07, Policy Position composting and potential health effects from bioareosols. Environment Agency, 2007.

Policy 11 on planning designations advises that planning permission will not be granted for waste related development where this would have a significant adverse impact on, amongst other designations, the Green Belt, except where very special circumstances are justified. The policy continues by saying that due regard should be paid to appropriate

prevailing national policy, and that the assessment should take account of whether any significant adverse impact can be controlled to acceptable levels.

Other material considerations include National policy contained in the NPPF and PPS10 and advice about temporary permissions contained in Circular 11/95.

The NPPF sets out national policy on Green Belts in paras 79 onwards. This makes it clear that development involving the construction of new buildings should be regarded as inappropriate in the GB. There are a few listed exceptions to this, including buildings for agricultural or forestry. The advice lists certain other forms of development that are also not inappropriate provided they preserve the openness of the GB and do not conflict with the purposes of including land in the GB; engineering operations are included in this list.

PPS10 'Planning for Sustainable Waste Management' (March 2011) is one of the few Planning Policy Statements that was not replaced by the NPPF. Its Companion Guide is also still in place. The PPS forms part of the UK's implementation of the EC Framework Directive on Waste.

PPS10 sets out the key planning objectives for sustainable of waste management as follows:

- i. Driving waste up the waste hierarchy and addressing waste as a resource.
- ii. Providing a framework for communities to take more responsibility for their own waste and enable sufficient and timely provision of waste management facilities to meet community needs.
- iii. Implementing national waste strategy and supporting targets.
- iv Securing the recovery or disposal of waste without endangering human health or the environment.

The Waste Hierarchy ranks different forms of waste management in terms of their effectiveness, with prevention being at the top of the hierarchy, and disposal at the bottom. Recycling, defined as reprocessing of waste materials into products, materials, or substances falls in the middle of the hierarchy, and composting would fall within this definition.

The companion Guide to PPS10 includes open windrow composting amongst those waste management facilities that require largely open sites.

The implementation of the EC Landfill Directive by the Landfill Regulations (England and Wales) 2002 has restricted the waste types which can be landfilled and requires pre-treatment of certain wastes before deposit, making landfill a more costly disposal operation than in previous years. From 31 October 2007 all non-hazardous wastes, with limited exceptions, have required pre-treatment prior to deposit in landfill. This requirement has meant a significant increase in the volume of waste recycled in the UK and more stringent targets are being set as a result.

Compost is regarded as a substitute for peat. The NPPF includes restrictions on the identification of new or extended sites for peat extraction in the preparation of mineral plans and instructs mineral planning authorities not to grant planning permission for extraction of peat on new or extended sites.

Circular 11/95 sets out advice on temporary permissions in para 109. The advice gives guidance on the factors that should be taken into account in deciding whether a temporary permission is appropriate. The considerations described mean that the limited circumstances where a temporary permission will normally be appropriate include where the applicant proposes temporary development.

6. Planning Issues

Principle of development

The applications seek changes to conditions on a planning permission originally granted in 1998 for a period of 10 years from commencement. The reason for the condition restricting the period of operation of the composting use was because 'The development is of a type not considered suitable for permanent retention in the Green Belt'.

The changes to the types of material that may be imported and to lorry numbers and to the size of the hardstanding do not raise issues in relation to the principle of development, however seeking an extension of time to continue operating for a further 18 months from the date of approval does. It may be appropriate to approach this question from the point of view of an extension from January 2011, when the previous planning permission expired, to December 2014, which would be the date of expiry if permission was granted in June 2013.

When the proposal was first considered back in 1998 it was treated as a departure from the development plan, because it was considered inappropriate development in the Green Belt. Therefore very special circumstances had to be demonstrated, sufficient to offset the harm to the Green Belt in order for the application to be approved.

The factors that led to the conclusion that these very special circumstances had been demonstrated were that the use had a functional relationship with agriculture, it could be accommodated on the site without serious harm to the landscape and nature conservation issues, and that suitable arrangements could be made in relation to site management. The format of the eventual restoration was also considered, although it was recognised that approving the use would postpone the time when the restoration would take place.

The application reports also considered the potential for the use to contribute to achieving targets for composting in the Waste Management Strategy and looked at alternative sites which had earlier been considered for their suitability for the operation of a centralised composting facility. The conclusion at the time was that the other sites were not suitable, and that the Queen Charlton site was a good location because it was central, of sufficient size, offered scope for transport efficiencies and afforded scope for environmental protection.

These factors continue to apply to the current application for the extension of time until 2014. In addition the outcome of the judicial review is considered relevant. Therefore in this instance 'very special circumstances are considered to continue to apply for the extension of the operating period from 2011 to 2014.

However it is considered important that the applicants be informed that no further temporary extensions of time will be considered. Any future application for continuation of the composting use should be permanent and as well as revisiting the other factors that

have led to the conclusion that the harm to the GB was outweighed, should also provide information about the availability of alternative sites, with the presumption that if a suitable alternative site is available, then the alternative site should be used instead of the present site. Permission will only be granted in any future scenario if it can be clearly demonstrated that no suitable alternative sites are available.

Adequacy of the submitted information

The development is considered to be 'Environmental Impact Assessment' development, and therefore the Council is prohibited from granting planning permission without first considering environmental information, i.e. an environmental statement (ES).

The initial ES submitted with the application and the first response to the Regulation 19 Notice were considered inadequate because of deficiencies in presentation, and on a number of points on content. These deficiencies were described in the report to the Planning Committee for 13 February.

These deficiencies were considered sufficiently material to mean that the applications had not been accompanied by a proper Environmental Statement; therefore irrespective of the merits of the application, the Council could not approve the applications. The Council resolved to allow more time for the applicants to submit the information.

The subsequent submissions have been considered carefully and it is considered that the deficiencies have been sufficiently remedied to the extent that they can collectively be considered as an Environmental Statement.

The 'further information' addressed all the topics identified in the February 13 Committee report, and the Non-Technical Summary together with the tables of contents are sufficiently clear for the coverage of all relevant impacts to be understood by the general public.

Therefore the application can now be considered to be accompanied by an adequate Environmental Statement.

Key impacts

The Screening opinion issued by the Secretary of State identified odour and the potential impact on the NVZ as the key impacts that led to the conclusion that the composting operation might have significant effects on the environment.

Odour

The operation of the site has in the past led to proceedings by the EA and by the Council against the operators on grounds of odour. The last such instance was in 2009. Since then an Odour Management Plan has been prepared and is now in operation. No prosecutions on the grounds of odour have been made since then. The Odour Management Plan is considered to be suitable by the Council's own Environmental Health Officer.

The applicant is well aware of the importance of ongoing management in the control of odours.

The issue for Members to consider now is whether the development covered by the present application has the potential to generate objectionable odours. Officers and the EA consider that the present application has no such potential. The changes to the conditions to allow importation of wood and cardboard reduces the likelihood of odours being emitted, and increasing the size of the hardstanding also assists because it enables the height of the windrows to be reduced.

A condition requiring adherence to the Odour Management Plan should be attached to any permission. It will also be required by the EA in association with the Environmental Permit.

Impact on the NVZ

The risk to the NVZ is either from a leak of leachate from the site or from the spreading of Non PAS 100 Compost in the NVZ.

A leakage of leachate could occur either from an escape from the hardsurface or leak in the lagoon, or from the lagoon overtopping as a result of a significant rainfall event.

The hardstanding is designed to drain into the lagoon and the applicant has provided copies of the Construction Quality Assurance reports for the hardstanding and lagoon, which demonstrate that they have both been built to the correct specification. The Council Ecologist raises a point about the definition of the western edge of the hardstanding, which is not one of the lower edges of the hardstanding. The risk there is of spillage of raw green waste, rather than of leakage of leachate. It is considered that this issue can be addressed by a condition as suggested.

The risk of a leakage from overtopping of the lagoon due to a significant rainfall event has been addressed by the applicant by calculating the amount of runoff that would be generated by a 1 in 5 year storm, which is the appropriate period advised by the EA in their 'Technical Guidance on Composting Operations'. This is then compared with the capacity of the lagoon, either when it is full, or when it is partially full. The risk of a leak due to overtopping is calculated by reference to the ability of the site management to make available additional capacity in the lagoon by pumping leachate onto the compost (which would then be absorbed), or by removing the surplus leachate by tanker. The calculations demonstrate that there is a low risk of leakage due to overtopping, a conclusion with which the EA agrees.

The applicants also undertook an analysis of the nitrate content of the leachate as an additional check on the impact in the event that the lagoon was overtopped. Although the EA state that it disagrees with the applicant's conclusion that the level of nitrate in the leachate means that it is not potentially harmful to the NVZ, it also states that it is satisfied with the site Environmental Management System is adequate to address this issue.

In addition it is relevant that the applicant advises that the lagoon is in a hollow and before any leachate could leave the site, the hollow would also have to be filled. From the topographical survey, the volume of the hollow is more than adequate to accommodate the level of overtopping that might occur in the event of a 1 in 5 year storm, even though site management measures might fail.

PAS 100 is an industry standard for the manufacture of compost. The site is registered to produce compost to this standard, and appropriate documentation to demonstrate this has been included in the ES.

The site management regime includes provision for detecting imported material that might lead to the compost not meeting the standard, and its removal from the site. This is considered adequate measures within the control of the applicant to prevent the spreading of non PAS compost within the NVZ.

Other impacts.

HEALTH: Concern has been expressed by objectors that emissions of bioaerosols from the site cause harm to the health of local residents. Policy 1 of The West of England JWCS includes consideration of the distance between the site and any sensitive receptors in the assessment of the suitability of proposed sites. The footnote to the policy explains that the origin of this criterion is the EA 2007 Policy Position Statement on composting and potential health effects from bioaerosols. Environment Agency. The 2007 Position Statement has now been updated with a later interim statement dated November 2010. The policy position statement requires the production of a site specific bioaerosol risk assessment if the distance between a composting site and the nearest sensitive receptor is less than 250 metres as part of the Environmental Permitting of the site.

The definition of Sensitive Receptor in the EA Policy Position Statement is:-

'Sensitive receptors refers to people likely to be within 250 metres of the composting operation for prolonged or frequent periods. This term would therefore apply to dwellings (including any associated gardens) and to workplaces where workers would frequently be present. It does not apply to the operators of composting facilities or their staff while carrying out the composting operation as their health is covered by Health and Safety legislation'

In this case, the distance between the site and the nearest sensitive receptor (as defined above) is 150m. The objector considers that the distance is much less (only 20m) because he claims that his open farmland should also be regarded as 'sensitive receptors' because it requires the presence of staff to farm it. Although the farmland is currently pasture land which would not normally require the presence of farm staff for the same level of intensity as the occupation of a dwelling or other work place, the objector claims that there is no removal of permitted development rights on the farm holding to prevent different farming practices that may require more intensive levels of presence of farm staff being introduced.

The adjoining land is not classed as among the best and most versatile grades of agricultural land, and no specific proposal has been put forward by the objector which would suggest that any such different farming practices might be introduced nor what that practice might be. There is no basis to include livestock in the definition of 'sensitive receptors'.

It is relevant to know that the Environment Agency advises that the permit for the site is supported by a Bioaerosol Risk assessment which requires Bioaerosol Monitoring to be undertaken. This has been done since November 2009, and to date no evidence has been produced which would indicate that the levels of bioaerosols from the site as measured in accordance with the Monitoring Regime are above levels regarded by the EA as acceptable.

The Bioaerosol Risk Assessment was undertaken on the basis of the site having the extended hardstanding, and importing wood and cardboard for incorporation into compost, so it addresses the changes sought in the current applications. The report to the in February 2010 referred to material submitted by the objectors in relation to the emission of bioaerosols (measurements carried out in 2006 and a modelling exercise carried out in 2009) which was not in a format that could be compared to any recognised standard. The 2010 committee report also advised that Bristol Scientific Services carried out such measurements for the site and found that they 'appear fairly low compared to other figures published for Aspergillus spores in and around compost heaps.' The HSE assessed the objectors' measurements carried out in 2006 and did not consider that they indicated significant adverse environmental effects.

No further evidence has been submitted to the Council since 2010.

Based on the advice from the Environment Agency it is considered that there are not sufficient grounds for refusing the application on grounds of harm to health.

NOISE: No additional plant or equipment is required to handle wood waste or cardboard waste. The development for which planning permission is sought will therefore not involve any increase in noise. As lower windrows are easier to turn, this reduces the generation of vehicle noise.

There is no evidence of the operation of machinery on the site causing noise problems. The increase in vehicle movements is not considered sufficient to result in a noticeable increase in traffic associated noise.

OTHER POLLUTION: The Environment Agency requires that all processing and composting of waste materials should take place on the concrete pad which drains to a sealed lagoon. The present application does not involve any change to the arrangements for collecting and disposing of waste water from the composting process. Litter impacts will not change from the existing situation, which is considered to be acceptable. There is no evidence to support the view that there has been an increased incidence of fly tipping in the area.

HIGHWAYS: The highways implications of the applications are considered to be acceptable by the Council's Highways officer subject to conditions.

ECOLOGY: The site has been an active waste site since 2001 and has limited ecological value. The development covered by the present applications has no effect on ecological interests. The impacts on ecology of the applications are considered to be acceptable by the Council's Ecology officer subject to conditions. Provision of the required schemes for the control of Japanese Knot weed, water sampling and means of marking the edge of the hardstanding within one month of the date of approval is considered a reasonable requirement.

LANDSCAPE: The view into the site from the adjoining road network is restricted by bunding and hedges. A bund within the site screens views of the present operations and other features of the site from the byway which runs along the north boundary of the site. The applicant has agreed to remove one of the containers which has been placed on top

of another and is therefore notably visible above the site screening within a short period and this can be enforced by condition.

ARCHAEOLOGY: The development covered by the present application will have no effect on any archaeological assets which the site may have.

POPULATION: The closest residential property is approximately 150m from the site boundary but is surrounded by tall hedges. The next closest property is approximately 380m away. The use of the site has no material visual impact on these properties. The implications in terms of odours, bioaerosol emissions, noise and traffic generation are considered above.

WASTE MANAGEMENT: Government policy supports proposals for the recycling and composting of waste and policy 3 of The West of England Joint Waste Core Strategy provides for the provision of open windrow composting on existing waste management sites, or on sites that constitute previously developed land. This is subject to satisfaction on the question of bioaerosols, which is addressed above. In this case the site was previously a quarry before being used for composting.

Officers consider that the previous use of the site in fact makes it more rather than less 'appropriate' for use as a composting site. Accordingly officers consider that the location of the development falls within the terms of Policy 3.

The proposed development is considered to be in accordance with the principles of sustainable waste management which seek to drive the treatment of waste up the waste hierarchy and help implement targets for diverting waste from landfill whilst not causing harm to human health and the environment. These matters have been addressed above.

Other matters raised by Objectors

Objectors refer to failure to comply with existing conditions and limits, including a compound on adjacent land and the unauthorised sale of wood and mulches from the site. These matters are being investigated with the applicant and will be reported to the committee if found to require enforcement action. Other alleged infringements have been found not to comprise breaches of planning control.

On the question of the change in the applicant's name from Hinton Organics to ReOrganics, this is not a material planning matter. Any planning permission will run with the land, not with the applicant. The company has changed its name for legitimate commercial reasons and the new name is correctly registered with Company's House.

It is not agreed that the ES fails to adequately describe the project, mitigation, data to measure impacts. The project description now includes restoration of the site, relevant mitigation measures, and includes data necessary to assess the impacts. On the question of alternatives, the Regulations only require an 'outline of the alternatives studied by the applicant'. There are no real alternatives available to the operator, so this does not apply. What has been done is sufficient to explain this.

The objectors allege that an incorrect baseline has been used. It is true that the 'further information' includes a reference to the marginal difference to the operation made by the importation of wood and cardboard and of the enlargement of the hardstanding. However

the subsequent analysis of impacts does not address itself to the marginal impacts attributable to these changes, and correctly examines the total impact of the whole operation.

Issues arising from the allegation that insufficient information about the waste imported into the site since 2001, or the sources of that waste and its content are not relevant to the consideration of the applications. These matters concern the past operation of the site and are not necessary for assessing the potential impact in the future.

It is not agreed that the applications warrant refusal because ReOrganics has been inconsistent about the number of employees, nor the amount of material that is allowed to be held on the site. On this latter point, there is actually no limit in planning terms, the limit is applied by the EA. The relevant point in planning terms is the number of lorry movements, which has been included. The other points raised are considered minor in a similar manner.

7. RECOMMENDATION

It is recommended that all 3 applications be approved for a period of 18 months further subject to the same conditions as were proposed when the 05 applications were last considered (in February 2010) together with additional conditions suggested by consultees.

1 Composting operations shall have ceased and all material removed from the site by 31 December 2014 and the site restored in accordance with the scheme required under condition 11 by 31 July 2015.

Reason: The development is of a type not considered suitable for permanent retention in the Green Belt.

2 No material other than green garden and parks waste, wood and cardboard shall be imported on to the site.

Reason: Waste materials outside these categories raise environmental and amenity issues which would need to be assessed.

3 All operations on site shall take place in accordance with the Working Plan dated September 2012, and the Odour Management Plan dated September 2012.

Reason: To ensure the development does not have an unacceptable impact on the local community.

4 No operations shall be carried out at the site except between the following hours:
0800 to 1800 Monday to Friday
0800 to 1300 Saturdays
No operations shall take place on Sundays or public holidays.

Reason: To prevent an unacceptable impact on local amenity.

5 No material shall be stockpiled, deposited or windrowed to a height exceeding 3 metres.

Reason: To prevent an unacceptable impact on local amenity.

6. Vehicles carrying material to or from the site shall not exceed in size an eight wheel tipper lorry and be restricted in number to a maximum of 100 vehicles (200 movements) per seven day week.

Reason: To control the size and movement of vehicles in the interests of highway safety.

7. Each vehicle attending the site shall be properly logged with the load recorded in cubic metres (for preference). A certified summary of the records shall be submitted in writing to the Local Planning Authority on a bi-monthly basis within 10 working days of the end of each second month.

Reason: To maintain and overview of the traffic conditioned above.

8. All vehicles leaving the site shall be inspected to ensure that they are in a condition not to emit dust or deposit mud, slurry or other debris on the highway, and wheel cleaning facilities shall be installed within 3 months of the date of this permission, in accordance with details to be submitted to and approved in writing by the Local Planning Authority. Thereafter, the wheel wash facilities shall be maintained in operation at all times during the life of the planning permission.

Reason: In the interests of highway safety.

9. The deposit of materials or slurry from the site on the public highway shall be treated as an emergency and will be cleared regularly by a vacuum/road sweeper and/or hand picked in the case of litter. Visual inspections of the site access road will be carried out daily and staff will report any problems with mud on the site surface immediately to the site manager. Vehicles will be visually inspected before exit to check that loads are safe and that no mud is carried on the wheels or body of the vehicle.

Reason: In the interests of highway safety.

10. Full details of the following measures must be submitted to and approved in writing by the local planning authority within 1 month of the date of this decision. These details shall include:

- (i) a programme of ongoing screening, control, eradication and monitoring procedures for Japanese Knotweed in accordance with current best practice guidance
- (ii) details of proposed ongoing water quality monitoring programme
- (iii) details of proposed marker for the edge of the concrete pad and remedial action to be taken if necessary

Following approval the schemes shall be carried out with immediate effect for the duration of this permission in accordance with the approved details, unless otherwise approved in writing by the local planning authority.

Reason: In the interests of nature conservation.

11. The rating of noise emitted from plant and equipment in use on the site shall be 3BA below the existing background noise level, determined to be 38dBA LA90, at the boundary

of the nearest noise sensitive premises (Charlton Fields). Measurements and assessments shall be in accordance with BS 4142, 1997.

Reason: To prevent an unacceptable impact on the amenities of the local area.

12. All plant and machinery used on site which requires a reversing warning system shall be fitted with a bbs-tek backalarm system or another similarly specified product.

Reason: To safeguard the amenity of local residents.

13 No retail sale of any treated or processed material shall take place from the site.

Reason: To prevent unnecessary traffic visiting the site.

14 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, no buildings, fixed plant, fixed machinery or other structures, (except those already on the site), shall be erected or placed on the site without the prior written approval of the Local Planning Authority. Within one month of the date of this permission, the container presently placed on top of another container shall be removed from its current position and placed at ground level in a position that has been previously approved by the Local Planning Authority. In the absence of an agreed alternative position, the said container shall be removed from the site.

Reason: To prevent an unacceptable impact on the visual amenities of the local area.

15. The site shall be restored in accordance with a scheme to be submitted for the written approval of the Local Planning Authority within 3 months of the date of this permission.

The scheme of restoration shall include details of:

- the removal of all plant, machinery, buildings, structures, concrete and other hardstandings, lagoons and haul roads;
- the nature of the intended after use, including plans and details of the habitats to be created;
- the re-spreading of material to a depth of at least 1m of final cover consisting of soil or other cover material suitable as a rooting medium, free of stones or other obstructions to cultivation. This final cover shall be placed in layers.
Any suitable cover material previously stripped from the site being placed first as a base layer, then subsoil as an intermediate layer, then top soil as the uppermost layer to a depth of 300mm and seeded with a suitable herbage mix;
- the ripping of any compacted layers of cover to ensure adequate drainage and aeration. Such ripping to take place before the placement of topsoil;
- the machinery to be used in soil spreading operations;
- the drainage of the restored land including the formation of suitably graded contours to promote natural drainage or the installation of artificial drainage if required;
- a scheme for the aftercare of the restored land to cover a period of five years from the completion of placement of topsoil on the site; and
- a timetable for the implementation of the scheme as approved.

Reason: To ensure the site is restored to an acceptable standard.

FOOTNOTE

This decision relates to the following drawings:-

05/00723:-

503/01B and 503/04B date stamped 14 April 1998.

503/02B and 503/03B dated June 1997, received on 3 April 2013

05/01193

503/01B and 503/04B date stamped 14 April 1998.

503/02B and 503/03B dated June 1997, received on 3 April 2013

11/00022

Site location map 2159/1093/01, Site location plan 2159/1093/02 rev A, Site layout plan 2159/1093/03

REASONS FOR GRANTING APPROVAL:

The proposed development is a temporary extension of time to a temporary planning permission for open windrow composting and involves changes of condition regarding the importation of wood and cardboard, and the control of lorry numbers. The original permission was approved for a temporary period because the site is in the Green Belt. The temporary further extension of time is considered acceptable within this context, especially in the light of the acknowledged need for additional composting facilities in the West of England Joint Waste Core Strategy adopted in March 2011.

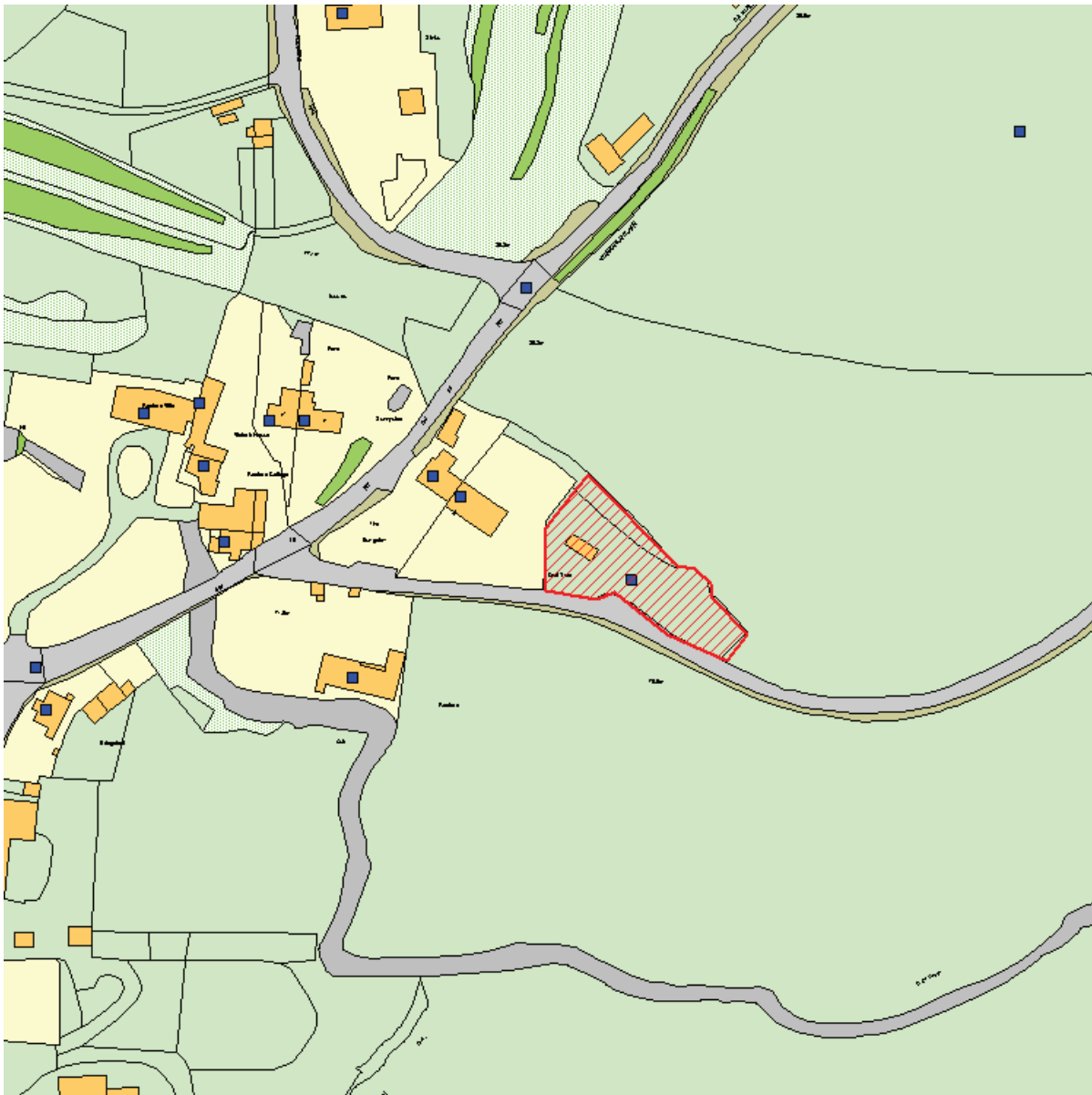
Having considered the content of the Environmental Statement accompanying the applications, it is considered that the Site Management Plan and Odour Management Plan and other features of the proposal provide sufficient mitigation to the likely environmental impacts of the composting process in this location. The permission seeks key impacts to be monitored and information to be submitted to the Council in future. The Council is aware that similar controls on these and other aspects of the composting operation are undertaken by the Environment Agency.

The proposed development also seeks retrospective permission for the extension of the hardstanding. Having considered the information in the Environmental Statement about water balance of the hardstanding and the lagoon into which it drains, and the management of the site the Council is satisfied that there is adequate mitigation to keep likely environmental impacts within acceptable levels.

The decision is subject to conditions requiring the implementation of the Site Management Plan and the Odour Management Plan and other conditions.

This decision has been made having particular regard to policies GB1, GB.2, NE.5, NE.9, ES.9 ES.10 and M.9 of the Bath and North East Somerset Local Plan (including Minerals and Waste policies) 2007, and Policies 3 and 11 of the West of England Joint Waste Core Strategy (March 2011).

Item No: 07
Application No: 13/00533/FUL
Site Location: Yard Adjoining 2 The Bungalows Durcott Lane Camerton Bath



Ward: Bathavon West **Parish:** Camerton **LB Grade:** N/A
Ward Members: Councillor David John Veale
Application Type: Full Application
Proposal: Erection of 2no work/live units
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon,
Applicant: Mr Kevin Tranter
Expiry Date: 16th May 2013
Case Officer: Daniel Stone

REPORT

REASON FOR REPORTING APPLICATIONS TO COMMITTEE:

The application has the support of the Parish Council, but is recommended for refusal.

SITE CONTEXT

The application site is located on a rural lane in the hamlet of Radford, approximately 800 to the west of Camerton. The settlements of Timsbury and Paulton are located 1.2 and 3 km to the north and west respectively. For the purposes of planning, the site is located in the open countryside.

The site itself is roughly triangular in shape and stretches along Durcott Lane, backing onto agricultural land to the north. To the east is a semi-detached bungalow, elevated substantially above the site. This property is also owned by the applicant.

Formerly the site was a coal yard, but has established use for a Skip hire business, a Sui Generis use.

PROPOSAL

The application seeks consent for the erection of 2 detached dwellings. The dwellings would be arranged serially along the site, with each property having its own garage and sharing a single access onto Durcott Lane.

The application would involve the relocation of the skip hire business from the site. In the course of determining the previous application, the Managing Director of a Waste Recycling facility at Fullers Earth has confirmed that the business has transferred all its operations to this location, although the security of tenure at this location was not confirmed.

RELEVANT PLANNING HISTORY:

12/02178/FUL - Erection of 3 houses - Refused 06.09.12

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Summary of Consultation/Representations:

CONSULTATION

Consultation letters were sent out to 3 properties, a notice was placed in the local press and additionally a site notice was displayed on the site frontage.

To date 3 letters of support have been received, stating the application will improve the appearance of the site, reduce congestion and the need for heavy vehicles.

CAMERTON PARISH COUNCIL - Support

As the applicant has offered through a section 106 agreement land to allow the highway to be widened the development complies with policies T.1 and T.24 of the local plan saved to the submitted draft core strategy.

Similarly while this development is outside but adjoining the village housing boundary by provision of combined work living space this development offers employment opportunity. It is therefore compliant with policy RA.2 of the draft submitted core strategy.

It also complies with policy D.2 of the local plan saved to the submitted draft core strategy as the scheme maintains the character of the public realm and by way of the applicant giving up his burning licence will in fact enhance the amenities of the neighbouring properties.

This application complies with the NPPF as it is sustainable development by providing home based employment opportunities and support for the school in terms of potentially increasing the number of pupils. Similarly it promotes sustainable transport as there is no need for the future residents of these dwellings to commute to their employment. Also it widens the choice of high quality homes. The development secures high quality design and a good standard of amenity especially with the forgoing of the burning licence. It also complies with the NPPF as this combination of residential and work development supports the sustainable growth of this rural area. While the NPPF does state that new isolated homes should not be built in the countryside it does allow development of this nature as this reuses redundant facilities and with the forfeiture of the burning licence leads to the enhancement of the immediate setting. This enhancement is further increased with the offered improvements to the highway and potentially increased pupils for the school.

HIGHWAYS DEVELOPMENT CONTROL - No objections subject to conditions

The proposal involves the erection of 2no. 4-bedroom dwellings which each include a home office above the detached double garages. The dwellings would be served by a single point of vehicular access with a shared turning facility, and visibility splays of 2.4m by in excess of 60m are stated in the Access and Design Statement to be achievable.

A previous proposal on this site submitted under application 12/02178/FUL for three dwellings was refused on planning and highway grounds, with sustainability and the number of accesses, without adequate visibility, being raised by this Team.

The current proposal for a single point of access demonstrates that more than 60m visibility can be achieved to the west and 50m can be achieved to the east. Having regard to the nature and speed of the lane at this point, and the former use of the site, I consider this level of visibility to be acceptable to serve two residential dwellings.

The site is still considered to be remote from local services and public transport, and therefore residents and visitors would be reliant on the private car for the main mode of transport. However, the inclusion of a home office could enable residents to reduce their frequency of commuting.

The loss of the larger vehicle movements associated with the former skip hire business and the reduced level of development than previously proposed, would minimise the level of traffic on the country lanes, and therefore you may consider that an objection on sustainability grounds could be offset by the overall improvements through the redevelopment of the site.

Having regard to the above, I would ask that an amended plan be submitted which addresses the pedestrian accesses to the dwellings, and subject to the receipt of a satisfactory plan, and on the basis that you would not wish to pursue an objection purely on sustainability grounds, I would recommend that conditions be attached covering visibility splays, and parking and turning areas.

TRANSPORTATION AND HIGHWAYS (DRAINAGE) - No objections provided that a condition is applied requiring the submission of surface water drainage scheme prior to the commencement of development, utilising S.U.D.s principles.

CONTAMINATED LAND OFFICER - No objection provided conditions are attached to any consent requiring the submission of a contamination risk assessment and remediation strategy.

BUILDING CONTROL - No Objections - advised that level access is required to each of the plots.

ENVIRONMENTAL HEALTH - Advised (in respect of the previous application) that there were no noise complaints attributable to the skip yard but that there had been two complaints in the past relating to materials being burnt on the site and giving rise to dark smoke.

POLICIES/LEGISLATION

Policies/Legislation:

POLICIES

Adopted Local Plan:

SC.1 Settlement classification
D.2 General design and public realm considerations
D.4 Townscape considerations
BH.16 Village buffers
HG.7 Minimum residential density
HG.14 Replacement dwellings
ET.1 Employment Land Overview
ET.3 Core Employment Sites
ES.5 Foul and surface water drainage 87
ES.9 Pollution and nuisance
ES.15 Contaminated land
ET.1 Employment Land Overview
T.1 Overarching access policy
T.6 Cycling Strategy: cycle parking
T.24 General development control and access policy
T.26 On-site parking and servicing provision

Core Strategy

DW1 - District Wide Spatial Strategy

RA2 - Development in Villages outside the Green Belt not meeting Policy RA1 Criteria
CP6 - Environmental Quality
CP10 - Housing Mix
SV1 - Somer Valley Spatial Strategy

Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire Joint Replacement Structure Plan

Policy 1 - Sustainable Development and Development Strategy

OFFICER ASSESSMENT

Officer Assessment:

KEY ISSUES:

The Key consideration for this application is whether the proposals have overcome the previous reasons for refusal, which were as follows:

1 The proposal, located remote from services, employment opportunities and being poorly served by public transport, would be a fundamentally unsustainable, car dependent form of development. As such the development is contrary to Policies T.1, T.24 and HG.4 of the Bath & North East Somerset Local Plan adopted 2007, policy RA2 of the draft Bath and North-East Council Core Strategy, Policy 1 of the Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire Joint Replacement Structure Plan, and the National Planning Policy Framework, which seek to facilitate the use of sustainable modes of transport and encourage a sustainable pattern of development.

2 The proposed development would result in a multiplicity of accesses onto the public highway without adequate visibility splays which would be likely to increase the risk of hazards and inconvenience to all users of the road and be prejudicial to highway safety. As such the development would be contrary to policy T.24 of the Bath & North East Somerset Local Plan adopted 2007.

3 The proposed development would comprise the over-development of the site, by virtue of the number of dwellings on the site and the large dwelling sizes proposed in relation to the limited plot size. As a result the proposed development would provide an unacceptably compromised environment for future residents, in terms of lack of privacy for the occupants of 2 Durcott Lane and proposed plot 1 (and the constrained ground outlook for this proposed dwelling), and the limited and constrained garden space available for proposed plot 3. As such the development would be contrary to policy D.2 (f) of the Bath & North East Somerset Local Plan adopted 2007.

4 The proposed development would be contrary to policy ET.3 of the Bath & North East Somerset Local Plan adopted 2007 in that insufficient evidence has been submitted to demonstrate that the site would not be capable of continued business occupation, or that a business use would give rise to unacceptable traffic or environmental problems.

The headings set out below address each reason for refusal.

A. IS THE PRINCIPLE OF RESIDENTIAL DEVELOPMENT ACCEPTABLE ON THIS SITE IN TERMS OF SUSTAINABILITY AND HOUSING POLICY CONSIDERATIONS?

Local Plan policies SC.1 and HG.4 would allow residential development in Camerton on sites within the development boundary provided it is appropriate to the scale of the settlement in terms of the availability of facilities, employment opportunities public transport.

In this case the site lies well beyond the established development boundary which is drawn tightly around the village and consequently there is an 'in principle' objection to the residential development of the site. The proposals would also be contrary to policy RA2 of the draft Core Strategy which would likewise restrict residential development to within the development boundary.

As discussed in the delegated report for the previous application, the National Planning Policy Framework (NPPF) advises (paragraph 55) that "to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities... For example, where there are groups of smaller settlements, development in one village may support services in a village nearby. Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside; or where the development would re-use redundant or disused buildings and lead to an enhancement to the immediate setting."

It is acknowledged that the NPPF (Paragraph 111) encourages the use of previously developed land (brown field land) provided that it is not of high environmental quality. The application site does constitute previously developed land and is not of high environmental quality.

As discussed in the Transport comments, the site is remote from services and public transport. No bus routes pass through Radford. The nearest bus routes (which themselves are not particularly frequent) pass through Timsbury and Camerton, but either settlement is a significant distance from the site along roads that are narrow and lacking pavements and therefore ill-suited to pedestrian use.

The proposals have been modified to address this point by including garages with large first floor rooms which could be used as home offices. Officers acknowledge that this could enable home based workers to occupy the properties, potentially reducing trip generation rates, however there is no guarantee that the properties would be used in this way, and this is really no different to the opportunity available in any large dwelling to use a spare room to work from. As a result, the properties are considered to be straight-forward dwellings, and no weight is given to their description as "live-work" units.

Even if all the working age residents in the properties to work from home (which is highly unlikely), the site is still in a remote position in relation to all other resources (shops, schools, cultural activities), and potential future residents would still be highly reliant on the private car for all their other daily needs. Therefore the site is considered to be an unsustainable location for residential development.

Notwithstanding these concerns, consideration needs to be given to the fall back position, and the sustainability of the established employment use.

In the report for the previous application, officers argued that the location was a relatively sustainable location for a skip yard, in that whilst such a use was inherently "car" dependent, the website for the company appeared to demonstrate that the site was well located in terms of the catchment area it served, minimising the length of vehicle trips to and from sites. Were the skip hire company to continue in operation, this would continue to be the case.

It is fair to say that other forms of proposed employment with greater trip generation rates would be likely to raise similar concerns to the proposed residential use in terms of sustainability concerns, but were a small workshop use to be established on the site, it could offer employment for local residents in a convenient location. As the established Skip Hire Use is a Sui Generis use, planning permission would be required for any replacement employment use, at which point the sustainability and trip generation of the use could be considered in detail.

The Core Strategy outlines key challenges for the Somer Valley which include "an imbalance of housing over jobs, a vulnerable local economy and high levels of out-commuting due to lack of local employment opportunities". As a result, even were an employment use to draw employees from as far afield as Midsomer Norton, Radstock, Paulton or Peasedown St. John, it would still assist in promoting the self-sufficiency (and sustainability) of the Somer Valley.

B. IS THE DEVELOPMENT ACCEPTABLE IN TERMS OF HIGHWAY SAFETY?

As set out in the highway comments, subject to a small amendment to the layout plan, the proposals are acceptable in terms of highway safety considerations and overcome the second reason for the refusal of the previous application.

C. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THEIR LAYOUT, APPEARANCE AND IMPACT ON THE AMENITY OF SURROUNDING RESIDENTS?

Officers considered the previous application to be an overdevelopment of the site which would have resulted in unacceptable amenity impacts for future residents as a result of overlooking. By cutting down the number of dwellings proposed and realigning them so that they don't overlook the adjoining property, these concerns have been overcome, and the proposals would have no material impact on residential amenity.

The proposed dwellings which would be substantial in scale and would be faced in stone coloured render with natural slate roofs. The development would and the removal of the existing skip hire operation would have a substantial positive impact on the appearance of the site.

Amenity Impacts of Existing Use

As is evident from the comments from the Parish Council and the Council's Environmental Health Officer, the burning of materials on the site have given rise to amenity and

environmental impacts for local residents, and were the development to go ahead, these activities would cease which would also be a benefit of the scheme.

B. IS THE LOSS OF THE EXISTING BUSINESS USE ACCEPTABLE?

Policy ET.3 of the Adopted Local Plan advises that proposals for the loss of land and floorspace for the B1c, B2 and B8 uses will be judged against the extent of positive or negative progress being made in achieving a managed reduction in floorspace on the scale sought by Policy ET.1(B) and against the following additional criteria:

- (i) whether the site is capable of continuing to offer adequate accommodation for potential business or other similar employment uses; or
- (ii) whether continued use of the site for business or other similar employment uses would perpetuate unacceptable environmental or traffic problems; or
- (iii) whether an alternative use or mix of uses offers community benefit outweighing the economic or employment advantages of retaining the site in business or other similar employment uses.

- (i) The applicants asserted in the previous application that the skip hire use was uneconomic without expanding and intensifying its operations, however no evidence was submitted to substantiate this. The site was also not subject to a marketing exercise to test the market demand for alternative employment uses.

No further evidence has been submitted in this application to address this point, but the applicants argue that the proposed live/work units now proposed meet this test and maintain the site in employment usage.

Officers give the employment benefits of the "live/work units" very little weight. Whilst the rooms above the garages could be used for home-working (in much the same way as a spare room within either of the dwellings could be) there is no guarantee that they would be. Looked at objectively there is very little in the plans to differentiate the live-work units from standard executive houses, and therefore they should be treated no differently.

- (ii) As addressed below at Key Issue D below, the removal of the existing use from the site (and the giving up of the burning licence) would offer a reduction in traffic and also environmental improvements in terms of the appearance of the lane, and a reduction in noise and smoke from the skip hire use. However some or all of these benefits could be secured by an alternative business use, and it is not considered that the continued use of the site for employment purposes would necessarily give rise to unacceptable environmental or traffic problems.

- (iii) The proposals would deliver housing to meet local needs, and would deliver local environmental improvements, however these would not outweigh concerns in respect of the loss of an employment site or concerns about the sustainability of the site for residential uses.

The proposals are considered to be contrary to Local Plan policy ET.3.

Policy SV1 (3) of the Schedule of Proposed Changes to the Submitted Core Strategy (March 2013) advises "The Strategy for the Somer Valley is to:

- a) Enable the delivery of around 900 net additional jobs between 2011 and 2029 and facilitate further jobs if economic circumstances allow
- b) Encourage the retention and expansion of local companies and the growth of new businesses by making provision for the changes in employment floorspace set out below:
- Office floorspace: from about 30,000m² in 2006 2011 to about 40,000m² in 2029
 - Industrial/Warehouse floorspace: from about 110,000m² in 2011 to about 100,000m² in 2029...
- c) Protect land in existing business use and consider alternative use where this is no reasonable prospect of a site being used for that purpose and does not lead to an unacceptable loss of employment land."

Addressing point c of Policy SV1(3), no evidence has been submitted to demonstrate that there is no reasonable prospect of the site being taken up for employment purposes. In particular, the site has not been marketed for continuing employment uses. The proposals are contrary to this policy.

It is not considered that the 4th reason for the refusal of the previous application has been overcome.

CONCLUSION

The application is balanced. Previous concerns in respect of overlooking and highway safety have been overcome. The proposals would also result in a substantial improvement to the appearance of the site and would benefit residents through reductions in noise, traffic and smoke from the site.

The proposals would however involve the loss of the employment use from the site, aside from a token opportunity for residents to work from home offices above the garages, and insufficient evidence has been submitted to demonstrate that either the existing business is unviable, or (through the site being marketed) that the site is incapable of continuing employment use. As a consequence the proposals are contrary to policy ET.3 of the Local Plan which aims to protect existing employment uses, and to policy SV1 (3) of the Schedule of Proposed Changes to the Submitted Core Strategy (March 2013).

There are also significant concerns about the sustainability of the site for residential development. The location is poorly related to services and public transport and inaccessible by walking, and as a result residents would be almost wholly dependent on the private car to meet their daily needs. By contrast, were the site to be put to a new employment use (such as small workshops) it could offer a relatively sustainable location for employment in the Somer Valley, whilst still delivering some of the environmental improvements offered by this development.

Consequently, officers consider that the application should be refused on the grounds of the loss of employment floorspace and sustainability grounds.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed development would be contrary to policy ET.3 of the Bath & North East Somerset Local Plan adopted 2007 and to policy SV1 (3) of the Schedule of Proposed Changes to the Submitted Core Strategy (March 2013). Insufficient evidence has been submitted to demonstrate that the site would not be capable of continued business occupation, or that an alternative business use would necessarily give rise to unacceptable traffic or environmental problems.

2 The proposal, in a remote position from services, employment opportunities and being poorly served by public transport, would be a fundamentally unsustainable, car dependent form of development. As such the development is contrary to Policies T.1, T.24 and HG.4 of the Bath & North East Somerset Local Plan adopted 2007, policy RA2 of the draft Bath and North-East Council Core Strategy, Policy 1 of the Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire Joint Replacement Structure Plan, and the National Planning Policy Framework, which seek to facilitate the use of sustainable modes of transport and encourage a sustainable pattern of development.

PLANS LIST:

This decision relates to drawing nos:

- Site Location Plan
- DUR1/A Elevation And Floor Plans
- DUR3/C Street Elevation, Block Plan
- DUR4A/B Site Section A & B
- DUR5A/B Proposals - Elevations, Plans, Section
- DUR6/A Existing Site Sections
- DUR3/C Street Elevation And Block Plan
- Sustainable Construction Checklist
- Schedule of photos

Decision Taking Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The submitted application was considered to be unacceptable in principle for the reasons outlined above and the applicant was advised that the application was to be recommended for refusal but choose not to withdraw the application. Having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

Item No: 08
Application No: 13/00846/FUL
Site Location: Whiteways White Cross Hallatrow Bristol Bath And North East Somerset



Ward: High Littleton **Parish:** High Littleton **LB Grade:** N/A
Ward Members: Councillor L J Kew
Application Type: Full Application
Proposal: Erection of 2no. holiday cottages to expand existing B&B business following the demolition of existing residential outbuildings
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Hazards & Pipelines,
Applicant: Mr Nick Pollett
Expiry Date: 16th May 2013
Case Officer: Daniel Stone

REPORT

REASON FOR REPORTING APPLICATIONS TO COMMITTEE:

The application has the support of the Parish Council, but is recommended for refusal.

SITE CONTEXT + PROPOSALS

The application site consists the garden of a vacant bungalow on a roomy site in the open countryside on Green Lane, Hallatrow, just off the A37. The site is not within the Green Belt and lies within Flood Zone 1. The site lies within the HSE notification zone for a hazardous pipeline.

Consent is sought for the erection of two single storey holiday cottages, in the garden of the property which is extensive. Planning permission was recently given for a replacement dwelling on the footprint of the existing bungalow, which is in very poor condition.

RELEVANT PLANNING HISTORY:

12/04576/FUL - Erection of 1.5 storey dwelling with associated landscaping works following demolition of existing bungalow - approved 04.12.2012

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSULTATION

Consultation letters were sent out to 3 adjoining properties, and a notice was placed in the local press.

To date no response has been forthcoming to the public consultation.

HIGH LITTLETON PARISH COUNCIL - Support

HIGHWAYS DEVELOPMENT CONTROL - This site is not sustainable in transport/travel terms for traditional residential development due to its remote location, and a recommendation for refusal was made to a previous application for a dwelling on this site.

I am aware of other similar developments in rural areas, granted prior to NPPF, where holiday accommodation has not raised an objection on these grounds as the argument for rural diversification was deemed appropriate. Since the publication of the NPPF there seems to be a greater acceptance that development should be allowed in rural areas that promotes the sustainability of these communities.

I accept the comments of the TPA letter which comments on the transportation issues, in that access to certain facilities (schools, employment opportunities etc.) would not be required for this sort of development. Relatively frequent bus services do exist on the A37, within a reasonable walking distance which does give a realistic alternative travel option to/from Bristol.

On balance therefore while realistically most journeys from the accommodation are likely to be undertaken by car, there are no grounds for objection on this basis. This would not be the case if this were a housing development. I accept the assessment of traffic generation and would agree there would be no impact on the efficiency or safety of the junction, the access to/from Green Lane being signalised. This is based on advice I have been given by our traffic-signal design colleagues.

I therefore recommend no highway objection on highways grounds, subject to the following conditions being attached to any consent granted:

The area allocated for parking on the submitted plan shall be kept clear of obstruction 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.

'Welcome packs' shall be issued to all occupiers 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 Smarter publication, car share, car club information etc. The content of such packs shall have been approved in writing by the Local Planning Authority before the development hereby approved is first brought into use.

Reason: In the interests of sustainable development.

ECOLOGY

An ecological survey has been submitted, which confirms no protected species at the site, although the site is suitable for use by nesting birds. Works to existing structures must take place outside of the nesting season, or surveyed first for nesting birds and disturbance avoided for any that are present, until chick are fledged. This must be secured by condition.

The proposals include the previously approved mitigation for the adjacent development ie the retention of one of the buildings to be adapted to make it suitable for use by bats.

Subject to

1. a condition requiring measures to avoid disturbance to nesting birds, and
 2. the long term retention of the building, unlit, with access for bats so as to allow continued suitability of the building for use by bats once the new development is in use,
- I have no objections to the proposal.

Recommended Condition:

No removal of buildings shall take place between 1st March and 31st August unless a Survey to assess the nesting bird activity on the site during this period and details of measures to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority and no building shall be removed between 1st March and 31st August other than in accordance with the approved bird nesting protection measures.

POLICIES/LEGISLATION

POLICIES

Adopted Local Plan:

D.2 General design and public realm considerations
D.4 Townscape considerations
T.1 Overarching access policy
T.6 Cycling Strategy: cycle parking
T.24 General development control and access policy
T.26 On-site parking and servicing provision

Core Strategy

DW1 - District Wide Spatial Strategy
RA2 - Development in Villages outside the Green Belt not meeting Policy RA1 Criteria
CP6 - Environmental Quality

National Planning Policy Framework
Ministerial statement entitled 'Planning for Growth', 23 March 2011

OFFICER ASSESSMENT

KEY ISSUES:

A. IS THE PRINCIPLE OF THE PROPOSED DEVELOPMENT ACCEPTABLE?

Policy ET.4 of the Adopted Local Plan advises that development proposals for small scale purpose built visitor accommodation will be permitted at rural settlements (i.e. defined in Policy SC.1 as R1, R2 or R3 settlements) provided that such development: a) is appropriate in scale and character to its surroundings; and b) in the case of R1 and R2 villages, lies within or adjoining the settlement; or c) in the case of R3 villages, is infilling in line with Policy GB.1.

In this case, Hallatrow is classed as a R.2 settlement, but the site lies outside of the established development boundary, in the open countryside.

Local Plan Policies HG.4 and HG.10 direct residential development towards existing towns and villages defined by development boundaries, with dwellings only being permitted in the countryside if they are essential for agricultural or forestry workers.

Policy DW1 of the Core Strategy (District Wide Spatial Strategy) advises: The overarching strategy for B&NES is to promote sustainable development by focussing new housing, jobs and community facilities in Bath, Keynsham, Midsomer Norton and Radstock particularly ensuring development in rural areas is located at settlements with a good range of local facilities and with good access to public transport. Brownfield sites are to be prioritised for new development in order to limit the need for development on greenfield sites.

Policy RA1 of the Schedule of Proposed Changes to the Submitted Core Strategy advises, proposals at villages outside the Green Belt for employment development of a

scale, character and appearance appropriate to the village and its setting will be acceptable within and adjoining the housing development boundary.

At paragraph 5.38 of the accompanying text, the Core Strategy advises "in the 'Policy RA1' villages small scale employment development may be appropriate and potential site allocations will be considered through the Placemaking Plan. In order to ensure the ongoing economic sustainability of the rural areas as a whole, creation of new and retention of existing small businesses will be encouraged. This can be assisted through the re-use and conversion of redundant or underused agricultural buildings (where they are not needed for agriculture) and such uses will therefore, be considered in the first instance. There may also be opportunities to convert such buildings to tourism uses that will boost the local economy." It is clear from this text that outside of these villages, visitor accommodation will not be supported.

Whilst planning permission was recently granted for the erection of a dwelling at the site, this was only allowed because it was a replacement for the existing bungalow on the site, which is in poor repair. The site lies in the open countryside, and whilst the site is within a small group of houses, it is not in a R1, R2 or R3 village, and therefore the application is be contrary to Local Plan policy ET.4.

Paragraph 28. advises that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

- promote the development and diversification of agricultural and other land-based rural businesses;
- support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

In this case no details have been submitted to demonstrate that the need for tourist accommodation is not being met by existing facilities within existing settlements, and the Core Strategy and Local Plan policies do not define this as an appropriate location for residential or holiday accommodation development.

IS THE SITE A SUSTAINABLE LOCATION FOR DEVELOPMENT?

The National Planning Policy Framework stresses the need to "actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling" (paragraph 17) and to "support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport" (paragraph 30).

The site is located just off the A37 approximately 1200 metres from Farrington Gurney and 900 metres from Hallatrow. There are narrow pavements to both settlements, but the A37 in particular experiences very heavy traffic flows and is not a welcoming walking environment, or particularly safe for cyclists.

The site is served by bus stops on the A37 at White Cross which provide bus access to Bath, Bristol, Wells, Clutton, Midsomer Norton and Radstock.

Officers accept that the range of facilities available in Hallatrow and Farrington Gurney (which are both defined as RA1 villages in the emerging Core Strategy) are relatively limited. Both villages have pubs, The Old Station and Carriage in Hallatrow, and the Farrington Inn in Farrington Gurney. Farrington Gurney also had a Little Chef (now closed), that is currently the subject of a planning application for a McDonalds restaurant, and Farrington Gurney also has a Petrol Station. Therefore officers accept that the facilities currently available within the villages are not significantly more extensive than those available outside.

However, it is reasonable that if in the future additional facilities and services are provided to serve these settlements, they will be located within the village boundaries. Development (such as tourist accommodation) located within the villages would help support existing and new services, and thereby help support a more sustainable pattern of growth which facilitates the maximum use of walking, cycling and public transport to access facilities.

Conversely the visitors staying in the proposed development, located in the open countryside not within convenient walking distance, are less likely to support these facilities, and are much more likely to get there by car. As a result, the development would fix into place a dispersed pattern of development that relies on vehicular transport to access facilities. The location of the proposed development thus fails to make the fullest possible use of walking, cycling and public transport.

ARE THE PROPOSED HOLIDAY COTTAGES ACCEPTABLE IN THEIR DESIGN?

The site does not lie in a Conservation Area and has no strong design character of its own, with the area having an undistinguished mix of dwelling types and styles. The proposed holiday cottages would be single storey in height and would be faced in stone with concrete tiled roofs. Whilst their detailed design could be acceptable in some circumstances, there is an in principle objection to the proposed holiday cottages which would constitute the creeping urbanisation of this location in the open countryside, which would be harmful to its character.

ARE THE PROPOSALS ACCEPTABLE IN TERMS OF HEALTH AND SAFETY IMPACTS?

The Health and Safety Executive were consulted in respect of the previous consented application for a replacement dwelling. They advised that there was a gas pipeline lying close to the site and that the pipeline operator be consulted. Officers have undertaken an online search using the Linesearch website, but this has identified no pipeline operators within 75 metres of the application site.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed holiday cottages, being in an open countryside location and poorly related to services would constitute an unsustainable, dispersed pattern of development which would not facilitate the use of sustainable modes of transport and would constitute the creeping urbanisation of this rural location, harmful to the character of the open countryside. As such the development is contrary to Policy ET.4 of the Bath & North East Somerset Local Plan adopted 2007, policy DW1 and RA1 of the draft Bath and North-East Council Core Strategy and the guidance in the National Planning Policy Framework.

PLANS LIST:

This decision relates to drawing nos:

- 51467/03/101 REV B - combined proposals drawing
- 51467/03/001 - combined existing drawing
- Planning Statement
- Protected Species Survey
- traffic assessment letter

Decision Taking Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The submitted application was considered to be unacceptable in principle for the reasons outlined above and the applicant was advised that the application was to be recommended for refusal but choose not to withdraw the application. Having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

Item No: 09
Application No: 13/00483/FUL
Site Location: Parcel 5900 Hunstrete Marksbury Bristol



Ward: Farmborough **Parish:** Marksbury **LB Grade:** N/A
Ward Members: Councillor S Davis
Application Type: Full Application
Proposal: Erection of educational facility, store and office (Resubmission)
Constraints: Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt, Listed Building, Public Right of Way, Sites of Nature Conservation Imp (SN), Tree Preservation Order,
Applicant: Bathampton Anglers Association
Expiry Date: 17th May 2013
Case Officer: Rachel Tadman

REPORT

REASON FOR REPORTING TO COMMITTEE:

This application was requested to be referred to Development Control Committee by Councillor Sally Davis if the recommendation was to be to refuse. Furthermore Marksbury Parish Council also support the proposal. The application was therefore referred to the Chair who was of the view that the application should be referred to Committee.

DESCRIPTION:

The application relates to a site containing three fishing lakes that is run by Bathampton Anglers Association for members. The site is within the Green Belt and a Site of Nature Conservation Importance (SN).

The proposal is for the erection of an education facility building, store and office. The largest part of the building would be 22.2m wide and 8.4m deep, it would then have a projection measuring 11.7m wide and 5.8m deep. The building would be 4.9m high at the ridge.

The building would be constructed of timber walls with a timber shingle roof. Internally the building would comprise a classroom, kitchen, 3 x stores, male and female toilets, two offices and a reception area. Externally 5 car parking spaces would be provided along with a turning head.

The proposed building would include toilets, kitchen, classroom, store rooms and two offices, one for the use of the Angling Association and one for the use of the Bailiff's.

RELEVANT HISTORY:

The application is an identical resubmission of application ref: 11/04344/FUL which was refused on 9 February 2012 for the following reason:

The proposed building, by reason of its inappropriate scale, size and proposed use, is not considered to represent an essential small scale outdoor sports facility and would represent inappropriate development which is, by definition, harmful to the Green Belt. In the absence of very special circumstances the proposed development is contrary to Policy GB1 and SR.5 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007 and the guidance contained within the Planning Policy Guidance Note 2: Green Belts.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highways Development Officer: No objections subject to a condition.

Arboricultural Officer: No objections subject to conditions:

A number of trees which are protected by TPO 527/1 are implicated in the proposal. The installation of services required for the building could potentially impact on the protected trees in the vicinity. Further information had been provided by the applicant as part of

11/04344/FUL but has not been provided within the current application. The positioning of septic tanks, trenching for water and electricity and the location of telecommunication cables can have a significant impact on tree roots.

Ecologist: An updated ecological assessment has been submitted; no new ecological issues have been identified further to the original application (ref ecological comments re. 11/04344/FUL Mary Wood 09/12/11).

If permission is granted, a condition should be used to secured details of and implementation of appropriate precautionary measures and an ecological watching brief, for the prevention of harm to reptiles, nesting birds and other wildlife that could be affected by clearance of vegetation.

I have no objection to the proposal, subject to conditions.

Environmental Health: No observations

Public Rights of Way: No comments

Marksbury Parish Council: Support for the reason that: We consider that these proposals for an educational facility that will also provide a community facility are a special circumstance for construction in the Green Belt (GB1). The location would not be visually detrimental (GB2). There would be no impact on adjacent properties (D2).

Other representations: A total of 3 letters of support have been received. 1 is from a local resident, 1 is from The Angling Trust and the final letter is from the Director of the Angling Trust.

POLICIES/LEGISLATION

Bath & North East Somerset Local Plan (including Minerals and Waste policies) 2007 was adopted October 2007. Policies relevant to this site in the Bath and North East Somerset Local Plan, including Minerals and Waste Plan are:

D2 General Design and public realm considerations
D4 Townscape considerations
SR.5 Sport or recreational facilities
GB.1 Green Belt
GB.2 Visual impact on Green Belt
NE.1 Landscape Character
NE.4 Trees and woodlands
NE9 Locally important sites for protected species
NE12 Natural Features
T24 General development control and access policy
T26 On site servicing and parking

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches' substantive weight to the amended Core Strategy in the determination of planning applications of this type in accordance with the considerations

outlined in paragraph 216 of the National Planning Policy Framework. The following policies are relevant:

CP8 - Green Belt

National Planning Policy Framework (March 2012) can be awarded significant weight in this case.

OFFICER ASSESSMENT

PRINCIPLE OF THE DEVELOPMENT:

The site is within the Green Belt where there is a presumption against inappropriate development. Inappropriate development is, by definition, harmful to the Green Belt and is unacceptable in principle unless there are very special circumstances to outweigh the harm.

Since the previous application was refused the NPPF has been published which has changed the conditions under which facilities for outdoor sport are acceptable.

Previously Planning Policy Guidance Note 2: Green Belt (PPG2) stated that outdoor sports and recreational facilities could be considered not inappropriate provided they were 'essential and small scale'. The NPPF, in replacing PPG2, now states that new buildings within the Green Belt for 'appropriate' facilities for outdoor sport are not inappropriate. This is a subtle change but amounts to a relaxation of the policy.

The proposed building has been described as being an educational facility, store and office for the use of Bathampton Anglers Association. Fishing is considered to be an 'outdoor sport' and the development would therefore be considered as to whether it is an 'appropriate facility for outdoor sport..' under Para 89 of the NPPF.

Whilst the building does include a number of other facilities the primary reason for the proposal is to provide a facility to allow training and tuition to be carried out adjacent to the waters where angling takes place enabling students to transfer from classroom to water and back to classroom with minimum disruption. It has been stated that training takes place at Hunstrete Lakes, as opposed to other lakes within the control of Bathampton Angling Association, because they are eminently suitable for that purpose. Furthermore it is argued that the facility is required on site due to a lack of suitable village halls within the immediate vicinity with halls at Marksbury, Farmborough and Compton Dando having been dismissed. No reasons have been given as to why the halls are inappropriate other than their distance to the fishing lakes.

It is clear from the supporting information that Bathampton Angling Association not only provides an angling resource, as well as arranging matches etc, for general anglers but are also actively involved in training and coaching angling to a wide variety of other groups in order to highlight the benefits of the sport and also encourage new participants. In particular the Angling Association provides a structured national programme for fishing aimed at involving schools, youth clubs and youngsters with learning disabilities in the B&NES area and have specific links to the Leonard Cheshire Disabled Group providing talks and training to their members. It is stated that between 10 and 25 students would be accommodated at any one time.

The level of use of the classroom would appear to be seasonal and therefore varies with the time of year and school holidays but the information submitted suggests it would be used on a regular basis during the summer months and school holidays and 2/3 times a week during the rest of the year. Whilst a large proportion of the use would be through the provision of training and coaching, a not insignificant element would be to provide undercover facilities on general match days for prize giving etc.

From the information provided it is appreciated that the building would provide a useful facility for the introduction of angling to a wider audience and would, in all likelihood be used on a regular basis during the summer months and school holidays. However the provision of a building within the Green Belt for educational use is not necessarily an appropriate facility for outdoor sport. In this case, it is considered that the facility is not necessary for those participating in the sport of angling, the facility instead comprises an additional resource to educate and promote the sport but the sport itself can still easily be carried on without it. In light of this it is considered that the proposed building, the primary use of which would be for educational use, is not an appropriate facility for outdoor sport. The development is therefore considered to be an inappropriate development within the Green Belt which, by definition, is harmful to the Green Belt.

Furthermore it is considered that if undercover facilities are required for teaching these could be provided within local village halls of which there are a number within a short distance from the site. Whilst this may not be as convenient as an onsite resource it is not a reason to grant planning permission for an otherwise inappropriate facility within the Green Belt.

Notwithstanding the overall inappropriateness of the development it does also provide other facilities that need to be considered. In this regard the building includes toilet facilities which could be considered as appropriate, however there are already purpose built toilets on site, including disabled toilets, for which access is via a keypad. It is proposed that the existing toilets would remain on site so that they are available when the classroom building is shut and it is unclear why the toilets within the classroom building could not be made available when the building is otherwise closed, also through a keypad access, to allow the removal of the existing toilets. In light of this it is considered that the site already has adequate toilet facilities on the site and that additional toilets are not necessary and therefore do not comprise appropriate facilities.

It is also proposed that an office is provided within the building for the use of the Angling Association. It is stated that the office would be in use whenever training and matches are being held on site i.e. regularly during the summer months and 2-3 times a week at all other times. Whilst the convenience of an office on site is appreciated it is considered that it is not necessary for the carrying out of angling and furthermore most fishing lakes do not have offices.

However the proposed Bailiff's office is considered to be appropriate as it would provide a base from which the employed bailiffs can carry out their duties in respect of the surrounding lakes. Although the Bailiffs also cover a number of other fishing sites run by Bathampton Anglers Association, some remote to the site, on the whole it is considered that this element is acceptable.

Furthermore the proposed storage facilities for angling equipment are considered to represent appropriate facilities and would also, in part, replace existing storage facilities on the site. There are currently two storage containers on the site which house maintenance and training equipment and also match equipment for use by the seniors/disabled group. As a result of the proposed development two of the existing containers can be removed from the site which can be controlled by condition. The final container would remain on site.

In light of this the proposed development is not considered to represent an appropriate facility for outdoor sport and recreation as defined within the NPPF. Therefore the proposed development is considered to be inappropriate development within the Green Belt which is, by definition, harmful to the Green Belt and contrary to Policy GB1 of the Local Plan and the guidance contained within NPPF.

The proposal, as a sports and recreation facility, also needs to be considered under Policy SR5 of the Local Plan. The Policy gives certain conditions under which development may be acceptable with the commentary beforehand indicates that the policy should be used in instances where small scale ancillary facilities are required. The Policy itself then goes on to clearly state that 'Development for sport or recreation ... will only be permitted where: i) it cannot be accommodated elsewhere'. (and) new buildings will only be permitted where ... they are of a scale appropriate to the location and recreational use'.

The building having the main part being 22.2m wide and 8.4m deep, and overall 4.9m high at the ridge is not considered to be small scale and, as outlined above, the facility to educate and coach participants could be accommodated elsewhere i.e. local Village Halls. Therefore it is considered that the proposed development is contrary to Policy SR.5.

IMPACT ON THE OPENNESS OF THE GREEN BELT AND SURROUNDING AREA:

The proposed building is located within the Green Belt and would introduce a large building into an otherwise open landscape which would act to significantly detract from the openness of the Green Belt.

IMPACT ON THE VISUAL AMENITY OF THE GREEN BELT AND SURROUNDING LANDSCAPE:

The proposed building would not be particularly visible or obtrusive from public viewpoints, but would be visible from the nearby Hunstrete House and from land surrounding the site. However it would not be overly obtrusive and views of the building could be further softened with a comprehensive landscaping scheme.

IMPACT ON RESIDENTIAL AMENITY:

The proposed building, given its location remote from any neighbouring dwellings, and the proposed use is not considered to have a detrimental impact on any neighbouring residential occupiers.

ECOLOGY AND TREES:

The application has been accompanied by reports assessing the impact of the development on ecology and trees. The Ecologist and Arboricultural Officer have raised no objections to the scheme in relation to these issues subject to appropriate conditions.

IMPACT ON HIGHWAY SAFETY:

The information submitted indicates that the site is already used for the teaching of fishing techniques on a regular basis and it would appear that this does result in an increased level of activity on the site on a weekly basis. It is considered that, although it is likely that the improvement of facilities would result in further increases of use of the site by schools, groups etc to learn about fishing, it is unlikely that the increase would be at a level that would have a detrimental impact on highway safety. In light of this, and all other relevant considerations, the Highways Development Officer has raised no objections to the scheme.

VERY SPECIAL CIRCUMSTANCES:

The proposed development is considered to represent inappropriate development within the Green Belt which is unacceptable unless very special circumstances exist to clearly outweigh the harm to the Green Belt. In this case the supporting information provided is not considered to amount to the very special circumstances required to outweigh the harm to the Green Belt.

CONCLUSION:

The site is within the Green Belt where there is a presumption against inappropriate development unless it meets the strict requirements within the NPPF and Policy GB2 of the Local Plan. Inappropriate development is, by definition, harmful to the Green Belt and is unacceptable in principle unless there are very special circumstances to outweigh the harm.

Since the previous application was refused the NPPF has been published which has changed the conditions under which facilities for outdoor sport are acceptable.

Previously Planning Policy Guidance Note 2: Green Belt (PPG2) stated that outdoor sports and recreational facilities could be considered not inappropriate provided they were 'essential and small scale'. The NPPF, in replacing PPG2, now states that new buildings within the Green Belt for 'appropriate' facilities for outdoor sport are not inappropriate.

The use of the site for fishing is considered to be an 'outdoor sport' and it therefore needs to be considered whether the proposed development is an 'appropriate facility for outdoor sport' under Para 89 of the NPPF.

However the primary purpose of the building is as an educational facility, store and office for the use of Bathampton Anglers Association. It is proposed that the building would provide a facility to train and coach people in the sport of angling and is aimed at involving schools, youth clubs and youngsters with learning disabilities in the B&NES area. In this regard the Angling Association has specific links to the Leonard Cheshire Disabled Group providing talks and training to their members. It is stated that between 10 and 25 students would be accommodated at any one time.

It is accepted that the building would provide a useful educational resource however, in this case, however the facility is not considered necessary for those participating in the sport of angling, as the sport can still be carried on without it, but instead comprises an additional resource to educate and promote the sport. This is not considered to represent an appropriate facility for outdoor sport and is therefore considered to be an inappropriate development within the Green Belt which, by definition, is harmful to the Green Belt. The substantial size of the building also means that it would have a harmful impact on the openness of the Green Belt.

Furthermore the supporting information provided is not considered to justify the very special circumstances required to clearly outweigh the harm to the Green Belt.

The proposal, as a sports and recreation facility, also needs to be considered under Policy SR5 of the Local Plan which seeks to control the development of sports and recreational facilities. In this case, when judged against Policy SR5, the substantial size of the building, with the main part being 22.2m wide and 8.4m deep, and overall 4.9m high at the ridge, is not considered to be small scale. Furthermore the facility to educate and coach participants could be accommodated elsewhere i.e. local Village Halls, Therefore it is considered that the proposed development is contrary to Policy SR.5.

The site of the proposed building is not in close proximity to any residential dwellings and therefore it is considered that there would be no harm to the residential amenity of neighbouring occupiers. The site is in view of Hunstrete House and from the surrounding landscape but would not be overly obtrusive and views of the building could be further softened with a comprehensive landscaping scheme.

Finally it is likely that the facility would result in an increase in activity on the site, particularly in relation to vehicles accessing the site but this is not considered to be of concern and would not be harmful to highway safety.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed building, by reason of its scale, size and proposed use, is not considered to represent an appropriate outdoor sports facility and would represent inappropriate development which is, by definition, harmful to the Green Belt and would harm openness. In the absence of very special circumstances the proposed development is contrary to Policy GB1 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007 and the National Planning Policy Framework.

2 The proposed building is not considered to be of a scale appropriate to the sport/recreational use and offers a facility that could be accommodated elsewhere which is contrary to Policy SR.5 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007

PLANS LIST:

This decision relates to drawing nos 128/3/001, 128/3/002, 128/3/003, 1958:1b,128.003.4, 128.003.5

DECISION MAKING STATEMENT:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The Local Planning Authority acknowledges the approach outlined in paragraphs 188-192 in favour of front loading and operates a pre-application advice service. Despite the previous refusal of planning permission for a similar development and the Local Planning Authority's active encouragement for pre-application dialogue the applicant did not seek to enter into correspondence with the Local Planning Authority. The proposal was considered unacceptable for the reasons given and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application, and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

Item No: 10
Application No: 13/01569/FUL
Site Location: 1 Sycamore Road Radstock Bath And North East Somerset BA3 3NJ



Ward: Radstock **Parish:** Radstock **LB Grade:** N/A
Ward Members: Councillor E Jackson Councillor S Allen
Application Type: Full Application
Proposal: Erection of attached, two storey dwelling
Constraints: Agric Land Class 3b,4,5, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,
Applicant: Mr S Bolton
Expiry Date: 24th June 2013
Case Officer: Tessa Hampden

REPORT

Reason for referring the application to committee

A member of planning services, although not the applicant or directly associated with the application, lives in the application property.

Site description and proposal

1 Sycamore Road is an end of terrace 2 storey dwelling, which is set in a generous plot. The ground rises in a southerly direction towards the application site which is in a prominent corner location at the junction of Sycamore Road and Mells Lane, to the east of Radstock town centre. Sycamore Road is a residential street terminating in a cul-de-sac and characterised by two-storey terraced properties on the south eastern side and semi-detached dwellings on the north western side of the highway. The application site lies within the Housing Development Boundary of Radstock

The application seeks planning permission for the erection of an attached, two storey dwelling. Planning permission has previously been refused for an extension containing two flats, and an attached dwelling. The attached dwelling was also dismissed at appeal.

RELEVANT PLANNING HISTORY:

DC - 08/02954/FUL - RF - 27 October 2008 - Extension to provide two self contained flats

DC - 09/00806/FUL - RF - 5 May 2009 - Erection of attached two-storey house (Revised proposal)

DC - 09/03331/FUL - RF - 13 November 2009 - Erection of attached two-storey dwelling

AP - 09/00103/RF - DISMIS - 5 March 2010 - Erection of attached two-storey dwelling

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highway Development - no objection subject to the inclusion of conditions on any planning permission

1 representation has been received which objects to this development. The comments can be summarised as follows:

- inaccurate description in terms of bedroom numbers/trees on site
- misleading drawings, in particular with regards to levels - resulting in car being parked on a slope
- future development - properties to be divided into flats
- highway safety issues for existing road users
- Development contrary to character and existing of surrounding properties
- Sustainability issues
- Previous reasons for refusal have not been overcome

POLICIES/LEGISLATION

Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007:

Policy D.2 - General Design and public realm considerations

Policy D.4 - Townscape considerations

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

Policy T.24 - General development control and access policy

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

National Planning Policy Framework - March 2012

The NPPF guidance in respect of the issues which this particular application raises does not conflict with the Local Plan policies set out above.

OFFICER ASSESSMENT

Principle of development

The site is located within the Housing Development Boundary of Radstock, where new residential development can be considered to be broadly acceptable subject to it being compliant with the relevant policies of the Local Plan.

Character and appearance

Sycamore Road is within an established residential area, where properties are generally terraced and semi-detached dwellings. The proposed attached dwelling has been designed to appear as a continuation to the existing terrace. This will result in the loss in a large portion of the open space which currently forms the garden of the existing dwelling. Whilst officers are slightly uncomfortable with the loss of this space, it is recognised that the Inspector dealing with the previous appeal did not consider that this loss of spaciousness was significant. This forms a material consideration in the determination of this planning application. It was noted at the appeal stage that the pieces of open space to the north-west of the site created an attractive sense of spaciousness as one travels south-east along Mells Lane towards the application site. Although the front and side gardens at No 1 add to this sense of spaciousness, their contribution was not considered to be significant. The gardens to No 1 were considered to be readily identifiable as part of a residential curtilage. Further, it was noted that the views across the gardens are terminated by the garage block at their rear. The proposed dwelling would close off views from the north-west to the side garden of No 1 and beyond, however, the extensive front garden would remain. Therefore given the Inspectors previous conclusions, it is not considered that the loss of the garden and the loss of this sense of spaciousness, would result in harm as to warrant a reason for refusal.

The dwellings would both be sat in acceptable sized plots, illustrating that the development does not result the overdevelopment of the site. The parking will be provided to the rear of the site and this fits acceptably onto the site, and will be sat adjacent to the existing garage and parking area.

The previous appeal was dismissed due to the concerns relating to the additional unit unbalancing the appearance of the existing terrace. The dwelling proposed under the previous application was of a much narrower width, and has been redesigned in order to overcome this reason for refusal. The existing terrace currently has a symmetrical

appearance when viewed from the north-west and this symmetry contributes positively to the character and appearance of the area. The houses do however have differing fenestration details. The render to the front elevation of the terrace is painted with various colours, but this further illustrate that there are four houses within the terrace, all of which are about the same width. The symmetry is currently emphasised by a traditional alleyway in the middle of the terrace.

The additional house is not considered to unduly harm the symmetry of this terrace. The proportions of this dwelling are similar to that of the existing dwellings and will ensure that the dwelling appears as an appropriate addition to this terrace. The doors to the existing dwelling will be moved from the side elevation to the front elevation and will sit adjacent to the entrance for the proposed dwelling. This will have a similar appearance to the adjoining two dwellings and will ensure that the proposed terrace does not appear unbalanced, and its existing character is therefore retained.

Due to the constraints of the site, the rear elevation is of a smaller width than the front, resulting in the side elevation being at an angle. However, this is not considered to result in a dwelling with an unsatisfactory appearance, and is considered to be an acceptable approach.

Overall, the proposed dwelling is considered to be of a satisfactory design, scale and siting that will ensure that the character and appearance of the existing terrace is retained and the visual amenities of the wider area are preserved. It is considered that the issues raised by the Planning Inspector who dealt with the previous appeal have been overcome.

Highway safety

The development will provide acceptable parking provisions for the proposed dwelling, which is located to the rear of the site. The erection of the dwelling would not result in any significant harm for the surrounding highway users, and is not considered to restrict the visibility significantly on the surrounding roads.

Overall therefore the proposed development is not considered to result in any undue harm to highway safety.

Residential amenity

The proposed dwelling is not considered to result in any significant harm to the residential amenity of the neighbouring occupiers. As an attached dwelling, it is not considered to result in any significant harm to the occupiers of the dwelling that it adjoins. Further it is set a sufficient distance from the surrounding dwellings to ensure that there is no significant loss of light, outlook or privacy to the occupiers of these properties. It is noted that the concern has been raised with regards to noise and disturbance from future occupiers of this property/the existing dwelling, but this an established residential area and it is not considered that this would constitute a reason for refusal. The block plan illustrates that a pathway is to be provided at the rear of the dwellings, and concern has been raised that this would result in security issues for the neighbouring dwellings. However, if adequate screening/enclosures are in place, the provision of this rear access is not considered to compromise the neighbouring occupiers in any regard. The

installation and retention of an enclosure can be controlled through a condition on any permission.

The development would result in satisfactory living conditions for future occupiers of the proposed dwelling and those of the existing dwelling. Although the outdoor amenity space is to be reduced for the existing dwelling, a satisfactory level would remain.

Overall therefore, the proposed dwelling is considered to result in satisfactory living conditions for the future occupiers of the site, and is not considered to result in significant harm to the residential amenity of the existing neighbouring occupiers.

Conclusion/other issues

Concerns have been raised with regards to the existing dwelling being converted into two flats in the future. However, this would require planning permission, and the merits of this would be considered if an application were to be submitted in the future.

Overall, the proposed development is considered to be of an acceptable scale, siting and design that will ensure that the character and appearance of the terrace, and the visual amenity of the area is retained. Further, the development is not considered to result in significant harm to the residential amenity of the neighbouring occupiers or upon highway safety. No other issues have arisen as a result of this planning application and for the reasons as stated above, this application is recommended for approval.

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 Provision shall be made within the site for the disposal of surface water, details of which shall be submitted to and approved in writing by the Local Planning Authority prior to construction.

Reason: In the interest of flood risk management

3 Before the dwelling hereby approved is first occupied, a properly bound and compacted parking area (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority. This area shall be kept clear of obstruction 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.

4 All external roofing materials to be used shall match those of the adjoining terrace in respect of size, material, colour, texture and profile.

Reason: In the interests of the appearance of the development and the surrounding area.

5 Areas of the external walls shown on the submitted drawings to be rendered shall be rendered [and painted] a colour and texture which has been submitted to and approved in writing by the Local Planning Authority before any work commences.

Reason: In the interests of the appearance of the development and the surrounding area.

6 No development shall commence until details of proposed screening including the block wall as illustrated on drawing 008 has been submitted to and approved in writing by the Local Planning Authority. The dwelling shall not be occupied or brought into use until the approved screening details have been fully implemented on site and thereafter retained.

Reason: In the interests of safeguarding the privacy and visual amenity of adjoining residents.

7 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:

001 date stamped 16th April 2013, 006,007,008 date stamped 15th April 2013, and 002,003,004,005,009 date stamped 18th April 2013

REASONS FOR 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 The proposed development is considered to be of an acceptable scale, siting and design that will ensure that the character and appearance of the terrace, and the visual amenities of the area is retained. Further, the development is not considered to result in significant harm to the residential amenity of the neighbouring occupiers or upon highway safety.

A Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007:

Policy D.2 - General Design and public realm considerations

Policy D.4 - Townscape considerations

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

Policy T.24 - General development control and access policy

Bath & North East Somerset Draft Core Strategy December 2010

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

National Planning Policy Framework - March 2012

The NPPF guidance in respect of the issues which this particular application raises does not conflict with the Local Plan policies set out above.

DECISION TAKING STATEMENT:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and permission was granted

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.

Item No: 11
Application No: 13/00903/FUL
Site Location: 15 Livingstone Road Oldfield Park Bath BA2 3PQ



Ward: Oldfield **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor David Dixon Councillor W Sandry
Application Type: Full Application
Proposal: Change of use from mixed use comprising retail (A1) to ground floor and residential (C3) above, to solely a C4 use and the erection of a small stone boundary wall to the front
Constraints: Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, World Heritage Site,
Applicant: Kathan Ltd
Expiry Date: 29th April 2013
Case Officer: Chris Griggs-Trevarthen

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

This application is being referred at the request of Councillors Will Sandry and David Dixon for the following reason;

"This business is an important part of the Moorland Road offering we don't want the "building trade footfall" to be displaced elsewhere in the City. There is a clear need for A1 uses in Moorland Road and there is an un-met need for A1 units in the area. Furthermore, the draft supplementary planning documents and supporting information will show that Livingstone Road exceeds the maximum suggested concentration of 25% HMOs (Houses in Multiple Occupation). The Council's emerging policy seeks to curb the proliferation of HMOs in the area."

The application has been referred to the Chairman who has agreed that the application should be considered by the Committee as there are concerns about the loss of the retail unit so close to the shopping centre and both local members have asked for a Committee hearing.

DESCRIPTION OF SITE AND APPLICATION

15 Livingstone Road is the first property in a row of terraces which lies just to the north of the junction with Moorland Road. The two storey property has a single storey extension to the rear and is in a mixed use of A1 and C3. The ground floor is currently occupied by a glazing company and the upper floor comprises a two bedroom flat.

The site lies close to, but is not within, the Moorland Road District Shopping Centre as defined by the local plan proposals map. It also falls within the World Heritage Site.

The proposal is to change the use of the property from a mixed use of retail (A1) and residential (C3) into a 5 bedroom HMO (C4) with associated works to the shop front including the erection of a small stone boundary wall to match the rest of the terrace.

RELEVANT HISTORY:

01/00872/FUL - 15th June 2001- Rear dormer, new roof to rear workshop and alterations - PERMITTED

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

COUNCILLOR WILL SANDRY & COUNCILLOR DAVID DIXON:

- Genuine surprise that the shop is not in the defined shopping area, although it is immediately next to it;
- This business is an important part of the Moorland Road offering. There is a fantastic range of building supplies businesses in and around Moorland Road and I don't want 'building trade footfall' to be displaced to elsewhere in the city;
- Clear need for A1 units in Moorland Road with only 1 of 65 units currently vacant.
- Consideration should be given to the Council's emerging policy in the draft supplementary planning document on HMOs. Livingstone Road exceeds the maximum concentration of 25% HMOs of this policy.

THIRD PARTIES/NEIGHBOURS:

4 Letters of objection have been received. The main points of concern related to:

- The saturation of HMOs in Oldfield Park;
- Lack of parking;
- Loss of retail unit;
- Increase in rubbish/waste.

HIGHWAYS OFFICER:

The proposed development is in an area where demand for on-street parking is high. Furthermore, local residents raise many concerns regarding the problems associated with student HMO's and the resultant difficulties of being able to park. However, this is a highly sustainable location with good access to shops, local amenities and public transport. Further, cycle parking provision is being proposed as part of this development which increases the number of lettable bedrooms from two to five.

It must also be borne in mind that lack of parking has not been successfully supported at appeal with regard to similar developments in this area of Bath, e.g. West Avenue and Brook Road.

In addition, there are parking restrictions on Livingstone Road, double and single yellow lines, which is a bus route, and the removal of the existing retail unit will have the advantage of removing the service and delivery vehicles, associated with that business, during the working day.

Bearing in mind the above, the highway response is one of NO OBJECTION, subject to the suggested condition.

ENVIRONMENTAL HEALTH OFFICER:

The site falls into NEC of PPG24 (revoked). Mitigation will therefore be required and the applicant's noise consultant has proposed an option which will achieve the required criteria.

POLICIES/LEGISLATION

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

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:

- | | |
|-------|---|
| D.2 | General Design and public realm considerations |
| D.4 | Townscape considerations |
| BH.1 | World Heritage Site |
| HG.4 | Residential development in the urban areas |
| HG.12 | Residential development involving conversion of non-residential buildings |
| S.1 | Hierarchy of shopping centres and the need to maintain and enhance them |
| S.9 | Retention of local needs shops outside the identified centres |
| ES.12 | Noise and vibration |
| T.24 | General development control and access policy |
| T.26 | On-site parking and servicing provision |

SUBMISSION CORE STRATEGY, MAY 2011

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan, the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. Policies D.2, D.4, HG.12, S.9, ES.12, T.24 and T.26 of the local plan are proposed as saved policies within the submission core strategy.

B4 - The World Heritage Site and its Setting
CP6 - Environmental Quality
CP12 - Centres and retailing

SUPPLEMENTARY PLANNING DOCUMENTS

Draft Supplementary Planning Document on HMOs in Bath (October 2012) - October 2012

NATIONAL POLICY

National Planning Policy Framework (NPPF), April 2012

OFFICER ASSESSMENT

LOSS OF RETAIL UNIT

The proposal will result in the loss of the existing A1 unit which occupies the ground floor of the property. Although very near to Moorland Road, the site falls outside of the defined district shopping centre. The proposal must therefore be assessed against Policy S.9 of the local plan which states that the loss of A1 uses will be resisted where they have a realistic potential to perform a continuing key role in meeting the retail needs of the local area.

The primary consideration in this instance is whether the existing shop performs a key role in meeting the retail needs of the local area. In describing key retail services, the supporting text to Policy S.9 gives the example of a well-located village shop or a unit capable of serving a large residential area on the edge of town.

The existing glazing shop does not fit either of these descriptions. It is not considered to play a key role in meeting the retail needs of the local area, which are already suitably met by other shops that fall within the defined Moorland Road district shopping area.

Furthermore, the shop lies off the main shopping street and forms the end property in a residential terrace. The property marks a transition from the shopping centre into the residential streets in the surrounding area. Its loss is not considered to harm the vitality or viability of the Moorland Road district shopping centre.

PRINCIPLE OF HMO USE

The site falls within the built up area of Bath where new residential accommodation is acceptable in accordance with policy HG.4 of the local plan. The proposal would not result in the loss of any existing residential accommodation, but would result in the existing 2 bedroom flat being enlarged into a 5 bedroom HMO.

The property lies off the main shopping street and forms the end property in a residential terrace. It marks a transition point from the shopping centre into the residential streets of the surrounding area. The character of the proposed HMO use is similar to the existing use of the first floor flat, albeit more intensive, and is considered to be compatible with the character of the adjoining residential terrace and the surrounding area where a large proportion of the houses have been converted to HMOs.

The activity of the occupiers and other effects of the proposed use would not significantly exceed what might be expected from occupation of a house by a large family. The intensification of the residential use of the property from 2 bedrooms to 5 bedrooms is therefore considered not to be detrimental to the amenities of adjoining residents.

The proposed conversion provides a good residential environment for the proposed occupiers with good sized living areas and adequate provision of facilities.

The Council's draft SPD on HMOs identifies Livingstone Road as falling within an area in which HMO properties represent more than 25% of households. Under the emerging policy this would trigger a requirement to adopt the 'stage 2' test to ascertain whether 25% of households within 100m radius of the application property are in use as HMOs. If this threshold is met then the application would not be permitted under the emerging policy.

However, although the draft SPD on HMOs has been through public consultation (Oct - Nov 2012), it is not a formally adopted document and therefore can only be afforded limited weight. It would therefore be inappropriate to strictly apply the tests set out in the SPD.

As discussed above, the site falls within a residential area with a mix of existing accommodation at a reasonably high density. Furthermore, the site lies near to a busy district shopping centre and the character of activity in the area is relatively intensive. The proposed HMO will not be out of keeping with this character and is considered to comply with policy HG.12 of the local plan.

CHARACTER AND APPEARANCE

A dwarf wall is proposed to be erected at the front of the property to match the wall in front of the rest of the terrace. Additional windows will be inserted into the south-west elevation at the rear of the building.

These changes are relatively minor and are considered to be in keeping with the rest of the existing terrace and the surrounding area.

The removal of the existing signage on the site, including the large wall mounted sign on the south-west elevation, will provide a benefit to the visual amenity of the area.

HIGHWAYS AND PARKING

The proposed change of use does not have any off-street parking and a number of concerns have been raised regarding the demand for on-street parking in the area which is very high.

The comments of the Highways Officer are highly relevant in regard to this issue. The site is located in a very sustainable location with good access to a range of shops, local amenities and public transport. The nearest bus stop is directly in front of the application property on Livingstone Road. Furthermore, space for cycle parking provision is proposed as part of the application.

It is also important to note the appeal decisions at nearby Brook Road and West Avenue where the lack of parking was not supported as a reason for refusal.

There are a number of service and delivery vehicles associated with the existing glazing shop and these have been seen to park on Livingstone Road impeding traffic and buses along this route. Whilst it is recognised that these occurrences may be infrequent, the removal of these vehicles will be beneficial to traffic flows and highways safety.

CONCLUSION

The existing retail unit lies outside of the defined district shopping centre and does not provide a key retail service to the local area in the context of the nearby shopping provision of Moorland Road.

The proposed use as a 5 bedroom HMO is in keeping with the character and amenities of the area and it is considered that the activity of the occupiers would not significantly exceed what might be expected from occupation of a house by a large family.

The removal of the existing signage on the property will be beneficial to the visual amenity of the area.

Although no parking is proposed, the site is in a very sustainable location and removal service/delivery vehicles associated with the retail unit will benefit traffic flows and highways safety. The lack of parking has not been supported at appeal in similar locations.

In conclusion, it is considered that the proposal complies with Policies D.2, D.4, BH.1, HG.4, HG.12, S.1, S.9, ES.12, T.24 and T.26 of the Bath and North East Somerset Local Plan (2007).

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 The development hereby permitted shall not be occupied until a new residents welcome pack has been submitted to and agreed in writing by the Local Planning Authority and,

thereafter, supplied to all new residents/tenants. Such a welcome pack should include full information of walking and cycling routes, location of local facilities and bus travel information (routes and timetables).

Reason: In the interests of sustainability and local amenity.

3 Prior to the occupation of the development hereby approved, all advertisements on the building shall be removed.

Reason: In the interests of visual amenity.

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:

Drawing No. 001, Drawing No.002, Drawing No.003, Drawing No.004, Drawing No.005, Drawing No.006

REASON FOR APPROVAL:

The existing retail unit lies outside of the defined district shopping centre and does not provide a key retail service to the local area. The proposed use as a 5 bedroom HMO is in keeping with the character and amenities of the area and the removal of the existing signage will benefit the visual amenity of the area. Furthermore, the proposal is not detrimental to highways safety and therefore accords with D.2, D.4, BH.1, HG.4, HG.12, S.1, S.9, ES.12, T.24 and T.26 of the Bath and North East Somerset Local Plan (2007) and guidance in the National Planning Policy Framework (2010).

ADVICE NOTES:

1. 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.

2. It is strongly recommended that, as part of any advertising of the property and tenancy agreement, the shortage of parking and the desirability for tenants not to have cars with them, should be emphasised.

Decision Taking Statement:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, a positive view of the submitted proposals was taken and permission was granted.

Item No: 12
Application No: 13/01380/FUL
Site Location: 39 Grove Wood Road Haydon Radstock Bath And North East Somerset BA3 3QY



Ward: Radstock **Parish:** Radstock **LB Grade:** N/A
Ward Members: Councillor E Jackson Councillor S Allen
Application Type: Full Application
Proposal: Erection of a PVCu conservatory to the rear of the property
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,
Applicant: Mr De Beer
Expiry Date: 29th May 2013
Case Officer: Tessa Hampden

REPORT

Reason for referring the application to committee

The applicant is a member of staff within Planning Services.

Site description and proposal

The application relates to a semi detached property located within Grove Wood Road, which is a residential cul de sac located in Haydon, Radstock. The application seeks planning permission for a conservatory to the rear of the property.

RELEVANT PLANNING HISTORY:

There is no planning history directly relevant to this planning application.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

No representations have been received.

POLICIES/LEGISLATION

Bath and North East Somerset Council -including minerals and waste October 2007

D.2: General design and public realm considerations

D.4: Townscape considerations

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

National Planning Policy Framework (March 2012) - The NPPF was published on 27 March 2012 and has been considered in relation to this application. The NPPF guidance in respect of the issues which this particular application raises is in accordance with the Local Plan policies set out above.

OFFICER ASSESSMENT

Character and appearance

The proposed conservatory is of a standard design which fits appropriately onto the host building. Although the projection is relatively large, the extension will appear as a subservient addition to the main dwelling and fits comfortably adjacent to the existing single storey rear projection. The rear of this dwelling is relatively well screened from the wider area and therefore, the development would have a limited impact upon the main street scene. Further, the property benefits from a large rear garden, and as such the extension is not considered to result in the overdevelopment of the plot.

Overall therefore, the proposed development is considered to be of an acceptable design, scale and siting, which will ensure that the character and appearance of the property and the visual amenity of the area is preserved.

Residential amenity

The extension will sit adjacent to the neighbouring boundary, but given the east elevation which abuts this boundary will be constructed from solid white panels, the development will not result in a loss of privacy for the neighbouring occupiers. Further, given the siting of the conservatory against the existing projection, and the appropriate scale of the

development, it will not result in any significant loss of light or have an overbearing impact upon these occupiers.

Overall, the proposed development is not considered to result in any significant harm to the residential amenity of the neighbouring occupiers.

Other issues

It should be noted that under the revised permitted development rights (30th May 2013), this development, would be permitted development. The Local Planning Authority would however need to follow the associated neighbour consultation scheme as laid out within the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013. This would only allow the Local Planning Authority to consider the impact of the proposed development on the amenity of adjoining occupiers, in the event that an objection was received.

However, the application was submitted prior to this date, and falls to be considered in relation to the policies outlined above, which include the assessment of the impact of the proposals on amenity.

Overall, the development is not considered to have a detrimental impact upon the character and appearance of this dwelling or upon the residential amenity of the neighbouring occupiers. No other issues have arisen as a result of this planning application and for the reasons as stated above, this application is recommended for approval.

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 The side panels on the east elevation of the development hereby approved shall be constructed from solid white panels, as illustrated on plan ref 'proposed elevations' and permanently retained as such, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the privacy of the neighbouring occupiers.

3 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:

Block plan, site location plan, existing elevations, proposed elevations date stamped 3rd April 2013

REASONS FOR GRANTING APPROVAL:

1. The proposed development will preserve the character and appearance of the property and the visual amenities of the wider area. The development is not considered to cause any undue harm to the amenity of neighbouring occupiers. No other significant issues have arisen as a result of this planning application.

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) Bath and North East Somerset Local Plan (2007)
D.2 General Design and Public Realm Consideration
D.4 Townscape Consideration

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches limited weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

National Planning Policy Framework 2012

DECISION TAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and permission was granted

INFORMATIVES

The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to the Coal Authority policy in relation to new development and mine entries available at www.coal.decc.gov.uk

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority.

Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website www.coal.decc.gov.uk.

Item No: 13
Application No: 13/00357/FUL
Site Location: 25 Pulteney Gardens Widcombe Bath Bath And North East Somerset
 BA2 4HG



Ward: Widcombe **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor I A Gilchrist Councillor Ben Stevens

Application Type: Full Application

Proposal: Change of use from B&B (C1) to holiday let (C3) (Retrospective).

Constraints: Agric Land Class 3b,4,5, Article 4, British Waterways Major and EIA, British Waterways Minor and Householders, Conservation Area, Flood Zone 2, Forest of Avon, Hotspring Protection, World Heritage Site,

Applicant: Mrs Catherine McCabe And Mr Richard McCabe

Expiry Date: 25th April 2013

REPORT

REASONS FOR REFERRING TO COMMITTEE

Cllr. Ian Gilchrist objected to this proposal and requested that the Development Control Committee consider this application, should officers be minded to approve. He objected on the following grounds:

1. While it has been in use (unauthorised) as a holiday let, the occupants have caused repeated disturbance to the immediate neighbours at no 26 in the form of rowdy late-night behaviour. To retrospectively allow this change of use would only encourage the continuation of such disturbance.

2. The road itself is already congested with on-street parking from the several existing B&B establishments, and to legitimise the expansion of no 25 from a 2 bedroom B&B to a larger holiday let will only add further to the parking congestion. I notice that a similar application at no 15 in 2011 was refused on these grounds.

The application was then referred to the Chairman who decided that the application will need to be presented to the Committee due to 'concerns from residents re. change of use and the impact this might have on their amenity'.

DESCRIPTION OF SITE AND APPLICATION

25 Pulteney Gardens is a two-storey mid-terraced 4-bedroom house located close to the City Centre within Bath Conservation Area and World Heritage Site. The permission to change the use of a house to a B&B was granted in 2004.

The application relates to a change of use from Class Use C1 (Hotels) to Class Use C3 (Dwellinghouses).

It is understood that the use of the house as a self-catering holiday let has commenced. The signs outside the property advertise it as such, and the property is widely advertised online as Amberley House Self-catering Holiday Let. The description of the holiday let states: 'Four bedroom house with parking permits provided for up to 3 cars Resident Only parking zone 02". It also states: 'The property can be let for 2 persons up to a max of 8 persons. Each bedroom has a lockable door, so if the property is let to under 8 persons, we lock the bedrooms not in use. The property is a terraced house, so guests need to be considerate of the levels of noise created.' (From advertisement on Tripadvisor.co.uk)

RELEVANT HISTORY:

DC - 04/01556/AR - CON - 12 August 2004 - Projecting non-illuminated sign.

DC - 04/01560/FUL - PERMIT - 12 August 2004 - Change of use from dwelling to Bed & Breakfast (C1 use class).

This application was approved by the Committee in July 2004. The permission contained conditions to restrict the number of bedrooms for use as guest accommodation to two

only; it also removed permitted development rights within the Use Class C1 (Hotels) to restrict the use specifically for guest house with the proprietor living on the premises.

With regards to No 15 Pulteney Gardens, the Councillor is referring to application 11/05284/FUL which was for change of use from residential home to a six-bedroom boutique bed & breakfast hotel. That application was refused due to loss of a substantial residential unit, and because of insufficient information to determine the impact from flood risk.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Building Control - did not comment.

Highways Development Control - wished to make no comment on the above planning application.

Environmental Health - no comments or observations

Local member - objected to this proposal (see comments above)

Third Party Representations - three letters of objections were received in connection with this application. The main points of objections referred to on-going noise nuisance from the property, as well as increased pressure on on-street parking and traffic.

Two further letters of general comments were received by the Planning Department after the end of the consultation period on this application. One requested to see council records on the internal alterations (forwarded to Building Control) and the other complained about noise on 26-28 April 2013.

POLICIES/LEGISLATION

BATH & NORTH EAST SOMERSET LOCAL PLAN INCLUDING MINERALS AND WASTE

POLICIES ADOPTED OCTOBER 2007

D.2 - General Design and Public Realm Consideration

D.4 - Townscape Consideration

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

BH.1 - Bath World Heritage Site and its setting

BH.6 - Conservation Areas

T.24 - General development control and access policy

T.26 - Parking provision

NE.14: Flood risk

BATH AND NORTH EAST SOMERSET SUBMISSION CORE STRATEGY (MAY 2011) consideration has been given to the Strategy, however only limited weight can be attached to this document until it is formally adopted.

National Planning Policy Framework - March 2012

The NPPF guidance in respect of the issues which this particular application raises does not conflict with the Local Plan policies set out above.

OFFICER ASSESSMENT

The primary issues to consider when determining this application relate to the principle of the change of use back to C3, whether, in this particular case, there is a material difference in a holiday let as opposed to dwellinghouse use, highway safety and residential amenity. Other material considerations include the impact on the conservation area and the flood risk associated with the site.

PRINCIPLE OF CHANGE OF USE CLASS C1 (HOTELS) TO C3 (DWELLINGHOUSE)

The application essentially relates to a change of use from Class Use C1 (Hotels) to Class Use C3 (Dwellinghouses). The Use Classes Order 1987 (as amended) ("UCO") puts the more common uses of land into various broad categories. Use Class C has the following sub-categories: C1 (Hotels), C2 (Residential Institutions), C2A (Secure Residential Institution), C3 (Dwellinghouses) and C4 (Houses in Multiple Occupation).

Guest houses and B&Bs fall within Use Class C1, which also includes other premises which provide a room as temporary accommodation on a commercial, fee-paying basis, where meals can be provided but where residential care is not provided.

Self-catering holiday let accommodation are not part of this class. Class Use C3 however would cover any residential unit that is used for self-catering holiday purposes.

A proposal to change the use of serviced accommodation falling within Use Class C1 (Hotels) to form self-catering units within Class Use C3 (Dwellinghouses) is almost certain to be considered a material change of use, and in planning terms should be assessed as a conversion into a residential use.

The street contains a relatively high proportion of guesthouses and B&Bs. There is no specific local plan policy that would offer protection to existing B&B accommodation, and the local policy also supports housing provision within the City's urban envelope. Therefore there are no principle objections to the loss of Bed and Breakfast premises.

DWELLING VS HOLIDAY LET

Since the self-catering accommodation falls within the same use class as dwellinghouses, this application must therefore focus on suitability of the building for a C3 (residential use).

The principal question in this application, however, appears to be whether there is a material difference between the use of the property within the scope of Class Use C3 (i.e. dwellinghouse vs holiday let).

The question whether a dwelling let out for short-term holiday or leisure use is still a single private dwellinghouse within Use Class C3 of the 'Use Classes Order' has been the subject of extensive case law.

Whilst, on occasions, it has been demonstrated (for example, the judgment in Moore v. Secretary of State for Communities and Local Government delivered on 18 September 2012) that it cannot be assumed that there never would be a material change within C3 category, such occurrences presented unconventional characteristics (i.e. a manor house let out as a holiday let, or property specifically permitted as a holiday let because otherwise it would conflict with policies). In most cases though, it has been ruled that a

dwelling would remain a dwelling (within Use Class C3) whether it is occupied as a principal residence, as a second home or is let as a self-catering holiday home.

In relation to this particular case, it is not unreasonable to assume that a holiday let which ordinarily affords the facilities required for day-to-day existence and is comparable in its size to the neighbouring properties, in terms of its use, would display similar characteristics to the latter.

The application property could sleep up to 6 to 8 people, and is therefore likely to be occupied by family or groups of friends who, during their stay, constitute a single household, will in all probability still fall within Use Class C3, and so there will be no material change of use to the property being used as a family home.

NOISE

The property is a terraced house with a relatively small walled garden adjoining residential gardens on both sides. The main body of objections related to the on-going noise nuisance caused by the guests of this particular property. Whilst such concerns are understandable, from a planning point of view, it could be argued that the same issues could occur if the property was to be occupied or let on a longer-term basis. It is acknowledged that people on holiday may be more likely to stay up late and to come and go in the evenings. On the other hand, there may still be a range of residential and similar uses of a dwelling house that would still cause the same problems, for example neighbours behaving unreasonably or variations in the sensitivity of neighbours to different types of noise (sounds that are enjoyable to some people may annoy others). The proposed residential use would be compatible with the character of the area. There are no changes to the building which would have an adverse impact on the privacy of the adjacent occupiers.

PARKING

Highways wished to make no comments on this application, but the LPA has received letters with concerns over the increased pressure on parking caused by this development. According to the information provided to the guests, the property benefits from parking permits provided for up to 3 cars Resident Only Parking Zone 02. Furthermore, the house is located within walking distance of the City centre, as well as local/national transport links. With regards to the subject of change of use from a B&B, it is considered that the demand for parking spaces would have been similar, if not more intense (i.e. 2 parking spaces for the guest rooms, plus live-in landlords).

OTHER CONSIDERATIONS

The road lies within the extensive Bath Conservation Area. Pulteney Gardens is a short street characterised by a mixture of holiday and residential properties, with a number of advertising signs displayed. The signs outside No25 have been approved under adverts consent and there is no material change to the appearance of the property within the street scene. Thus the character of the conservation area has been preserved.

The property is located within Flood Risk Zone 2. The guidance within the NPPF confirms that a sequential test does not need to be applied to applications which seek permission for a change of use. There are no changes proposed to the floor levels within the building.

CONCLUSION

It is considered that the proposal satisfies the above Policy tests and should be approached in the same manner as conversion back into residential use. Account should be taken, amongst other things, of the mixed character of uses within the street. In summary, the proposed change of use is acceptable both in respect of the loss of the existing B&B accommodation, and in the provision of the proposed residential use. It is therefore recommended that planning permission be granted.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 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:

Location Plan and Floor Plans received 23 January 2013

The principle of the change of use is acceptable. The design of the proposal would preserve the character and appearance of the conservation area and the World Heritage Site. Sufficient information has been provided to address the flood risk of the site. The proposed change of use in itself is not considered to be harmful to the residential amenity of adjacent occupiers. The proposal has sufficient parking and is close to public transport, thus not being harmful to highways safety. Therefore the proposal is consistent with the requirements of Policies D.2, D.4, HG.4, BH.1, BH.6, T.24, T.26 and NE.14 of the Bath and North East Somerset Local Plan (including minerals and waste policies) Adopted October 2007.

Decision Taking Statement:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, a positive view of the submitted proposals was taken and permission was granted.

Item No: 14
Application No: 13/01157/FUL
Site Location: 6 Fairfield View Ragland Lane Fairfield Park Bath Bath And North East Somerset



Ward: Lambridge **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor B Chalker Councillor Dave Laming
Application Type: Full Application
Proposal: Provision of a loft conversion to include 1no. rear dormer and front rooflights.
Constraints: Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, World Heritage Site,
Applicant: Mr Cole
Expiry Date: 13th May 2013
Case Officer: Sasha Coombs

REPORT
REASONS FOR REFERRAL TO COMMITTEE

Councillor Dave Laming requested for this application to be presented to the full Development Control Committee, if the officers are minded to refuse this application, commenting:

"With reference to the above application, if you are of a mind to refuse then I would request this application be presented to the full Development Control Committee for their consideration, thus affording both Mr Cole and me, his ward councillor, to make representations."

The application was then referred to the Chairman with recommendation to refuse. The Chairman decided that the application will need to be presented to the Committee because:

"There has been a dormer built on a property nearby which was granted at Committee. It would be good for the Committee to look at this application in the light of that decision and the outcome".

DETAILS OF LOCATION AND PROPOSAL:

The application relates to a mid-terraced two-storey property located on the southern side of Ragland Lane within the area of Fairfield Park covered by the World Heritage Site designation. The land here slopes down eastwards and the rear of the terrace could be clearly appreciated both from Kingsdown Lane and Marshfield Way.

The rear roof slopes of the terrace remain largely unaltered, with exception of the large flat-roofed dormer at No 11 Fairfield View (planning application 12/02210/FUL allowed by a committee decision).

The proposal seeks to erect a flat-roofed rear dormer which would occupy the entire roof plane and measure approx. 3.75m in width, 2.2m in height, and 3.9m in depth. The materials proposed for the dormer are: 'Brosley' tiles to cheeks to match the main house roof, bituminous roofing felt with solar reflective finish and UPVC windows to match existing.

RELATED PLANNING HISTORY:

No 7 Fairfield View

06/04117/FUL - Provision of dormer window to rear. Refused 18.01.2007

07/00280/FUL - Provision of dormer window to rear (Resubmission). Refused 26.03.2007

No 11 Fairfield View

12/02210/FUL - Provision of a loft conversion to include the installation of 1no. rear flat dormer and front rooflights. Recommendation for refusal overturned by Development Control Committee 29.08.2012

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Building Control - did not comment

Local member - requested for application to be presented to the Committee (see the full comment above)

Third Party Letters - one letter of objections received

BATH PRESERVATION TRUST - OBJECT Bath Preservation Trust considers that the proposed, overly large, flat roof dormer window is not in the interest of good design and fails to reinforce or improve the local distinctiveness of World Heritage Site. By virtue of its siting, size, scale and design this development would result in an incongruous addition to the host building and would be harmful to the appearance of the roofscape of the wider terrace as the strong horizontal emphasis and box form present a visually intrusive feature in the Bath townscape. We feel that Velux windows to the front and to the rear would be a more sympathetic arrangement. The Trust previously objected to the dormer window of 11 Fairfield View on the grounds that a precedent would be set, and indeed that development is cited in this application as the precedent for the terrace, therefore, we object on principle and on the basis of poor design to the proposed dormer window as the development is contrary to Section 7, 'Requiring Good Design' of the NPPF and policies D.2 and D.4 of the Bath & North East Somerset Local Plan and should be refused.

POLICIES/LEGISLATION

BATH & NORTH EAST SOMERSET LOCAL PLAN INCLUDING MINERALS AND WASTE

POLICIES ADOPTED OCTOBER 2007

D.2 - General Design and Public Realm Consideration

D.4 - Townscape Consideration

BH.1 - World Heritage Site

BATH AND NORTH EAST SOMERSET SUBMISSION CORE STRATEGY (MAY 2011)

The examination into the Council's Core Strategy is currently suspended, and therefore this document is only given a limited weight for development management purposes, however its policies B4 and CP6 dealing with historic environment of the area correspond with the national policy approach on these matters:

B4 - World Heritage Site

CP6 - Environmental Quality

OFFICER ASSESSMENT

The main issues in this case are the effect of the proposed development a) on the living conditions of adjoining occupiers, with particular reference to the potential overlooking issues and b) on the character and appearance of the host building, the terrace and the street scene.

RESIDENTIAL AMENITY

With regard to the neighbours' residential amenity, at the rear the dormer would protrude from the existing roof slope and would see the addition of a window on a roof level facing into the back gardens in the terrace, as well as the houses on the east side of Marshfield Way. This has a potential to create a greater level of overlooking between the properties. However, considering the distances, the changes in levels and the fact that there is already a degree of mutual overlooking between the sites, on balance it is deemed that a new opening to this elevated level would not necessarily result in a significant adverse effect on the neighbours' amenity through loss of privacy.

WORLD HERITAGE SITE

Due consideration has been given to the impact of the proposals on the Bath World Heritage Site, however given that the area is not significant in terms of its contribution to the World Heritage Site there would be no resultant harm caused in this regard.

LOCALISED VISUAL IMPACT

Taking into account the scale and design of the proposed roof alteration, it is judged that this development would materially alter the external appearance of the dwelling. It would largely subsume the original roofscape of the property, drastically altering the appearance of the house from the rear. The proposed dormer would occupy the entire roof plane of the dwelling, appearing overly-bulky and discordant in relation to the adjoining properties within the terrace, and in relation to the host property.

Its visual incongruity would be further exacerbated due to the fact that the terrace is clearly visible within the locality characterised by orderly rows of C19 terraces which create an orderly grid of linear roof pitches following the built form. This character is being gradually eroded by unsympathetic roof extensions.

Indeed, it is noted that there are a number of large dormer windows in the vicinity of the site, including the one at No11. Some are particularly prominent and are out of character with the immediate surrounds. The existence of these dormers in no way justifies the granting of planning permission in this instance, rather it serves to graphically illustrate the harm that can be caused by developments of this type.

CONCLUSION:

Local Plan Policy D.4 makes it clear that any development should complement the host building, respond to the local context in terms of appearance and reinforce or compliment attractive qualities of local distinctiveness, and as such, the proposal is deemed to conflict with the requirement of this policy, and therefore is recommended for refusal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 Given the unsympathetic and bulky design of the proposed dormer and its visibility within the street scene, it is considered that the proposed roof alteration would appear visually incongruous in relation to the existing building and would have a detrimental impact on the appearance of the terrace within the street scene. As such, the proposed scheme would be contrary to the Policy D.4 of Bath & North East Somerset Local Plan (including Minerals and Waste Policies) adopted October 2007.

PLANS LIST:

This decision relates to the following plans and documents:

Design and Access Statement and Drawing No 01 received 18 March 2013

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Bath and North East Somerset Council			
MEETING: Development Control Committee		AGENDA	
MEETING DATE: 5th June 2013		ITEM NO:	
REPORT OF David Trigwell, Divisional Director of Planning and Transport Development.			
REPORT ORIGINATOR: Ms Lisa Bartlett, Development Manager (Tel. Extension No. 7281).			
DATE PREPARED: 17 th May 2013			
AN OPEN PUBLIC ITEM			
BACKGROUND PAPERS: Enforcement file 13/00257/UNAUTH			
TITLE: Enforcement Report: Land Parcel 005/2866, Woolley Lane, Charlcombe, Bath			
WARD : Bathavon North			

1.0 PURPOSE OF REPORT

At it’s meeting on 8th May 2013 the Development Control Committee refused planning permission for five applications for development at the site on Woolley Lane. The Committee also resolved that a report should be prepared setting out whether it was expedient to take enforcement action against unauthorised development at the site.

This report assesses the breaches of planning control and makes recommendations on the appropriate course of action in respect of each breach. Officers are seeking authority from Members to issue an enforcement notice in respect of unauthorised development at the site.

2.0 LOCATION OF PLANNING CONTRAVENTION

The site is located along the western side of Woolley Lane (a single-track road leading northwards from Charlcombe Lane to Woolley) on the north-east edge of the built up area of Bath. The site comprises 20.5 hectares of agricultural land that extends from approximately 200m north of residential properties to the south to the edge of Soper’s Wood to the north. The site is in an elevated position on the western side of a valley and slopes down towards the east/Lam Brook. On the eastern side of the valley is the village of Upper Swainswick.

Access to the site can be gained at two points from Woolley Lane although the northern access (opposite the access to Crossleaze Farm) is currently closed and all access is from the southern access located opposite an entrance to agricultural buildings on the eastern side of Woolley Lane.

The site is located in the Green Belt, Cotswold Area of Outstanding Natural Beauty (AONB) and the setting of Bath World Heritage Site. The site is also the subject of an Article 4 Direction (confirmed in 1992) that extends over a wider area of Swainswick Valley. The Article 4 Direction removes agricultural permitted development rights under Schedule 2, Part 6, Classes A and B of the Town and Country Planning (General Permitted Development) (England and Wales) Order 1995. Specifically, and in relation

to the size of agricultural unit at Meadow Farm, the following constitute development requiring planning permission:

“The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of –
 (a) works for the erection, extension or alteration of a building; or
 (b) any excavation or engineering operations,
 which are reasonably necessary for the purposes of agriculture within that unit being development comprised within Class A of Part 6 referred to in Schedule 2 to the said Order and not being development comprised within any other Class.”

In proposing the Article 4 Direction the Council (at that time Wansdyke Council) noted the exceptional beauty of this part of the AONB and the need to protect it from development. The Direction remains in force and the reasons for its establishment have not changed materially since then.

3.0 RELEVANT PLANNING HISTORY

The site was acquired by the current owners (Golden Valley Paddocks Ltd - 'GVP') in 2005 and at that time included a partly enclosed agricultural building measuring approximately 29m by 11.5m. The site is currently used principally for the housing of ducks for egg laying and subsequent processing and despatch.

The site has been the subject of a large number of applications between 2008 and 2012. In summary these are:

Application	Proposal	Decision	Date of Decision
08/02397/FUL	Erection of agricultural building, alterations to access, formation of track and hardstanding, siting of temporary timber-clad mobile home for an agricultural worker	REFUSED	22 August 2008
09/01020/FUL	Erection of extension to agricultural building, siting of temporary agricultural workers mobile home, formation of track and alterations to access (retrospective) (resubmission)	REFUSED	21 May 2009
09/04403/FUL	Siting of a temporary agricultural workers mobile home, and retrospective formation of track and alterations to access (Revised proposal)	REFUSED	31 March 2010
10/04188/FUL	Retention of 15m x 12m stock pond	PERMITTED*	21 January 2011
11/00678/COND	Discharge of condition 2 of application 10/04188/FUL	APPROVED*	28 March 2011
11/00854/FUL	Siting of temporary timber-clad mobile home for an agricultural worker, erection of dog kennel and alterations to access (Revised proposal).	WITHDRAWN	21 December 2012
11/02081/FUL	Construction of farm track and siting of 2no. feed hoppers	WITHDRAWN	21 December 2012

	(Retrospective)		
11/02085/COND	Discharge of condition 1 of application 10/04188/FUL	WITHDRAWN	21 December 2012
12/05660/FUL	Alterations and extension to existing agricultural building; Alterations to access; formation of hardstanding and farm track; Construction of stock pond; Siting of 2no. feed hoppers and ancillary works (Retrospective). Siting of a temporary timber cabin for an agricultural worker for a period of up to 3 years	REFUSED	14 May 2013
12/05661/FUL	Erection of general purpose agriculture building	REFUSED	14 May 2013
12/05662/FUL	Siting of 4no. mobile poultry units	REFUSED	14 May 2013
12/05663/FUL	Siting of 3no. mobile poultry units	REFUSED	14 May 2013
12/05664/FUL	Siting of 3no. mobile poultry units	REFUSED	14 May 2013

* quashed

The site has been the subject of a number of enforcement investigations since 2008 in respect of various operations and buildings at the site. On 22 April 2010 a Planning Contravention Notice (PCN) was issued seeking information regarding activities on the site and on 23rd April 2010 a Temporary Stop Notice ("TSN") was served following evidence that ponds were being created on the site without planning permission. The TSN prohibited the excavation of soil and surface materials from the land and the alteration of the levels of the land. The TSN ceased to have effect on the 20th May 2010.

Environmental Impact Assessment Screening

A Screening Assessment of development and activities at the site (separately and cumulatively) has been undertaken. Whilst development and activities at the site constitute Schedule 2 development (as an 'intensive livestock operation'), having considered all the relevant factors it is concluded that they are not likely to give rise to significant environmental effects and therefore an environmental impact assessment is not required.

4.0 PLANNING POLICY

Development Plan

The statutory development plan is the adopted Bath and North East Somerset Local Plan (including minerals and waste policies) October 2007 and the following policies are of relevance:

- GB1: Control of development in the Green Belt;
- GB2: Visual amenities of the Green Belt
- NE.1: Landscape character
- NE2: Areas of Outstanding Natural Beauty
- NE.3: Important hillsides - Bath and Radstock
- NE9: Locally important wildlife sites
- NE.4: Trees & woodland conservation
- NE.10: Nationally important species and habitats
- NE.11: Locally important species and habitats
- NE.12: Natural features: retention, new provision and management
- BH.1: Impact of development on World Heritage Site of Bath or its setting

BH.6: Development within or affecting Conservation Areas
ET.6: Agricultural development
D.2: General design and public realm
D.4: Townscape considerations
HG.10: Housing outside settlements - agricultural and other essential dwellings
T.24: General development control and access policy
T.26: On-site parking and servicing provision
NE.14: Flood Risk
ES.5: Foul and surface water drainage
ES.9: Pollution and nuisance
ES.10: Air quality

Core Strategy

The Core Strategy when adopted will provide the strategic framework for the management and development of land up to 2026. Of particular relevance to the site are B1 (The World Heritage Site and its setting); CP6 (Environmental Quality) and CP8 (Green Belt). The Core Strategy is now at an advanced stage and Annex 1 of the NPPF advises that decision-takers may also give weight to relevant policies in emerging plans (unless other material considerations indicate otherwise) commensurate with the stage of preparation of the emerging plan; the extent to which there are unresolved objections to relevant policies and the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF.

National Planning Policy Framework

The NPPF (March 2012) states that there is a presumption in favour of sustainable development with a commitment to building a strong, competitive economy and to ensuring that the planning system does everything it can to support sustainable economic growth. Specifically, planning should operate to encourage and not act as an impediment to sustainable growth.

In respect of protecting Green Belt land the NPPF states that local planning authorities should regard the construction of new buildings in the Green Belt as inappropriate, however exceptions to this include buildings for agriculture and forestry. The NPPF sets out the Government's support for a prosperous rural economy, stating that planning policies should support economic growth in rural areas in order to create jobs and prosperity, by taking a positive approach to sustainable new development.

In respect of conserving and enhancing the natural environment the NPPF states that the planning system should contribute to and enhance the natural and local environment by, amongst other things, protecting and enhancing valued landscapes. Specifically, great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty that (with National Parks and the Broads) have the highest status of protection in relation to landscape and scenic beauty. The NPPF also states that conservation of wildlife and cultural heritage are important considerations in all these areas, and when determining planning applications local planning authorities should aim to conserve and enhance biodiversity.

With regard to conserving and enhancing the historic environment the NPPF states that the objective is to avoid or minimise conflict between the conservation of a heritage asset and any aspect of the proposal. Specifically, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation, and the more important the asset, the greater the weight should be.

More generally local planning authorities should approach decision taking in a positive way, to foster the delivery of sustainable development and should seek to approve applications for sustainable development where possible. Local planning authorities should work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

In respect of enforcement action the NPPF states that “effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.”

5.0 OUTLINE OF PLANNING CONTRAVENTION AND EXPEDIENCY OF TAKING ENFORCEMENT ACTION

General Principles

The Town and Country Planning Act 1990 (Principal Act) is clear in stating that planning enforcement action can only be taken where the alleged development falls within the planning legislation, where there has been a breach of planning control and [my emphasis] it is expedient to pursue formal action.

Enforcement Immunity

The Principal Act, Section 171B, (1) and (2) defines the timescale within which planning enforcement action can be taken. In respect of building and engineering operations, no enforcement action can be taken after the end of 4 years beginning on the date that the operations were substantially completed. The period for immunity for any other breach (excluding change of use to a dwelling) is 10 years.

In this case the land was sold in 2005 and the alleged breaches have taken place since then. The 10 year immunity does not therefore apply. Certain works were substantially completed in 2008 and so immune from enforcement action, whereas others have been undertaken or substantially completed only within the last four years and are therefore are not immune.

In considering whether it is expedient to take enforcement action against the unauthorised development at the site a balance has to be struck between the objectives of supporting sustainable development and a prosperous rural economy, and the need to protect the Green Belt and conserving the natural beauty of the AONB and local landscape.

Use of the Land

The site is an agricultural holding and the use of the land for agricultural purposes does not, of itself, constitute development requiring planning permission.

Poultry units

The poultry units (of which there are currently 10 on site, although only four are in use) were first erected on the site in 2010. Each measures approximately 20m by 6m by 3.5m high and is capable of housing up to 750 ducks and has an associated fenced paddock of approximately 0.5ha. The units are constructed of metal hoops, metal skids, with slatted floors and green polythene fabric cover. All the units are supplied with mains water from a hosepipe connected to standpipes and internal lighting is powered by a mobile electricity generator. Given the size, weight and substantial construction of the poultry units they constitute "structures" (and hence buildings) and by virtue of the Article 4 Direction that applies to the land express planning permission is required for their siting/retention. Any excavations to level ground for the siting of the units is also likely to involve an engineering operation requiring planning permission. An

application for the retention of the units was refused planning permission on 14th May 2013.

Given their design, materials and siting within the fields poultry units are clearly visible from a number of locations and appear as incongruous elements within the otherwise generally pastoral landscape of small open fields divided by hedgerows. They are highly visible and although they can be moved within the site this not considered to remove the significance of their presence. They are effectively permanent features in the landscape and their impact is not affected to any material extent by periodic changes to their position particularly as this is within a relatively limited area of the holding land.

It is considered that the poultry units harm the openness of the Green Belt, and by virtue of their siting and materials they are visually detrimental to the Green Belt and have an adverse impact on the AONB and character of the local landscape. Accordingly it is considered expedient to take enforcement action requiring the removal of the poultry units from the site.

Six of the units were not in use on 8th May 2013 and it is considered that a period of 2 months for their removal is appropriate. In the case of those that were in use on 8th May a period of 6 months for their removal is considered appropriate.

Caravan and Shed/Dog Kennel

A caravan (approximately 17m by 5.7m by 3.5m high) is located adjacent to the main entrance to the site for use as an agricultural workers dwelling. Whilst caravans are not generally classified as buildings, this caravan is a large static caravan and permanently sited on the land. Even if the caravan were not a building in planning terms, it is considered that its residential use would still require planning permission on the basis of a material change of use of the land. A shed (approximately 3m by 2m by 3m high) and dog kennel (approximately 1.5m by 1.5m by 2m high) of timber construction have also been erected on the site, adjacent to and used in association with the caravan. The buildings have been on site for less than four years.

No application has been submitted to the Council for the retention of the caravan, nor evidence submitted to demonstrate that there is an agricultural need for the dwelling, shed or dog kennel. Evidence in support of an application for a replacement mobile home on the site was not considered to demonstrate a functional need or financial justification for a worker to live on the holding. Accordingly the caravan, shed and dog kennel represent inappropriate development in the Green Belt for which a very special circumstances case must be made. No evidence has been submitted on this matter.

The buildings are considered to harm the openness of the Green Belt and although they are generally be viewed in the context of the existing building on the site, given the particular sensitivities and qualities of the local landscape set out in the case for the Article 4 Direction it is considered that the buildings have an adverse impact on the local landscape.

In the circumstances it is considered expedient to take enforcement action requiring the removal of the caravan, shed and dog kennel from the site. It would appear that the caravan is not currently in use and accordingly a period of 2 months for the removal of the caravan, shed and dog kennel is considered appropriate.

Feed hoppers

The two feed storage hoppers are each approximately 2.85m by 5.4m high and their function is solely related to the poultry units on the site. They are supported by a metal

frame that is fixed to a concrete base and sited within an area of hardstanding adjacent to the existing agricultural building. They are an erection or structure within the definition of a building (see above) and permanently installed, and accordingly constitute development requiring planning permission. The hoppers are located approximately 40m the north of the existing building adjacent to the existing hedge that forms the eastern boundary of the site with Woolley Lane.

Due to the levels of the site and road the hoppers are not readily visible from Woolley Lane however they are clearly visible in longer distance views from the east. As erected the hoppers appear as discrete standalone structures rather than being read with the existing buildings on the site and their visibility is accentuated by their colour. Whilst the retention of the feed hoppers is not considered to harm the openness of the Green Belt it is considered that in their current position they do not conserve or enhance the character and local distinctiveness of the local landscape and AONB, which is generally characterised by open fields free of buildings and structures and where there are buildings they are generally in small clusters.

As currently erected it is considered expedient to take enforcement action to secure their removal from the site. A period of 6 months to coincide with the stocked poultry units is considered appropriate.

'Lambing Shed'

The shed comprises plastic sheeting spread over metal hoops and measures approximately 4m by 5m by 3m high. The shed is fixed to the ground by pegs and it has been in place for less than 4 years. Although relatively lightweight in construction it is considered to be similar to a large polytunnel and given its size and relative permanence it cannot reasonably be considered a temporary structure and therefore constitutes development requiring planning permission.

The structure harms the openness of the Green Belt and given its materials and location on the site is clearly visible from a number of locations. It is considered to be visually detrimental to the Green Belt and has an adverse impact on the AONB and character of the local landscape. Accordingly it is considered expedient to take enforcement action requiring the removal of the lambing shed from the site and that a period of 2 months for its removal is appropriate.

Shipping Container

The shipping container is approximately 10m by 4m by 4m high and located adjacent to the boundary hedge with Woolley Lane. The container is considered to be a structure placed permanently on the land and falls within the definition of a building. It is used for agricultural purposes and is therefore not inappropriate development in the Green Belt. Although not readily visible from outside the site the shipping container adds to the collection of buildings and other development at the site and harms the openness of the Green Belt. Accordingly it is considered expedient to take enforcement action requiring the removal of the shipping container from the site and that a period of 2 months for its removal is appropriate.

Alterations and Extension to Existing Building

The existing building on the site was a partly enclosed barn, previously used to provide shelter for cattle. In late 2009 GVP commenced works to infill the sides of the building with blockwork and fit out the interior for use as an office and for egg processing and packing associated with the poultry units. The Article 4 Direction includes 'alterations' as works requiring planning permission and it is considered that the alterations amount to a development and a material change in the appearance of the building. An extension to the building (approximately 2m by 10m by 3m high) constructed of

masonry with part timber cladding and profiled roof has been added within the last 4 years. Both the alterations and extension are development covered by the Article 4 Direction and are not immune from enforcement action.

As the building (and extension) is used for agricultural purposes it does not constitute inappropriate development in the Green Belt. Whilst the appearance of the building has been altered from an open barn to an enclosed building the footprint is essentially as originally built, it remains part timber-clad and retains the original low-pitched roof. The extension to the building is of a small scale and constructed of materials to match those of the existing building. Existing vegetation and local topography mean that views of the works are limited. Given that the works of alteration are contained within the original building envelope and the extension does not materially encroach into open countryside it is considered that the works do not materially impact on the openness of the Green Belt nor conflict with the purposes of including land in the Green Belt. In terms of impact on the AONB and local landscape it is considered that given the nature and scale of the alterations and extension, the character and local distinctiveness of the landscape will be conserved. Whilst the building is visible from Woolley Lane the works do not adversely affect the natural beauty of the landscape of the AONB.

Although the building (as altered and extended) is currently used for purposes associated with the poultry units on the site (and against which it is considered appropriate to take enforcement action) the works themselves are considered acceptable and their association with the poultry units does not affect this conclusion. In the circumstances it is considered that the alterations and extension to the existing building are generally acceptable and that it is not expedient to take enforcement action against them. It is recommended that an application is invited seeking planning permission for these two items.

Track, Hardstanding and Concrete Path

The track is approximately 1km long and 3.5m wide and runs along the eastern and northern edge of fields that form the boundary of the site with Woolley Lane. The track is made up of compacted stone chippings/hardcore and involved the removal of grass and topsoil in its construction. The track was originally constructed in two sections in mid-2008 and mid-2010 and since that time further works have been undertaken. The area of hardstanding around the existing agricultural building made up of compacted stone chippings/hardcore has been laid down and extended over a number of years and now extends to approximately 350m². Whilst initial works to form the track and hardstanding were commenced over four years ago further excavation and engineering operations have been undertaken since and the works have only recently been substantially completed. The concrete path is approximately 25m long, located between the existing building and hedge along Woolley Lane and was completed in 2013.

Although marginally wider than when originally constructed, the track is located adjacent to the hedge and so not readily visible, other than from selected locations along Woolley Lane and from elevated positions to the north such as the public footpath north of Soper's Wood. From site visits and photographic evidence (including aerial photos) it is apparent that whilst the appearance of the track when first constructed (and without topsoil and grass) is highly visible, once seeded and the grass has grown the appearance has softened. The area of hardstanding is adjacent to and largely screened by the existing building and, with the concrete path, not readily visible from outside the site.

In March 2010 the Council considered a planning application (09/04403/FUL) that included the retrospective formation of a track on the site. Whilst the application was

refused planning permission, no objection was raised to the hardstanding or track. In respect of the hardstanding the case Officer's report noted that it "is within the fenced compound of the farmyard, and its visual effect on the landscape would be reduced by its proximity to the existing modern barn in the farmyard ... Overall it is considered that this track would not affect the openness of the area or have a significant impact on the appearance of this part of the Green Belt." In respect of the track to the north of the farmyard the report noted that "the track is to be sited close to the edge of the field, and this combined with the grass covering would mean that the track would not be prominent in the landscape or damaging to the appearance of this part of the Cotswold Area of Outstanding Natural Beauty or the Green Belt." In view of these comments, when considering an Enforcement Report in May 2010 it was concluded that although the track required planning permission it was not expedient to take enforcement action.

It is considered that there has been no material change in circumstances since 2010 and accordingly it is not expedient to take enforcement action against the track, hardstanding or concrete path. It is recommended that an application is invited seeking planning permission for these three items.

Stock Pond

The stock pond is located at the northern end of the holding and its construction involved engineering operations. In January 2011 the Council granted planning permission for a retrospective application for the stock pond, concluding that it was agricultural development and would not harm the openness of the Green Belt nor have any visual or other harm. An application to discharge a condition relating to the preparation of a wildlife enhancement and management scheme was also approved in 2011. Following a successful legal challenge the planning permission was quashed.

The planning considerations and impact of the development have not materially changed since 2010 and accordingly it is not considered expedient to take enforcement action against this item. It is recommended that an application is invited seeking planning permission for the retention of the stock pond, to include details of measures to address land slippage that has occurred as well as potential future hazards and a wildlife enhancement and management scheme.

Site Access

The site access was altered in mid-late 2008 with the provision of a 7m wide concrete apron extending 4m into the site and the erection of 2m high wooden gates and fencing. Whilst these works constitute development requiring planning permission, they were substantially complete more than four years ago and are therefore now immune from enforcement action.

Other Items

Storage Tanks – within the area of hardstanding there are two plastic tanks used to store diesel for farm vehicles. Although the storage tanks are not mobile and are set on a concrete base it is considered given their nature and limited size, that they do not fall within the definition of a building and their siting on the land does not involve an engineering operation. Neither are they an 'other operation'. Accordingly they do not constitute development requiring planning permission, are not subject to planning control nor capable of being enforced against.

Electricity Generator – the electricity generator measures approximately 1m by 1m by 1m high. It is a free-standing item (i.e. not plant or equipment within a building) located in a field and connected by cables to each of the poultry sheds. The generator is not fixed to the ground but is positioned on a hardcore base and would need to be loaded onto a trailer or similar for moving. However given its limited size it is considered that it

is not a building, structure, erection or 'other operation' and its siting on the land does not involve an engineering operation. Accordingly the electricity generator does not constitute development requiring planning permission, is not subject to planning control nor capable of being enforced against.

Pipework and Standpipes – each poultry shed is provided with water from standpipes connected by plastic pipework that are served from a supply close to the main agricultural building. The standpipes are spaced approximately every 100m alongside the track and are approximately 1m in height. In some locations the pipework from the standpipes to the poultry sheds is buried, in others it is laid on the surface. The standpipes and pipework are of a small scale and the pipework could generally be removed without the need for engineering operations. Accordingly the pipework and standpipes do not constitute development requiring planning permission, are not subject to planning control nor capable of being enforced against.

Whilst the electricity generator and pipework/standpipes currently serve the poultry units on the site (and against which it is considered appropriate to take enforcement action) this does not alter the conclusion in respect of the planning status of these items.

Vehicles/Equipment/Trailers – within the area of hardstanding there are various vehicles, items of farm equipment and a 'mobile office' trailer. These items are all mobile and do not constitute buildings. Furthermore they are being used in a way that is ancillary to the agricultural use of the land. Accordingly they do not constitute development requiring planning permission, are not subject to planning control nor capable of being enforced against.

6.0 HUMAN RIGHTS

It is considered that Article 1 of Protocol 1 (peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life, home and correspondence) of the European Convention on Human Rights may apply in this case. However, those rights must be weighed against the public interest in preserving the character and appearance of the surrounding area. Given that the unauthorised works are harmful and contrary to the Development Plan and given that there are no material considerations which outweigh the harm, it is considered that Enforcement Action would be a proportionate interference in the wider public interest.

7.0 RECOMMENDATION

In summary the recommendations regarding the expediency of taking enforcement action against development at the site are:

Item	Expedient to take Enforcement Action / Period for Compliance
Poultry sheds	Yes In use on 8/5/13 – 6 months from Notice Not in use on 8/5/13 – 2 months from Notice
Caravan	Yes 2 months from Notice
Shed/Dog Kennel	Yes 2 months from Notice
Feed hoppers	Yes 6 months of Notice
'Lambing shed'	Yes 2 months from Notice
Shipping container	Yes

Item	Expedient to take Enforcement Action / Period for Compliance
	2 months from Notice
Alteration and extension of existing building	No
Laying of a track and hardstanding	No
Stock pond	No
Alterations to site access	Immune from enforcement action
Electricity generator	Not development
Pipework and standpipes	Not development
Fuel storage tanks	Not development
Parking of vehicles, trailers, equipment,	Not development

It is recommended that delegated authority be granted to the Development Manager, in consultation with the Planning and Environmental Law Manager, to take any necessary enforcement action on behalf of the Local Planning Authority in respect of the alleged planning contravention outlined above, by exercising the powers and duties of the Authority (as applicable) under Parts VII and VIII of the Town and Country Planning Act 1990 (including any amendments to or re-enactments of the Act or Regulations or Orders made under the Act) in respect of the above Property.

General Note

This specific delegated authority will, in addition to being the subject of subsequent report back to Members in the event of Enforcement Action either being taken, not being taken or subsequently proving unnecessary as appropriate, be subject to:

- (a) all action being taken on behalf of the Council and in the Council's name;
- (b) all action being subject to statutory requirements and any aspects of the Council's strategy and programme;
- (c) consultation with the appropriate professional or technical officer of the Council in respect of matters not within the competence of the Head of Planning Services, and
- (d) maintenance of a proper record of action taken.

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Bath and North East Somerset Council			
MEETING: Development Control Committee	AGENDA		
MEETING DATE: 05 June 2013	ITEM NO:		
REPORT OF David Trigwell, Divisional Director of Planning and Transport Development.			
REPORT ORIGINATOR: Ms Lisa Bartlett, Development Manager (Tel. Extension No. 7281).			
DATE PREPARED: 18 th April 2013			
AN OPEN PUBLIC ITEM			
BACKGROUND PAPERS: Enforcement file 08/00552/NONCOM			
TITLE: Enforcement Report: Opa 14 North Parade Bath			
WARD : Abbey Ward			

1.0 PURPOSE OF REPORT

To seek Members' view on the harm caused to neighbours and the area with respect to the unauthorised material change of use of a restaurant to a mixed use of restaurant, nightclub and bar. Officers are seeking authority from Members to take enforcement action to remedy the breach of planning control.

2.0 LOCATION OF PLANNING CONTRAVENTION

Opa, 14 North Parade, Bath ("the Premises"), as outlined in bold on the attached site location plan (Appendix 1).

3.0 OUTLINE OF PLANNING CONTRAVENTION

Without planning permission the material change of use of the Premises from a restaurant to a mixed use of restaurant, bar and nightclub.

4.0 RELEVANT PLANNING HISTORY

5816/3 - Use of basement as a restaurant - Permitted (1973)

06/00246/FUL - Demolition of existing lean-to toilet block and erection of new glazed extension, change of use of adjacent vaults (nos. 1 and 10) and lower ground floor Toll House into part of restaurant and minor alterations - Permitted.

06/1805/FUL - Change of use of vaults and lower ground floor Toll House to restaurant and erection of glass conservatory after demolition of existing toilet block - Permitted.

08/02077/VAR - Variation of Condition 05 of permission 06/00246/FUL, to extend the use of the outside terraced area from 10.00 to 19.30 hours daily to the following revised times:- Sunday to Thursday inclusive (save for Bank Holidays) from 10.00 to

00.01 hours. Fridays and Saturdays from 10.00 to 01.00 hours. Sunday and Monday of Bank Holidays from 10.00 to 01.00 hours. - Refused.
08/02486/LICPL - Licence application (not Planning) that granted permission for use of the outside terraced area until 23:00 – Granted.
09/01794/FUL - Change of use of part of Parade Gardens to smoking area in association with Opa – Permitted on a temporary basis until 31/10/2010.
10/00054/FUL- change of use restaurant to mixed use of restaurant, bar and nightclub - Refused.
08/00243/NONCOM – Enforcement enquiry regarding the hours of opening – closed July 2008 following submission of planning application for variation of opening hours condition reference 08/02077/VAR.

5.0 BACKGROUND

On 4th July 2008 a license was granted by licensing to allow use of an outside terrace area until 23:00 hours. However licensing and planning are different statutory regimes and the grant of a licence does not absolve an operator of the need to also obtain any necessary planning permissions. The grant of the licence does not alter the fact that the terrace only has planning permission for use in association with the restaurant use of the Premises until 19:30 hours.

On 19th August 2008 planning permission was refused for the Variation of Condition 05 of permission 06/00246/FUL, to extend the use of the outside terraced area as it was considered that the proposed increased opening hours would be detrimental to the amenities of the occupiers of, adjoining and nearby premises by reason of increased noise and traffic, reference 08/02077/VAR. On 2nd November 2009 temporary planning permission was granted for the change of use of part of Parade Gardens to use associated with Opa, reference 09/01794/FUL. This permission expired on 31st October 2010.

In March 2011 the operator responded to a formal Planning Contravention Notice (“PCN”) stating that the use of the Premises since June 2006 has been a Greek restaurant and bar providing musical entertainment to which some customers choose to dance.

In April 2011 following lengthy investigations, it was concluded that, whilst the activity at Opa sometimes went beyond what might be expected of a restaurant, there was insufficient evidence to demonstrate that a material change of use had taken place and officers would therefore continue to monitor the Premises.

In June 2012 following continued complaints in relation to the hours of opening and noise this matter was reinvestigated by Officers.

The authorised use of the Premises is as a restaurant, although evidence obtained by Officers shows that the Premises is currently being used for a mixed use of restaurant, bar and nightclub. Furthermore, evidence obtained shows the use of Parade Gardens continues.

The main issue in this case is considered to be the effect of the unauthorised use of the Premises on the living conditions of nearby residents, particularly by reason of any

increased noise and disturbance caused by loud music emanating from the Premises and also that patrons of the Premises have caused nuisance to surrounding properties by reason of noise and nuisance.

From site visits to the Premises and nearby flats, undertaken between December 2012 to April 2013 it is clear that the current use of the Premises causes noise and disturbance to occupiers of nearby dwellings.

The evidence obtained by Officers includes information gathered from social internet sites, as well as site visits by multi agency staff, planning enforcement officers and visits to adjoining properties by environmental health officers. The monitoring of social internet sites has proved a minimum of 50 non-restaurant events during 2012 (the evidence also suggests that there were more non-restaurant uses that were not specifically advertised). It is clear that a number of the events are organised by separate promoters such as 'Spanish Way', 'Sublime', 'CocoLoco' and 'Clique'. These nights feature DJs, photographers, discounted drinks promotions and, in the case of 'Clique', a 'cocktail luge' (an ice sculpture into which drinks are poured which then run into a patron's mouth or glass) a fire dancer and smoking super chilled drinks.

Despite correspondence from your officers in August of last year and subsequent confirmation from the operator that the use being carried out still accorded with that described in the 2011 PCN, complaints continued to be received.

At 23.40 hours on 30th January 2013 Officers attended the 'Spanish Way' night and observed that there were no diners (the dining area was cordoned off) and the premises were filled with people who were drinking and dancing to loud music.

On 18th February 2013 a letter was sent to Opa advising that the unauthorised use should cease immediately. To date, despite this request, nights such as 'Spanish Way' and 'Clique' continue to be actively promoted on social media, as well as being advertised by way of posters on the Bath University campus.

On 21st March 2013 a Noise Abatement Notice served confirmed the nuisance being created 'from amplified music and voice'. However, the Premises' use has continued unabated with the 'Spanish Way' event being noted on four separate dates this year, 'Clique' being noted on five separate dates this year with the added use of the riverside terrace for smoking 'shisha' pipes up to 11:00pm on those nights.

The Police Authority confirm that since January this year there have been seven complaints received of late night noise and nuisance from customers queueing, leaving the premises, being sick and depositing bottles and other items into the basement wells of adjacent properties.

14 North Parade itself, above Opa, known as Nunes House, is used by Advanced Studies in England ("ASE"), who offer American undergraduate students single term, full year and summer courses. Nunes House is used as residential accommodation for these students. The accommodation comprises 5 flats and a common room and all are affected to some extent by this unauthorised use.

ASE has previously stated that they are no longer able to offer this flat to students, owing to the high level of complaints about noise from previous occupants.

The next building to Nunes House is Georgian House, which is converted into a number of flats. Many of these flats also have windows that front onto the pavement outside Opa, and are also unacceptably affected by noise and disturbance from patrons of the Premises, as evidenced above.

The operator has in the past suggested that, if permission was granted for the nightclub use then they would be prepared to limit usage of the riverside terrace to before 22:00 hours (instead of the current unauthorised 23:00) and to accept a one year temporary permission. This would then give them a one year period to lease the separate smoking area adjacent to the park and see if the Premises can be run in this way without causing undue nuisance.

This part of Bath is very much part of the night-time economy, and many other restaurants, bars and clubs are nearby. The operator suggested that the continued use of the Premises could take place in a more controlled manner, and would allow a one year 'test' to see if a harmonious solution could be found. An application for this option was refused on reference 10/00054/FUL as it was considered there were a number of problems with this way forward. These are:-

- the permitted smoking area was itself subject to a temporary permission that expired on 31 October 2010;
- the use of the smoking area was restricted to between the hours of 12:00 and 23:00 – at the very time, after 23:00, when its use would most benefit local residents by moving smokers away from the pavement, it would not be available; and
- the offer to reduce the use of the riverside terrace from up to 23:00 (in accordance with the licence) to up to 22:00 ignored the fact that a planning condition already restricted the use of the terrace to before 19:30.

In addition, the harm caused by the unauthorised use is not just as a result of the use of the riverside terrace and smoking area, but also as a result of loud music from within the Premises and the coming and going of patrons late into the night.

Complaints in relation to noise and disturbance continue to be received and despite numerous requests the proprietors continue to use the Premises and part of Parade Gardens (garden terrace) as a restaurant, bar and nightclub outside any approved hours.

On 4th July 2008 a license was granted by Licensing to allow use of the same area until 23:00 hours. However licensing and planning are different statutory regimes and the grant of a licence does not absolve an operator of the need to also obtain any necessary planning permissions. The grant of the licence does not alter the fact that the terrace only has planning permission for use in association with the restaurant use of the Premises until 19:30 hours.

6.0 DEVELOPMENT PLAN

Of particular relevance to this matter is the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007 (the Local Plan). Of particular relevance is Policy ES 12 relating to noise and vibration.

The following Policies are also considered relevant:

D.2 - General Design and public realm considerations

D.4 - Townscape considerations

BH.1 - Impact of Development on a World Heritage Site

BH.2 - Listed Buildings and their settings

BH.6 - Development within Conservation Areas

BH.9 - Parks and Gardens of Special Historic Interest.

7.0 EXPEDIENCY OF ENFORCEMENT ACTION

In this case, the lawful use of the Premises as a restaurant would have the potential to give rise to some noise and possible disturbance from patrons. However, patrons at a restaurant, bar and nightclub, as now being carried out, arrive and leave later, drink more alcohol, and as evidenced above, behave in a rowdier fashion, and make more noise than patrons from a restaurant alone. In addition, the inclusion of a nightclub use has led to a higher volume of amplified music being played later at night. These noise issues have been confirmed by site visits to the Premises and locality as well as by a formal Noise Abatement Notice served by our Environmental Health Officers. In the circumstances of this long running use being monitored by your Officers, formal enforcement action against the unauthorised bar and nightclub use is therefore considered expedient.

The very proximity of the unauthorised use to adjoining residential properties is causing environmental issues not experienced in the same way elsewhere in the City centre. The basement use is within a structure physically attached to residential properties not in the same ownership or control. The character and effect of the unauthorised bar and nightclub uses is very different to a purely restaurant use. It is considered that the noise issues cannot be adequately controlled by condition so as to obviate the real nuisances being created. In your officers' view, the proximity to residential properties means that this is simply the wrong location for a bar and nightclub.

The National Planning Policy Framework ("NPPF") was published in March 2012 and is a material consideration. Local Plan policies are consistent with national policy contained in the NPPF.

8.0 HUMAN RIGHTS AND EQUALITIES

8.1 It is considered that Article 1 of Protocol 1 (peaceful enjoyment of possessions) of the European Convention on Human Rights may apply in this case. However, those rights must be weighed against the negative effects of the unauthorised use on neighbours and on this sensitive part of the historic city. Given that the unauthorised use is harmful and contrary to the Development Plan, and given that there are no material considerations which outweigh the harm being caused, it is considered that enforcement action would be a proportionate interference in the wider public interest.

Regard has also been had to the Council's duty under s149 of the Equality Act 2010 to pay due regard to the need to eliminate discrimination and promote equality with regard to those with protected characteristics and to foster good relations between different groups when discharging its functions.

Whilst Opa is, in part, a Greek restaurant, the unauthorised nightclub/bar use appears to attract a mixed, predominantly student clientele. It is therefore considered that the taking of planning enforcement action in this case would not have any particular negative impact on any group with protected characteristics, especially as any enforcement action would not affect the ability of the operators to run the Premises as a Greek restaurant within the terms of their planning permission.

9. RECOMMENDATION

That delegated authority be granted to the Development Manager, in consultation with the Planning and Environmental Law Manager, to take any necessary enforcement action on behalf of the Local Planning Authority in respect of the alleged planning contravention outlined above, by exercising the powers and duties of the Authority (as applicable) under Parts VII and VIII of the Town and Country Planning Act 1990 (including any amendments to or re-enactments of the Act or Regulations or Orders made under the Act) in respect of the above Premises .

General Note

This specific delegated authority will, in addition to being the subject of subsequent report back to Members in the event of Enforcement Action either being taken, not being taken or subsequently proving unnecessary as appropriate, be subject to:

- (a) all action being taken on behalf of the Council and in the Council's name;*
- (b) all action being subject to statutory requirements and any aspects of the Council's strategy and programme;*
- (c) consultation with the appropriate professional or technical officer of the Council in respect of matters not within the competence of the Divisional Director of Planning and Transport Development; and*
- (d) maintenance of a proper record of action taken.*

Bath and North East Somerset Council			
MEETING: Development Control Committee	AGENDA		
MEETING DATE: 05 June 2013	ITEM NO:		
REPORT OF David Trigwell, Divisional Director of Planning and Transport Development.			
REPORT ORIGINATOR: Ms Lisa Bartlett, Development Manager (Tel. Extension No. 7281).			
DATE PREPARED: 17 th May 2013			
AN OPEN PUBLIC ITEM			
BACKGROUND PAPERS: Enforcement file 12/00210/UNAUTH			
TITLE: Enforcement Report: The Quarry, Eastcourt Rd., Temple Cloud, Bristol, BS39 5BU			
WARD : Cameley			

1.0 PURPOSE OF REPORT

To seek Members' view on unauthorised development comprising the rebuilding and extension of an industrial building together with a material change of use of a workshop (B2) to a mixed use of dwelling (C3) and business activities (B1), and the unauthorised siting of a mobile home. Officers are seeking Authority from Members to issue an enforcement notice to remedy the breach of planning control.

2.0 LOCATION OF PLANNING CONTRAVENTION

The Quarry, Eastcourt Road, Temple Cloud, Bristol BS39 5BU ("the Property"), as outlined in bold on the attached site location plan (Appendix 1).

3.0 OUTLINE OF PLANNING CONTRAVENTION

Without planning permission the rebuilding and extension of an industrial building together with a material change of use of a workshop (B2) to a mixed use of dwelling (C3) and business activities (B1), and the unauthorised siting of a mobile home.

4.0 RELEVANT PLANNING HISTORY

10/00432/FUL - Change of use and alterations to existing workshop to provide live/work accommodation – Withdrawn
 12/03092/FUL – Change of use of 1 no. building from B2 to C3/B1 (retrospective) - Refused

5.0 BACKGROUND

On the 18th August 2010 a planning application (10/00432/FUL) for change of use and alterations to an existing workshop to provide live/work accommodation was withdrawn by the applicants agent in response to concerns that the application was considered contrary to policy as the applicant could not demonstrate that the original workshop could be converted without substantial reconstruction (contrary to the aims of Policy ET.9).

On 19th April 2012 your officers visited the site in response to complaints and observed that the building was being used predominantly for residential purposes together with some storage and a subservient level of business use. Additionally, a mobile home, clad in timber facing, and capable of residential accommodation had been located in front of the unauthorised works. A letter was sent to the owner advising that the on-going works to convert and redevelop the existing building to living accommodation was unauthorised. Photographs taken at that time demonstrate a clear residential use of the majority of the premises. The owner was invited to apply for retrospective planning permission.

Prior to the refusal under delegated powers on 11th March 2013 of a retrospective planning application (reference 12/03092/FUL) for the change of use of one building from B2 to C3/B1 (live/work unit), a referral report was prepared for the Chair of the Planning Committee on the basis at that time, that the works to the building had been undertaken under the industrial buildings permitted development allowances. The recommendation was that permission be granted and the Chair agreed that the application could be determined at officer level. Following a review of the case by a senior officer in relation to the actual timing of these works, it became clear that the building was in residential occupation without the benefit of planning permission and as such the works could not be considered to be permitted development as originally thought.

The application was subsequently refused on the basis of the new information that had come to light as set out above which was in line with the Parish Council's view, on the basis that the works did not represent a change of use as the existing building is unauthorised and therefore cannot be properly considered against prevailing policies relating to housing and sustainability. Furthermore, the original building was not capable of conversion without substantial (unauthorised) works. Those works and the failure to maintain the original together with lack of seeking an alternative business use for the building were considered to be contrary to Policy ET.9 of the Bath and North East Somerset Local Plan, including minerals and waste policies, October 2007.

The 'new' building is sited on the same location as the former building and largely utilises the original footprint, base and frame. The overall floor space of the new unit has been increased by approximately 50sq.m and the height raised by 2m. It should be noted that had the 'improvement' works not incorporated a residential use (i.e. if the building had been finished solely as a workshop) the renovation could have been considered permitted development

under Part 8, Class A of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010.

However, the works to improve/alter the building incorporated the installation of residential elements together with a recladding and insulation of the existing frame and extensions to that frame and creation of an atrium structure higher than the original workshop.

On the 19th March 2013 your officers again visited the premises and photographed the site to confirm the overarching use of the building and surroundings. The building was being used predominantly for residential purposes together with some storage and a subservient level of business use. One of the rooms was in the process of being fitted out as a bathroom. Additionally, a mobile home, clad in timber facing, and capable of residential accommodation had been located in front of the building. From site visits, officers consider that this is being used for residential accommodation.

6.0 DEVELOPMENT PLAN

Of particular relevance to this matter is the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007 (the Local Plan). The relevant Policies are ET 9 Reuse of Rural Buildings and HG 10 Housing outside settlement boundaries.

Other Policies of relevance include:

D.2 General Design and Public Realm Considerations

D.4 Townscape Considerations

ET.9 Reuse of Rural Buildings

ES.15 Contaminated Land

NE.4 Tree and Woodland Conservation

T.24 General Development Control and Access Policy

HG 10 Housing outside settlements

DRAFT CORE STRATEGY, MAY 2011

The Draft Core Strategy is a material consideration and has been adopted for development management purposes and can be afforded substantive weight in relation to this case..

LEGAL FRAMEWORK

Town and Country Planning Act, 1990

NATIONAL PLANNING POLICY FRAMEWORK

The NPPF has been considered in light of this application and is a material consideration.

Local Plan policy ET 9 is consistent with national policy contained in the NPPF.

7.0 EXPEDIENCY OF ENFORCEMENT ACTION

Having considered the wider impacts of this scheme it is concluded that the resultant structure together with the adjacent mobile home remain unauthorised and contrary to adopted policies as set out above.

The alterations to the original building have taken place within the last four years and are therefore not immune from enforcement action. The mobile home is not immune from action by the Council.

In the circumstances, the site visits by your enforcement officers on the 19th April 2012 and again on 19th March 2013 have confirmed the substantial works carried out to be contrary to the above Policies. Whilst issues of road safety and residential amenity have been examined it is the principal of substantial rebuilding of an existing sub-standard structure to enable a residential use together with the unauthorised siting of a mobile home that warrants formal action. The original building (prior to the works that have been carried out) was not capable of conversion and thus not capable of the proposed retrospective change of use without the implementation of the substantial unauthorised works. These works and the lack of retaining or seeking an alternative business use for the building is contrary to Policy ET.9 of the Bath and North East Somerset Local Plan, which seeks to resist the dispersal of residential activity which could prejudice economic or social vitality of existing towns and villages. This position is also set out in the NPPF which advises Local Authorities to avoid new isolated homes in the countryside except where it is essential for a rural worker to live permanently at or near their place of work, where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development, where the development would lead to an enhancement of the immediate setting or there is an exceptional quality or innovative design. None of these would apply to this development. In addition, there is no evidence to demonstrate why it is necessary for the owner to live on this site and as such it is not considered that the aims of the NPPF in terms of supporting the sustainable growth and expansion of all types of business and enterprise in rural areas is met.

The siting of the mobile home is a breach of planning control as the use of the caravan is not ancillary to the authorised use of the land and as such is contrary to policy HG 10 of the Bath and North East Somerset Local Plan which only allows new dwellings if they are essential for agricultural or forestry workers. This is also contrary to the advice in the NPPF..

Enforcement action against the unauthorised development and use is considered expedient.

8.0 HUMAN RIGHTS

8.1 It is considered that Article 1 of Protocol 1 (peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life, home and correspondence) of the European Convention on Human Rights may apply in this case. However, those rights must be weighed against the public

interest in preserving the character and appearance of the surrounding area. Given that the unauthorised works are harmful and contrary to the Development Plan and given that there are no material considerations which outweigh the harm, it is considered that Enforcement Action would be a proportionate interference in the wider public interest.

9 RECOMMENDATIONS

That delegated authority be granted to the Development Manager, in consultation with the Planning and Environmental Law Manager, to take any necessary enforcement action on behalf of the Local Planning Authority in respect of the alleged planning contravention outlined above, by exercising the powers and duties of the Authority (as applicable) under Parts VII and VIII of the Town and Country Planning Act 1990 (including any amendments to or re-enactments of the Act or Regulations or Orders made under the Act) in respect of the above Property.

General Note

This specific delegated authority will, in addition to being the subject of subsequent report back to Members in the event of Enforcement Action either being taken, not being taken or subsequently proving unnecessary as appropriate, be subject to:

- (a) all action being taken on behalf of the Council and in the Council's name;*
- (b) all action being subject to statutory requirements and any aspects of the Council's strategy and programme;*
- (c) consultation with the appropriate professional or technical officer of the Council in respect of matters not within the competence of the Divisional Director of Planning and Transport Development, and*
- (d) maintenance of a proper record of action taken.*

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	5 th June 2013
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (Redhill House, Red Hill, Camerton No.5) Tree Preservation Order 2013
WARD:	Camerton
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <p>Plan showing the area protected by the served Tree Preservation Order</p> <p>Plan of proposed modified Tree Preservation Order</p>	

1 THE ISSUE

1.1 An objection has been received from the owner of Redhill House following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (Redhill House, Red Hill, Camerton No.5) Tree Preservation Order 2013 (“the TPO”), which was provisionally made on the 1st February 2013 to protect all trees within the area encircled in a dotted black polygon and identified as A1 on the plan which make a contribution to the landscape and visual 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 (Redhill House, Red Hill, Camerton No.5) Tree Preservation Order 2013 with a modification to protect two groups of trees; one group of 6 Sycamores in the north eastern corner which are located to the north of the existing entrance and a second group which includes 7 Sycamores; 1 Beech, 1 Pine and 1 Blue Atlas Cedar which are located along and near to the eastern boundary by the road commencing from the south of the existing entrance.

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 visual amenity and landscape in the local area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services. 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 them.

4 THE REPORT

4.1 Background

4.2 The trees which are the subject of the TPO are growing within the grounds of Redhill House, Red Hill, Camerton within the area encircled in a dotted black polygon and identified as A1 on the attached plan.

4.3 The Council's Senior Arboricultural Officer received a request from Camerton Parish Council for a Tree Preservation Order to be made on the property following an investigation by Bath and North Somerset Council regarding a change of use of the property which was brought to this Committee on 13th February 2013 and on 13th March 2013 following a Committee site visit. The investigation included concerns from colleagues within Highways regarding the visibility which the current entrance drive provided for visitors when vehicles left the property onto Red Hill. The trees were considered to be a contributory factor in obstructing the visibility.

4.4 The trees were not protected so the owner could remove the trees without the need to notify the Council. The trees were viewed and assessed to be considered to be of sufficient landscape merit that a Tree Preservation Order should be made so that there was an opportunity to ensure that the trees and their visual contribution within the landscape were given due consideration.

4.5 The area designation was used as an interim measure to enable the Council's Senior Arboricultural Officer to enter into discussions with the owner and assess the merit of individual trees within the property.

4.6 Following the making of the Order the Council's Senior Arboricultural Officer has met with the owner of the property to assess the trees in more detail and has recommended that the TPO be modified to two groups of trees. The officer considers that it is neither expedient or appropriate to include other trees on the site because they are either:

- i. not considered to be at risk, such those trees on the western boundary
- ii small ornamental trees which are not readily visible to the general public, such as the Holly and tree Cotoneasters within the garden area
- iii in questionable condition such as the western most Pine growing near to the southern corner of the property and one of the two Sycamores with extensive basal decay in the north western corner.

4.7 Responses to the Tree Preservation Order

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

4.9 One e-mailed objection has been received from the owner following the making of the TPO and prior to the officer's recommendation to modify the TPO.

4.10 The main objections are summarised below.

- i) The owner would like to landscape their garden as and when it is needed rather than to wait for permission.
- ii) The Sycamores provide protection from the road and are a screen so would not be under threat unless their removal would significantly increase the visibility when leaving the property.
- iii) The other trees are mostly fast growing such as Pine and Hazel and need constant care and attention.

4.11 The objections to the Tree Preservation Order outlined in section 4.10 above have been considered by the Officer and the following comments are made in respect of each point:

- i) The recommended modification to the TPO would ensure that the more usual management operations within the garden are not hindered and that pruning of the smaller trees which are not named within the TPO need not need permission.
- ii) The Sycamore trees are directly referred to within the Enforcement Report brought to Committee on 13th January 2013 and 13th February 2013. The report states that in order to make significant improvements to visibility to provide a safe means of access for business use, considerable alterations to the bank which would necessitate the loss of the mature trees. Following communications between the Senior Arboricultural Officer and owner the owner has withdrawn the objection to the group of trees along the eastern boundary to the south of the existing entrance but maintains the objection to the group of Sycamores to the north of the entrance so that an opportunity exists for the owner to fell these trees. The officer, therefore, considers that it remains expedient to provide the trees with protection.

- iii) The modified TPO would include one mature Pine but exclude a second Pine which is exhibiting crown dieback and which has developed a sharp fork. The owner has been alerted to the condition of this tree. The modified TPO would not prevent the management of those trees which are not named within the TPO.

4.12 Representations have been received from Camerton Batch Local Nature Reserve Supporters Group and Camerton Parish Council in support of the TPO.

4.12 Relevant History

4.13 12/00372/UNAUTH – details with Planning Enforcement.

4.14 13/00604/TPO – felling of one Cherry tree (felling of one Sycamore withdrawn from the application) - CONSENT

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 the Town and Country Planning Act 1990 and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into effect on 6th April 2012 .

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 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 1st February 2013 and 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

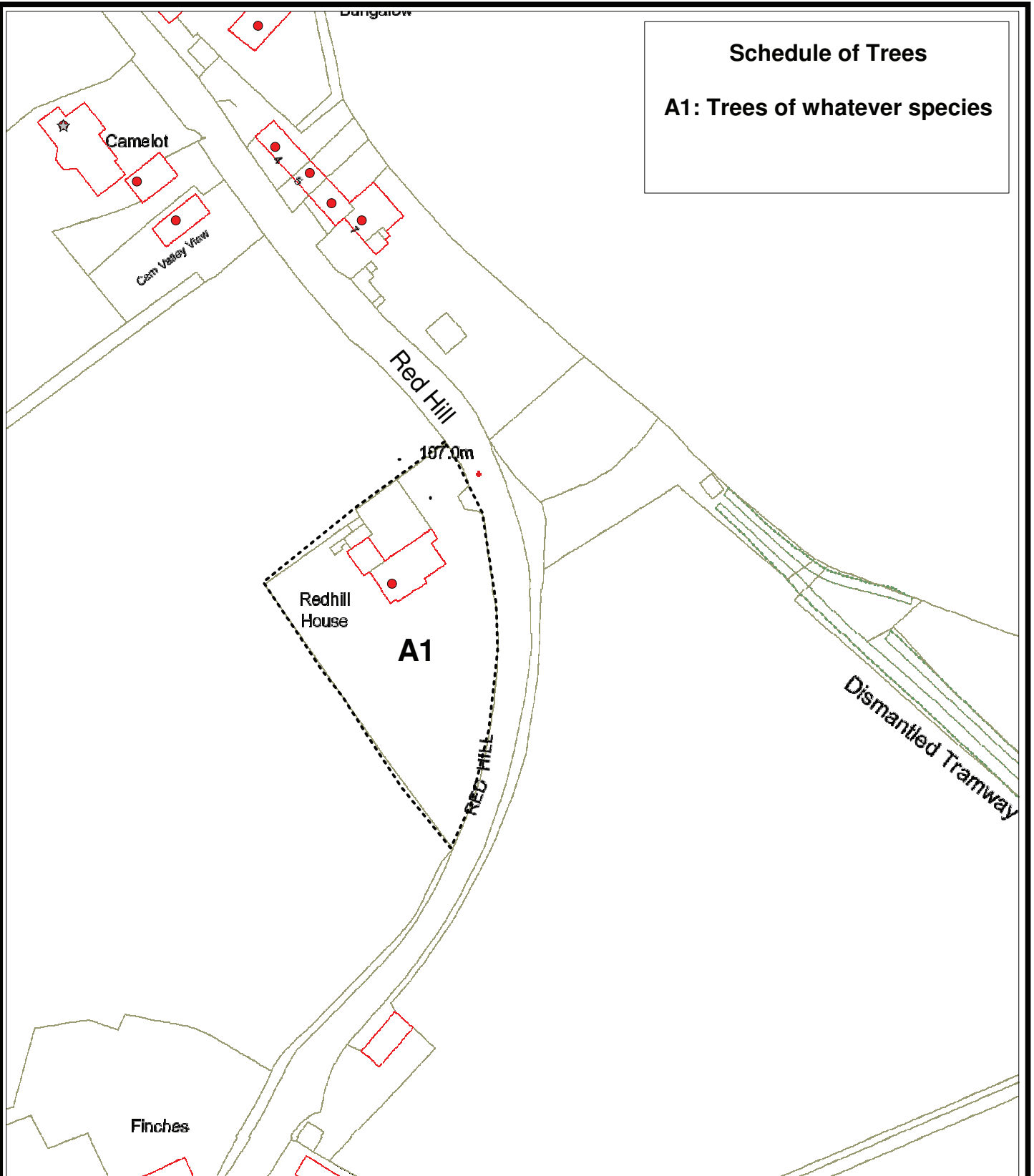
- 6.1 The trees contribute towards the local visual amenity and are valued by local residents.
- 6.2 Confirmation of the TPO would ensure the retention of the trees, however, an application supported by sound arboricultural reasons for pruning or felling as the need arose in the future can be made under the TPO. The Council will then be able to condition the quality of the workmanship and appropriate replacement planting if considered appropriate.
- 6.3 The area designation used in the original TPO which was served is not considered the most appropriate designation for the long term protection of trees. The area designation means that all trees of whatever species, condition, quality or visual contribution which were present at the time of the making of the TPO are protected. This means that the owner would currently need to apply for works for any tree works to any trees on the property which is considered onerous and unnecessary. Over time it can become less clear which trees were present at the time the TPO was made and which have developed or been planted since.

6.4 In keeping with the Council's commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO subject to the recommended modification.

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

Schedule of Trees

A1: Trees of whatever species



Scale 1:1250

Date: February 2013

Plan No: 505/5

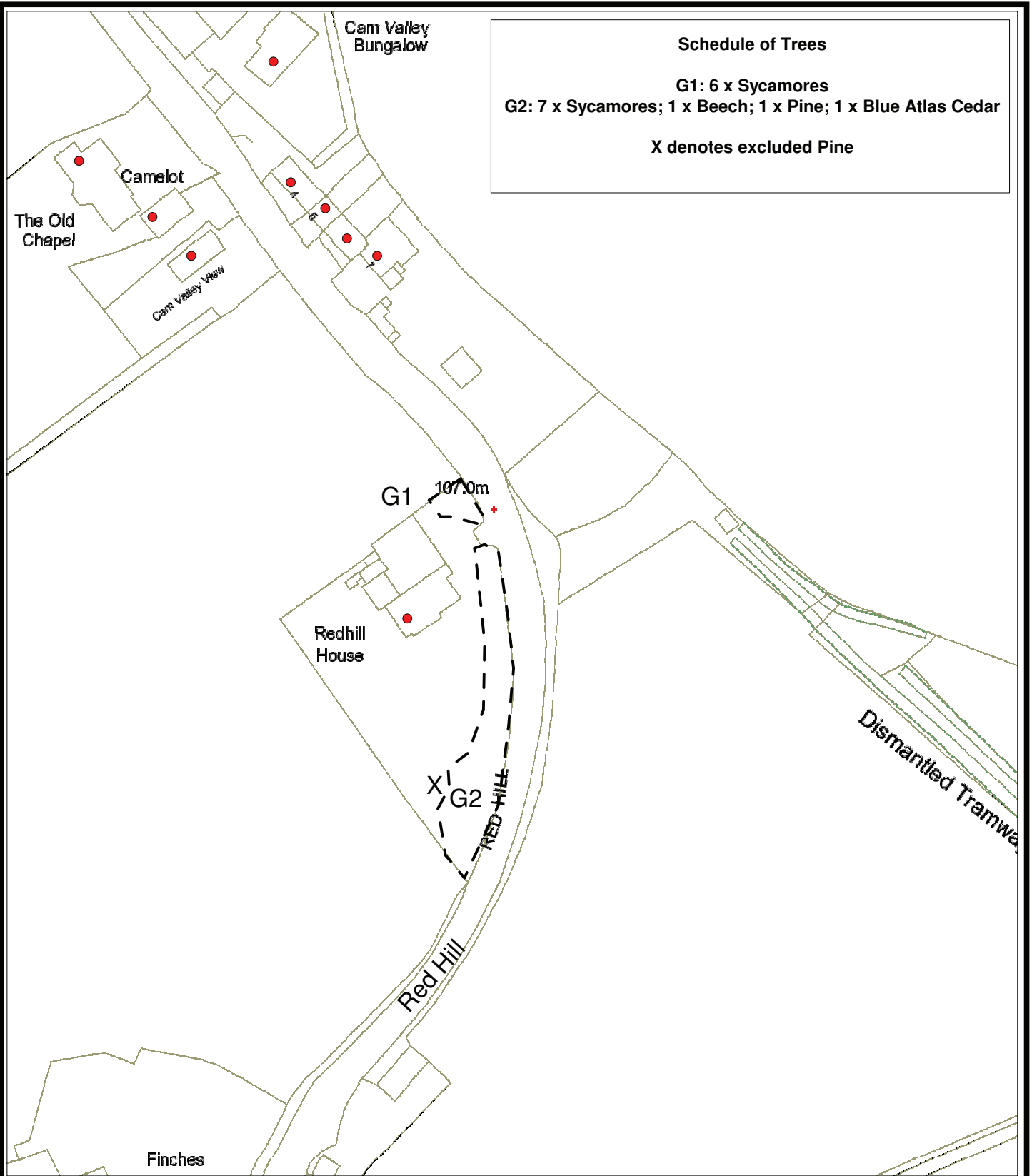
Grid Ref: ST 683581

Title:
TOWN AND COUNTRY PLANNING ACT 1990
BATH AND NORTH EAST SOMERSET COUNCIL
(Redhill House, Red Hill, Camerton No.5)
TREE PRESERVATION ORDER 2013

I hereby certify that this plan referred to in
the BATH AND NORTH EAST SOMERSET
COUNCIL (Redhill House, Red Hill, Camerton No.5)
TREE PRESERVATION ORDER 2013

Divisional Director, Planning & Transport Development

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Schedule of Trees

G1: 6 x Sycamores
 G2: 7 x Sycamores; 1 x Beech; 1 x Pine; 1 x Blue Atlas Cedar

X denotes excluded Pine

Scale 1:1250 Date: June Plan No: 505/5 modified Grid Ref: ST 683581

Title:
TOWN AND COUNTRY PLANNING ACT 1990
BATH AND NORTH EAST SOMERSET COUNCIL
(Redhill House, Red Hill, Camerton No.5)
TREE PRESERVATION ORDER 2013

I hereby certify that this plan referred to in the BATH AND NORTH EAST SOMERSET COUNCIL (Redhill House, Red Hill, Camerton No.5) TREE PRESERVATION ORDER 2013

[Signature]

Divisional Director, Planning & Transport Development

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	5 th June 2013
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (Land between Vivien Avenue and Wellow Brook, Midsomer Norton No.30) Tree Preservation Order 2013
WARD:	Midsomer Norton
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <p>Tree Preservation Order map</p> <p>Letter of objection</p>	

1 THE ISSUE

1.1 An objection has been received from the owner of the parcel of land between Vivien Avenue and Wellow Brook following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (Land between Vivien Avenue and Wellow Brook, Midsomer Norton No.30) Tree Preservation Order 2013 (“the TPO”), which was provisionally made on the 21st February 2013 to protect a group of three Alders encircled within a broken black line and identified as G1 on the map which make a contribution to the landscape and visual 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 (Land between Vivien Avenue and Wellow Brook, Midsomer Norton No.30) Tree Preservation Order 2013 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 visual amenity and landscape in the local area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services. 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 them.

4 THE REPORT

4.1 Background

4.2 The trees which are the subject of the TPO are growing within the parcel of land between the rear gardens of 38 and 40 Vivien Avenue and Wellow Brook and which are encircled in a broken black polygon and identified as G1 on the attached plan.

4.3 The Council's Senior Arboricultural Officer was consulted on an outline planning application for the erection of five dwellings (reference 13/00288/OUT). A request from a member of the public had also been received to consider trees within the parcel of land for a tree preservation order.

4.4 The trees were not protected so the owner could remove the trees without the need to notify the Council. The trees were viewed and considered to be of sufficient landscape merit that a Tree Preservation Order should be made so that there was an opportunity to ensure that the trees and their visual contribution within the landscape were given due consideration.

4.5 Responses 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 objection has been received from the owner following the making of the TPO. Committee Members are advised to read the letter of objection attached.

4.8 The main objections are summarised below.

- i) The arboricultural consultation response to the outline planning application 13/00288/OUT made no mention of the value of the Alders but mentioned trees which were beyond the red line boundary.
- ii) The making of the TPO to protect the Alders is considered to exhibit an inconsistency because these were not mentioned in the consultation response.
- iii) Based on the absence of arboricultural comments relating to the Alders but the inclusion of the trees along Wellow Brook the TPO should have been made on the trees along the brook.
- iv) The TPO was made to interfere with the planning application when it could have been made at any previous time. Only the trees affecting the planning application were singled out.
- v) A public sewer runs directly under the trees and could be damaged by root growth or uprooting of the trees in high winds.

4.09 The objection to the Tree Preservation Order outlined in section 4.08 above has been considered by the Officer and the following comments are made in respect of each point:

- i) The consultation response to 13/00288/OUT was based on the lack of information provided. No further information such as a tree survey had been provided in response to the consultation comments, therefore, the information provided relating to trees was considered inadequate. The proposal did not demonstrate due consideration of retained planning policy NE4 of Bath and North East Somerset Local Plan (Adopted 2007).
- ii) It is not the Council's policy to advertise the making of a tree preservation order prior to it being made to ensure that the trees are not felled beforehand.
- iii) The trees along Wellow Brook contribute towards green infrastructure links which extend far beyond the application site boundary but were, as the objector points out, outside of the red line boundary submitted as part of the planning application. The Alders were within the red line boundary.
- iv) The outline application was for five houses and an outline plan had been submitted showing the limited space available within the red line boundary to accommodate five dwellings. This implicated all trees to the rear of 36 and 44 Vivien Avenue without demonstrating due consideration of their condition, value or contribution. The TPO was made to ensure that the trees were not felled without due consideration being given to them. It was not expedient to make the TPO prior to the planning application because there was no known threat.
- v) Wessex Water is responsible for the public sewer crossing the land. Wessex Water advised that the sewer depth within the vicinity of the Alders is 2.2m. The majority of tree roots are usually within the top 60 – 90cm of soil so are unlikely to cause damage to the pipes.

4.10 Midsomer Norton Town Council supports the TPO. Three letters and eight e-mails have been received from local residents in support of the TPO.

4.11 Relevant History

4.12 13/00288/OUT – application for the erection of five dwellings – REFUSED

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 the Town and Country Planning Act 1990 and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into effect on 6th April 2012 .

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 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 21st February 2013 and 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 contribute towards the local visual amenity and are valued by local residents and the Town Council.

6.2 Confirmation of the TPO would ensure the retention of the trees, however, an application supported by sound arboricultural reasons for pruning or felling as the need arose in the future can be made under the TPO. The Council will then be able to condition the quality of the workmanship and appropriate replacement planting if considered appropriate.

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 provisional Tree Preservation Order documentation and correspondence can be viewed by contacting Jane Brewer on the above telephone number.

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Horseshoe Cottage
100A, The Strand
Nr. Semington
Wiltshire
BA14 6LN

28th March 2013

Bath & North East Somerset Council
Planning Services
PO Box 5006
Bath
BA1 1JG



For the attention of Jane Brewer

Dear Sirs,

Reference Tree Preservation Order 2013, 21 February 2013

Group of 3 Alders.

As owner of the land on which these trees are located I object to the imposition of this Tree Preservation Order on the following grounds.

1) On 20 February the arboriculturalist of BANES issued a consultation response to planning application 13/00288/OUT. The application site covered an area which included these trees. The consultation response was specifically, and should have been only, about the trees affected by the proposals of this planning application. The consultation response made no mention at all of any trees within the application site. The trees which are the subject of this TPO were not deemed significant enough to even merit a mention. There only trees mentioned in the consultation response, however, were trees which are outside the application site boundary - "the importance of the trees along Wellow Brook".

2) On 21 February, the very next day to the consultation response, the same arboriculturalist issued a TPO on trees which she had ignored, or had deemed insignificant, in her response of the previous day. This inconsistency, contradiction even, undermines the credibility of this officer. How is it possible to make two appraisals on the same location in so short a time with opposite outcomes?

3) If any TPOs were to be made, they should surely have been given to the important trees along Wellow Brook, not to the trees which merited no mention. There is a strong suspicion that the choice of trees selected for this TPO was directly made to interfere with the planning application. The timing of the issue of this TPO, in the middle of the planning application, was not co-incidental. If these trees merited a TPO, that could have been done at any previous time.

There are other trees in this area, but not within the planning application site, which it could be argued are equally deserving of protection. But only the trees affecting the planning application were singled out.

4) The above matters indicate that factors other than the intrinsic merit of the trees have motivated the imposition of this TPO, and this TPO should be rescinded forthwith.

5) There is a public sewer which runs directly under the trees which are the subject of this TPO. The trees represent a risk to that sewer:

- a) Roots could penetrate the pipe and cause blockage, and/or allow seepage into the surrounding ground
- b) Storm damage could uproot the trees pulling the pipe upwards affecting the integrity and flow
- c) The trees falling over could push the pipe out of line again affecting the integrity of the pipe and flow.

These scenarios would require emergency work to the sewer, be very disruptive to the sanitation of this area, cause pollution to the soil, and possibly also Wellow Brook, and be a threat to public health.

On these grounds it would be prudent to rescind this temporary TPO.

Please advise me that you have taken heed of the strong arguments in this objection, and have rescinded the TPO.

Yours faithfully,

L. Bodey



Scale 1:1250

Date: February 2013

Plan No: 533/30

Grid Ref: ST 660546

Title:

**TOWN AND COUNTRY
PLANNING ACT 1990
BATH AND NORTH EAST
SOMERSET COUNCIL
(Land between Vivien
Avenue and Willow Brook,
Midsomer Norton No.30)
TREE PRESERVATION
ORDER 2013**

I hereby certify that this
plan referred to in the
**BATH AND NORTH
EAST SOMERSET
COUNCIL**

**(Land between Vivien
Avenue and Willow Brook,
Midsomer Norton No.30)
TREE PRESERVATION
ORDER 2013**

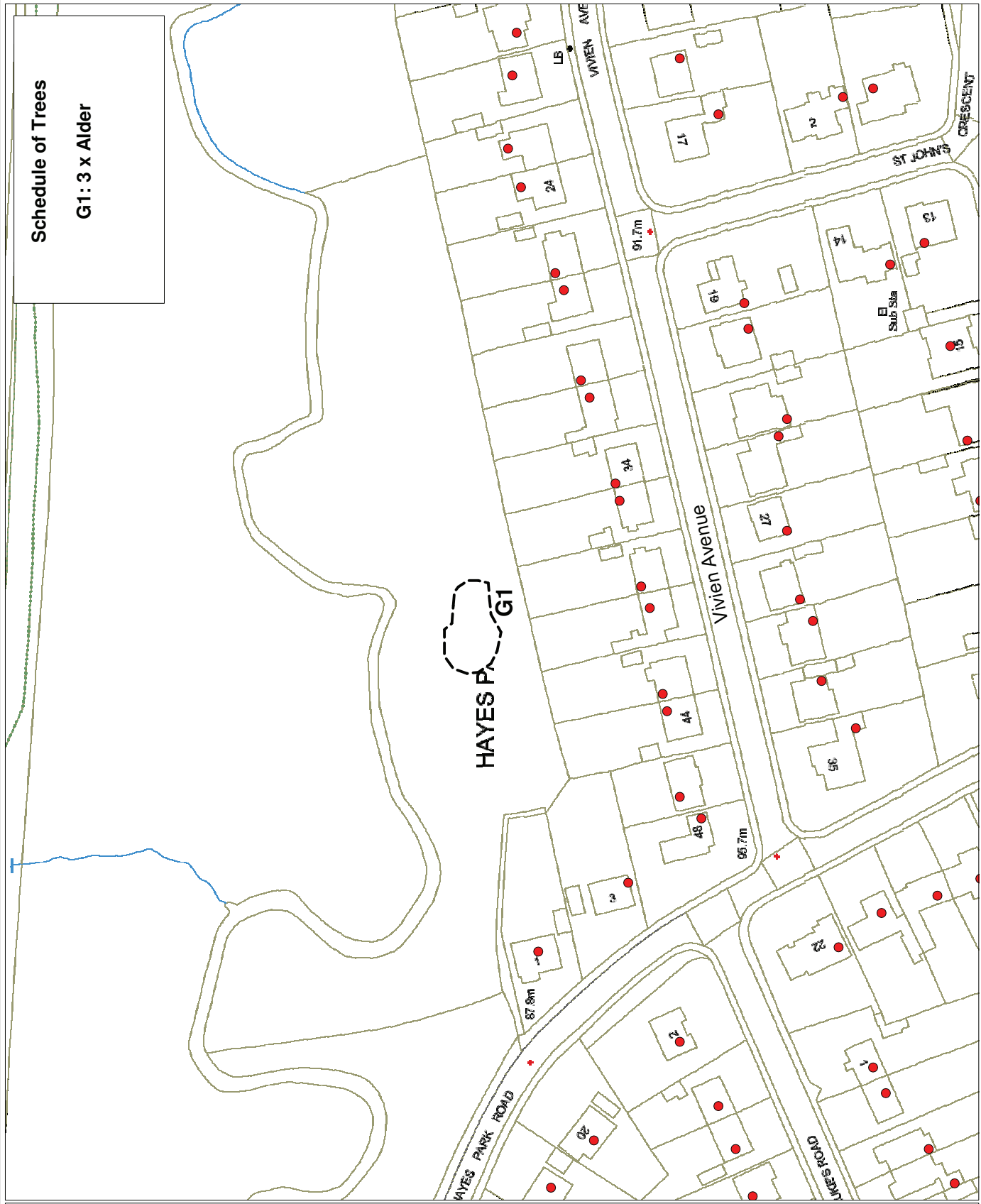


Divisional Director,
Planning & Transport Development

Schedule of Trees

G1: 3 x Alder

HAYES PARK
G1



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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	5th June 2013
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: 10/05199/EFUL
Location: Stowey Quarry Stowey Road Stowey Bristol
Proposal: Restoration of Stowey Quarry by landfilling of Stable Non Reactive Hazardous Waste (SNRHW) including asbestos and inert wastes and that the application is accompanied by an environmental statement
Decision: REFUSE
Decision Date: 1 October 2012
Decision Level: Planning Committee
Appeal Lodged: 25 April 2013

App. Ref: 12/05279/FUL
Location: Parcel 9181 Wick Road Bishop Sutton Bristol
Proposal: Erection of 41 no. two, three, four and five bedroom dwellings including 14 no. affordable housing units along with the provision of informal public open space, vehicular access from the A368, landscaping and drainage.
Decision: REFUSE
Decision Date: 20 March 2013
Decision Level: Planning Committee
Appeal Lodged: 25 April 2013

App. Ref: 12/05504/FUL
Location: 78 Purlwent Drive Upper Weston Bath BA1 4BA
Proposal: Installation of a rear dormer.
Decision: REFUSE
Decision Date: 27 February 2013

Decision Level: Delegated
Appeal Lodged: 30 April 2013

App. Ref: 12/05653/FUL
Location: Thyme Barn School Place Claverton Bath
Proposal: Erection of a new garage and glazed link.
Decision: REFUSE
Decision Date: 28 March 2013
Decision Level: Chair Referral
Appeal Lodged: 8 May 2013

App. Ref: 13/00186/AR
Location: 11 Fortescue Road Radstock BA3 3PJ
Proposal: Display of 6no. advertising boards in shop window (Regularisation)
Decision: REFUSE
Decision Date: 25 March 2013
Decision Level: Delegated
Appeal Lodged: 10 May 2013

App. Ref: 12/04456/FUL
Location: Lloyds Tsb Bank Plc 2 Silver Street Midsomer Norton BA3 2HB
Proposal: Erection of 4no. terraced dwellings on land to the North East of No. 2 Silver Street.
Decision: REFUSE
Decision Date: 22 January 2013
Decision Level: Chair Referral
Appeal Lodged: 13 May 2013

App. Ref: 12/03936/FUL
Location: Former Besley Hill Estate Agents Bristol Road Farrington Gurney Bristol BS39 6TG
Proposal: Conversion of office (B1) to flat (C3).
Decision: REFUSE
Decision Date: 5 November 2012
Decision Level: Delegated
Appeal Lodged: 15 May 2013

App. Ref: 12/05171/OUT
Location: Bathway House 144 London Road West Lower Swainswick Bath BA1 7DD
Proposal: Erection of 1no. dwelling.
Decision: REFUSE
Decision Date: 13 February 2013
Decision Level: Delegated
Appeal Lodged: 16 May 2013

APPEAL DECISIONS

App. Ref: 12/02155/LBA
Location: 1a Oak Street, Bath, BA2 3BR
Proposal: Replacement of aluminium single glazed windows with softwood timber double glazed vertical sliding sash window units
Decision: Refuse
Decision Date: 28 August 2013
Decision Level: Refuse
Appeal Decision: Dismiss

Summary:

The inspector stated that the replacement windows would have a harmful effect on the special architectural and historic interest of the listed building, on its setting in the street and on the distinctive character and appearance of the Conservation Area.

She considered that the double glazed units would lack the detailing commensurate with the listed building status and also result in the reflective double image which occurs with this form of glazing. She also found no public benefits to weigh against it and concluded that the appeal should be dismissed.

App. Ref: 12/03605/FUL
Location: 1 Kempthorne Lane, Bath
Proposal: Erection of a two storey extension.
Decision: **Refused**
Decision Date: **08.11.2012**
Decision Level: **Delegated**
Appeal Decision: **Dismiss**

Summary:

The application was originally refused due to the impact on the character of the area and the adjacent Listed Building as well as the unacceptable impact on a neighbouring property.

In Inspector agreed with the proposal having an unacceptable impact on the character of the area and that it would upset the careful arrangement of the built form to open space that exists and that the building would harm the setting of the Listed Building being too large and dominant.

The Inspector concluded that the loss of light to the neighbouring property would not be a significant concerns. However the Inspector was concerned about the level of overlooking that would be introduced and did not consider that obscure glazing would be a suitable way of mitigating against this.

To conclude, the Inspector considered that the proposal would harm the character and appearance of the area and the setting of the listed building, contrary to policies D4 and BH2 of the Bath and North East Somerset Local Plan (2007), and would harm the amenities of the occupiers of Barley Cottage, contrary to policy D2.
