

Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **3rd July 2013**

AGENDA
ITEM
NUMBER

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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	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
02	13/01242/FUL 17 May 2013	McDonald's Restaurant Ltd Former Little Chef, Bristol Road, Farrington Gurney, Bristol, Refurbishment of existing restaurant (A3) to create restaurant (A3) and takeaway (A5) including single storey extensions, installation of cod and canopy, installation of drive through lane and associated works to the site (resubmission).	High Littleton	Daniel Stone	REFUSE
03	13/01243/AR 17 May 2013	McDonald's Restaurant Ltd. Former Little Chef, Bristol Road, Farrington Gurney, Bristol, Installation of 2no. white acrylic 'McDonalds' text signs and 2no. yellow acrylic 'golden arch' symbol signs (revised proposal).	High Littleton	Daniel Stone	REFUSE
04	13/01244/AR 30 May 2013	MacDonalds Restaurant Ltd Former Little Chef, Bristol Road, Farrington Gurney, Bristol, Display of 1no. Internally illuminated gateway sign, 4no. Internally illuminated Totem signs 5no. non-illuminated directional signs, 1no. non illuminated banner and 1no. non illuminated hero board. (Revised proposal)	High Littleton	Daniel Stone	REFUSE

05	13/01388/AR 30 May 2013	McDonalds Restaurant Ltd Former Little Chef, Bristol Road, Farrington Gurney, Bristol, Display of 1no internally-illuminated freestanding 8m totem sign (Revised proposal)	High Littleton	Daniel Stone	REFUSE
06	13/01606/FUL 13 June 2013	Mrs L Maddocks Church Farm Barn, Washing Pound Lane, Whitchurch, Bristol, BS14 0PN Repair and rebuilding of existing dilapidated workshop/outbuilding to provide 1no. one and half storey dwelling with associated access, car parking area and garden area (resubmission).	Publow And Whitchurch	Jonathan Fletcher	REFUSE
07	13/01412/FUL 31 May 2013	South West Coffee Ltd Costa Coffee, 50 High Street, Keynsham, BS31 1DX, Change of use of highway to the siting of 2 tables and 4 chairs	Keynsham North	Sasha Coombs	PERMIT
08	13/01163/FUL 10 June 2013	Mr Luke Pargeter 54 High Street, Saltford, Bristol, Bath And North East Somerset, BS31 3EJ Erection of a detached two storey dwelling and a new double garage for use by no 54, modification works to retaining walls to create wider entrance and associated works following demolition of existing single garage and stone retaining walls	Saltford	Chris Griggs- Trevarthen	PERMIT
09	13/00471/FUL 13 May 2013	Mr Andrew Scurlock Ashes Hill Farm, Kilkenny Lane, Englishcombe, Bath, BA2 9DY Change of use of the land and construction of an all weather horse exercise arena (menage)	Bathavon West	Sasha Coombs	REFUSE
10	13/00596/FUL 26 April 2013	Mr Dan Pearson Hillside Gardens, Tadwick Lane, Tadwick, Bath, Bath And North East Somerset Erection of a single storey extension and covered terrace connecting to main house following demolition of dilapidated outbuildings, garages and sheds adjoining main house, remodelling of interior to main house, new windows and doors, renovation of outbuilding to create home office, removal of external hard surfacing, restoration of natural landscape and new permeable road surfacing.	Bathavon North	Alice Barnes	REFUSE
11	13/01632/FUL 25 June 2013	Mrs N Tew-O'Mara 13 Lytton Gardens, Southdown, Bath, Bath And North East Somerset, BA2 1LW Installation of rear dormer.	Southdown	Alice Barnes	REFUSE

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13/01316/FUL
22 May 2013

Mr Harvey G Evans, ACMA, CGMA
Old Dairy Cottage Claysend Cottages,
Clays End Lane, Newton St. Loe, Bath,
Bath And North East Somerset
Erection of oak-framed outbuilding in
rear garden

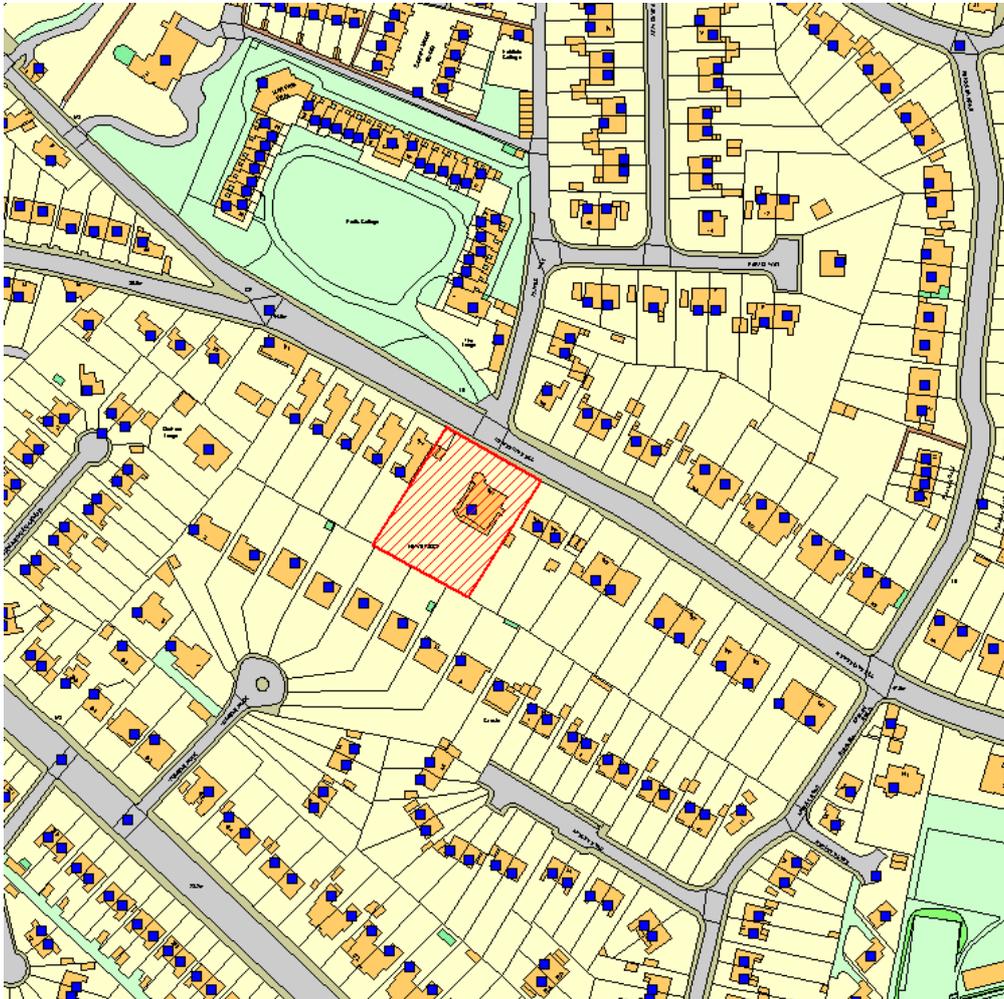
Bathavon
West

Sasha
Coombs

REFUSE

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

Item No: 01
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.

Additional comments made 28th May 2013 I note concerns have been raised in respect of the impact of additional commercial vehicle movements to the site i.e. those from service vehicles, deliveries, ambulances etc. In respect of ambulances, access will be available to the main entrance via the access to the west of the site. Regarding all other servicing needs I would not anticipate the demands of the proposed additional 11 beds would be significantly more than that required for the existing 20-bed facility. An increase is quite possible, but certainly not as much as the 55% increase in occupancy, and the impact could not be described as either severe or significant, which is required as grounds for refusal of an otherwise sustainable development.

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

26 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 an 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 original proposal included a south facing communal room and this would be more intensively used. This was advised to be unacceptable. However the applicant has submitted design amendments to address this issue. Amended drawings have repositioned the upper window to the communal lounge from the south to the east elevation and this is considered acceptable.

The proposed development is located to the north of its closest adjoining neighbours and its location would minimise any loss of light. 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.

Since the initial submission the applicant has reduced the height of the roof to bring the ridge approximately 1 metre lower than the original submission which is an overall improvement. 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.

OTHER MATTERS

taking account of the nature of the amendments made the revised plans have not been subject to further formal re-notification.

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.

RECOMMENDATION

Authorise the Development Manager of Planning and Transport Development to PERMIT subject to 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/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.

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.

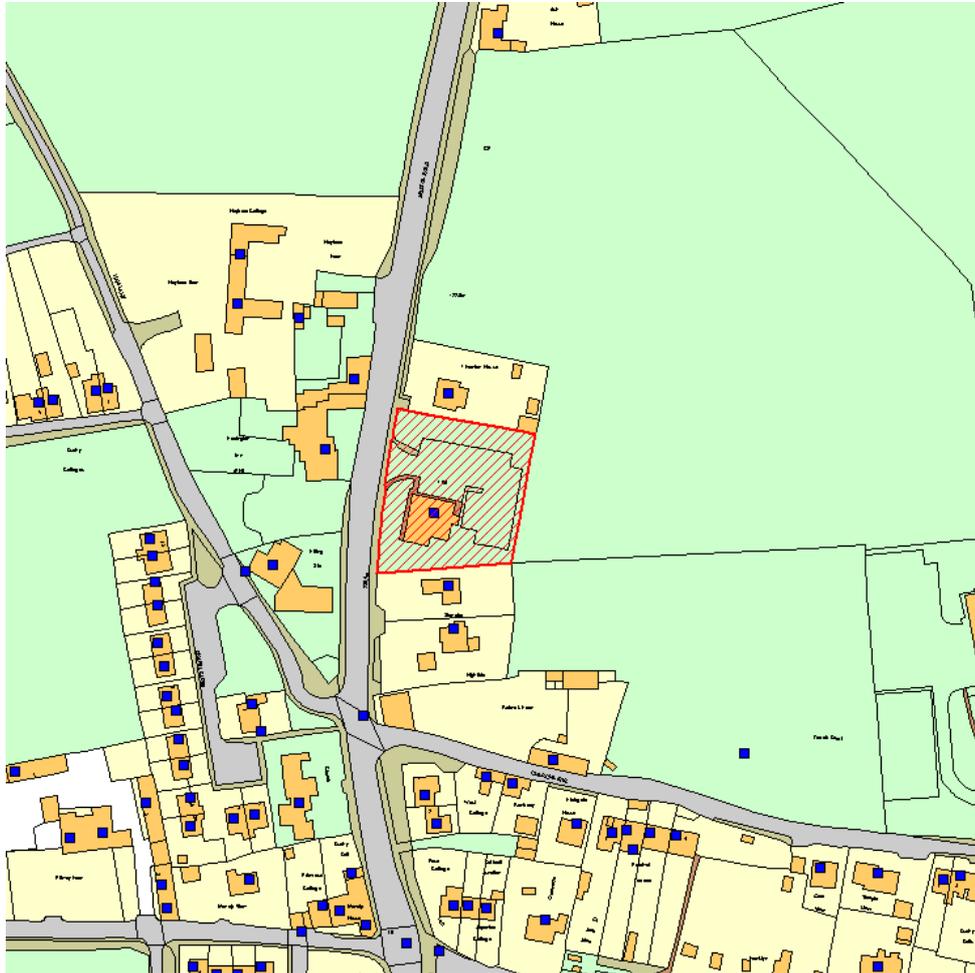
REASONS FOR GRANTING APPROVAL:

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.

Item No: 02
Application No: 13/01242/FUL
Site Location: Former Little Chef Bristol Road Farrington Gurney Bristol



Ward: High Littleton **Parish:** Farrington Gurney **LB Grade:** N/A

Ward Members: Councillor L J Kew

Application Type: Full Application

Proposal: Refurbishment of existing restaurant (A3) to create restaurant (A3) and takeaway (A5) including single storey extensions, installation of cod and canopy, installation of drive through lane and associated works to the site (resubmission).

Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,

Applicant: McDonald's Restaurant Ltd

Expiry Date: 17th May 2013

Case Officer: Daniel Stone

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The Parish Council strongly opposes the application and the Chair has requested that the application be referred to the Committee in that context and the large number of objections from local people.

DESCRIPTION OF SITE

The application site comprises the former Little Chef premises off the A37 on the edge of the Farrington Gurney. The site comprises a brick building and parking for 35 cars (including 2 disabled spaces). Access to the site is directly off the A37. The site is currently vacant.

The site is bounded to the north and south by the curtilages of existing houses with agricultural land to the east. There are existing boundary hedges that separate these houses and the agricultural land from the site. The Farrington Inn public house and a petrol filling station are on the opposite side of the A37, to the west. The site is relatively open to the A37 frontage.

The houses to the north and south of the site both have side windows that overlook the application site. Both houses are within about 3 metres of the boundaries of the site. An online review of the Little Chef suggests that when it was in operation its opening hours were Mon-Sun 07:00-22:00, but there is no indication that these hours were controlled by means of a planning condition.

The site is within easy walking distance of north-bound and south-bound bus stops on the A37 which provide regular bus access to Bath, Bristol, Wells, Paulton, Clutton, Midsomer Norton and Radstock.

APPLICATION

Planning permission is sought for the refurbishment of the existing restaurant to create a mixed Restaurant (A3) and Takeaway (A5) use for use by McDonalds. The application comments that the intention is to confirm the existing takeaway use established by the Little Chef. The on-site advertisement for the Little Chef did indicate that an element of takeaway food provision was involved, however given the nature of the Little Chef operation; it seems likely that this was secondary to the operation of the business as a restaurant within use class A3. No evidence has been submitted to substantiate any previous use of the site as a takeaway within the use class A5.

By contrast the design of the proposed layout, involving a dedicated drive-through lane is predicated on a significant proportion of income being derived from drive-through sales, and the Transport Assessment predicts that the majority of sales will be from the drive through, with only a minority of customers eating in. It is considered that this layout, the nature of the use and its potential impact is materially different to the Little Chef and would amount to a change of Use from A3 to A3 and A5. Therefore in the absence of any evidence, this application should be determined on the basis that it is a proposal to change the use of the premises from an A3 use to a mixed use within classes A3 and A5.

The existing building would be modified to open out onto the car park rather than onto the public road frontage and would have minor extensions added on the rear elevation primarily to accommodate plant and to the front and western elevations to enable the building to be used as a drive-through restaurant. A drive through lane would be added,

starting at the back of the building and curving around the southern elevation of the building and the car park would be modified. The installation of the drive-through lane would result in the loss of 9 car parking spaces.

The drive-through lane would pass within 3.5 metres of the boundary of the adjoining dwelling, Stonelea. The Customer Order Display (where residents would give their orders) and the pay point would be located 9.5 and 7 metres from this boundary respectively.

The application proposes opening hours of 06:00 - 23:00 seven days a week. The previous application proposed that the McDonalds be open 24 hours per day, 7 days a week. The only other change from the previous withdrawn application (12/04937/FUL) is the proposed inclusion of a 1.8 metre acoustic fence along the southern boundary of the site with the adjoining property, Stonelea.

The following applications for advertisement consent are also under consideration, and are covered in a separate committee report.

13/01388/AR - Display of 1no internally-illuminated freestanding 8m totem sign (Revised proposal)

13/01244/AR - Display of 1no. Internally illuminated gateway sign, 4no. Internally illuminated Totem signs 5no. non-illuminated directional signs, 1no. non illuminated banner and 1no. non illuminated hero board. (Revised proposal)

13/01243/AR - Installation of 2no. white acrylic 'McDonalds' text signs and 2no. yellow acrylic 'golden arch' symbol signs (revised proposal).

RELEVANT PLANNING HISTORY:

McDonalds Applications:

- 12/04937/FUL - Refurbishment of existing restaurant (A3) to create restaurant (A3) and takeaway (A5) including single storey extensions, installation of cod and canopy, installation of drive through lane and associated works to the site. Withdrawn 11.01.13
- 12/04934/AR - display of a 10 M double sided internally illuminated pole sign. Withdrawn 16.01.13
- 12/04935/AR - Display of 1 internally illuminated gateway sign, 3 single side internally illuminated totem signs, 1 internally illuminated hero board, 1 triple side internally illuminated totem sign, 2 internally illuminated directional signs, 3 non-illuminated banner signs and 3 non-illuminated dot traffic signs. Withdrawn 16.01.13
- 12/04936/AR - Display of 4 internally illuminated roof mounted fascia signs and 2 internally illuminated wall mounted signs. Withdrawn 16.01.13
- 12/01762/FUL - Change of Use from restaurant (A3) to restaurant and takeaway (A3 and A5). This application was recommended for approval, but refused at committee for the following reasons:

1. The site is in a category R2 Rural Settlement as defined in the Bath and North East Somerset Local Plan and the proposed re-use of the building would result in additional car borne traffic being attracted to the site from the surrounding areas that would not achieve sustainable development and would not accord with the core land use planning principles in the National Planning Policy Framework.

2. The proposed development would result in additional traffic using the existing sub-standard access where visibility is restricted to the north and where there is a lack of safe and convenient pedestrian access. The proposed mixed use of the site would therefore harm highway safety in the area and would be contrary to saved policy T.24 of the Bath and North East Somerset Local Plan.
3. The proposed introduction of the A5 use would lead to increased littering off site that would be harmful to the amenity of the area.
4. The proposed introduction of the A5 use would increase the intensity of the use of the site and would result in increased customer movements into and out of the site and activity within the site itself in the early morning, in the evening and at night. The additional activity within the site would result in increased noise, traffic and other disturbance that would cause significant harm to the amenity of the occupiers of residential properties in the area. The proposals would therefore be contrary to saved policy D.2 of the Bath and North East Somerset Local Plan.
5. The site is in proximity to a number of youth/children's facilities in Farrington Gurney and the introduction of the A5 use would have an adverse impact on the eating habits of young people in the area, contrary to the social objective of encouraging healthy eating.

The refusal was appealed, but the appeal was subsequently withdrawn prior to being determined by the Planning Inspectorate. The report is structured to address whether these reasons for refusal can be maintained, or have been overcome.

PREVIOUS HISTORY

WC.114441/A - Outline planning permission was granted to redevelop the former garage site to provide the restaurant and parking area that now exists on the site in March 1985. The permission was not subject to any restrictions on the hours of use of the premises.

WC.11444/A/1 - Reserved matters were approved for the development of the restaurant in June 1985.

WC.11444/D - Permission was granted to extend the restaurant in February 1989. The permission was not the subject of any restrictions on the hours of use.

CONSULTATIONS:

Consultation letters were sent out to all respondents to the previous withdrawn application, application 12/04937/FUL. The application was also advertised in the local press and a site notice was displayed. At the date of writing 159 letters of objection have been received, plus 249 letter of support and 2 observations. The comments can be summarised as follows, roughly in order of the prominence of each topic in the comments:

SUPPORT (summarised)

Employment / Economic Development

- The development would offer much needed jobs for young people in the local area
- The development will reuse the building, which at present is a derelict eyesore, standing empty.
- McDonalds is a good employer that undertakes many projects to improve their areas.
- This would encourage people to spend money in the local area rather than Bath / Bristol.
- A McDonalds would bring people into the village from the surrounding area and which could encourage people to use other businesses, e.g the garage and local pub. Farrington used to be a busy village.
- Could a condition be applied requiring them to only employ local people?
- This would be good for competition / choice. Local businesses over-charge for lunch because there is no alternative.

Transport

- Many people drive to Bath or Frome just for a McDonalds. This would be much more convenient and reduce travel overall.
- This is a good replacement for the Little Chef, offering motorists on the main route between Bristol and Wells an opportunity to take a break.
- Traffic will not be an issue as it is close to the A37 and there will be no increase in traffic close to the local school.

Healthy Eating

- Children who attend the school in Farrington Gurney are all below 11 years of age, and so should not be left unsupervised.
- People are aware of the health issues of fast food and should be able to make their own choices
- There's little difference between the Little Chef and proposed McDonalds. Both do burgers and chips and the Little Chef used to offer takeaway food.

Noise and Litter

- McDonalds employ staff to clear up any mess and litter that is left over, not just in the car park but in the surrounding vicinity.
- The Little Chef restaurant that was there never caused any problems - why should this?
- Conditions should be applied obliging the retailer to put systems in place to address noise and litter concerns, and the opening hours should be limited.

Other

- The building needs something doing with it. At present it's misused for drinking and drug-taking.
- A number of the objections are not based on the facts but on dislike of the McDonalds company.
- BANES is constantly approving housing schemes without the employment to support it. You need now to create jobs, facilities and choice for the new population.

OBJECTIONS (Summarised):

Principle

- A McDonalds should be in a town centre / retail park, not within a village. It contravenes national planning guidance and would set a poor precedent.

Comparison to Little Chef

- The Little Chef was never used as a takeaway
- The proposed McDonalds would be vastly busier than the Little Chef ever was.

Crime and Disorder and Litter

- The development will bring anti-social behaviour and vandalism to the village, with the potential for dangerous driving practices, and gatherings of youths in cars
- Littering problems will occur with wrappers being thrown out of car windows. There are no litter bins and no council litter collections in Farrington Gurney.
- The "Litter Plan" submitted with the last application is not legally binding and there is no mechanism for the Council to enforce compliance with it.

Traffic

- The development would be unsafe. The site is just inside the 40 mph limit, where traffic will still be slowing down having entered the village and there is poor visibility to south bound traffic.
- The site is on a very busy stretch of road, often heavily congested with tail backs, and large lorries parked on the road to buy goods from the garage. The location is unsuitable for a drive-through and will worsen congestion and highway safety.
- Traffic levels would increase on Church Lane which is used as a rat run, creating highway safety issues for the primary school, village hall, recreation field and BMX track. There are no pavements on School Lane / Church Lane
- The development would attract people to the area and encourage people to drive, and is therefore unsustainable.
- It's already dangerous trying to turn right out of the garage.
- The applicants have used traffic survey data from McDonalds restaurants in Watchfield and Benson to estimate traffic flows at the Farrington Gurney site. They have used the same data to estimate traffic flows for a number of different planning applications around the country. This generic approach isn't appropriate as these sites are more built up and less rural than Farrington Gurney. The traffic flow estimations should not be accepted as being applicable to Farrington Gurney and the traffic assessment is unsound.
- With staff parking in the car park, there will be insufficient parking for customers, resulting in vehicles queuing onto the A37, endangering highway safety.
- The vast majority of customers will be drawn from beyond the village, demonstrating that all routes into Farrington will be impacted by increased traffic, including the rat runs that exist in the village (such as Church road), endangering highway safety.
- The travel Plan is legally unenforceable and the site is poorly served in terms of bus or cycling access.
- The £10,000 contribution towards traffic improvements is inadequate.

Healthy Eating

- The primary school operates a healthy eating policy and has won an award for healthy eating. This development would not be conducive to that policy.
- The site is directly opposite the bus stop for the secondary school at Norton Hill and near to other children's facilities: the BMX track, football pitches and play park.
- Obesity is an ever growing problem, recognised by government as a planning consideration. The development would harm efforts to combat it.
- What has been offered to mitigate the detrimental impact on healthy living?

Impact on Residential amenity

- Concerned about the noise impacts of increased traffic levels, mechanical ventilation and people leaving the restaurant at night
- The noise report identifies that even with the acoustic fence, adjoining residents will be badly affected, despite not considering the cumulative impact of all noise sources.
- Concerned about light pollution
- Mcdonalds should only be open in sociable hours, not after 11 PM.

Character of Village

- A McDonalds would spoil the rural character of the village
- From the drawings the building would be timber clad, which is unsuitable for a village with man buildings constructed in limestone

Employment

- The various reports submitted for the application contradict one another in terms of the number of people who will be employed, estimations varying between 60 and 75 people.
- What evidence is there that the McDonalds will generate 45 full time equivalent jobs?
- Increasing mechanization (replacing short order cooks) will reduce employment levels in fast food restaurants in the future.

Other

- The amendments from the previous application are trivial and don't overcome our concerns.
- There is no need for an additional takeaway
- It would harm the business of the public house opposite.
- Impact on house values and on house saleability (Note - this is not a consideration that can be taken into account in determining the application.)
- The letters of support predominantly come from people who don't live in the village, and therefore wouldn't be affected by the downsides of the takeaway. The Takeaway will not benefit the village.

The following petitions and groups have also been set up:

In support

- Facebook group - "lets support McDonalds in Farrington Gurney" - 1,446 supporters (who clicked "like")
- Facebook group - "Say Yes to McDonalds In Farrington Gurney" - 49 members
- Online petition by Petition by "Lets Support Mcdonald's in Farrington"- supporting the application - 263 supporters

In objection

- Facebook group - "Say no to McDonalds In Farrington Gurney" - 113 supporters (who clicked "like")
- Online petition by Elizabeth Shuttleworth - objecting to the application - 132 supporters
- Online petition by Elizabeth Shuttleworth - objecting to the application - 234 supporters

FARRINGTON GURNEY C of E PRIMARY SCHOOL - OBJECT

The primary School commented on their efforts to promote healthy eating amongst their pupils to help meet government childhood obesity targets, and raised concerns that a Takeaway / drive-through so close to the school would undermine these efforts, and also the impact on the character of the village, traffic levels, and litter.

FARRINGTON GURNEY PARISH COUNCIL - OBJECT

The Parish Council have produced substantial documentation objecting to the development, which can be viewed in full on the Council's website. The grounds for their objection can be summarised under the following key areas:

Principle of Change of Use

- As witnessed by residents, the former Little Chef was a restaurant in Use class A3, with only a very low level of Takeaway sales. This is a new application for A3 use with A5.

Transport

- In a survey of 64 Mcdonalds in the south-west, all were situated in town centres / shopping centres / retail parks / service stations. No other McDonald's in the South West of England takes access directly off a single lane, two-way, 'A' road unless at a traffic light controlled junction or via a roundabout. This site is dangerous. There has been a fatal traffic accident opposite the site within the last 10 years.
- Parking is inadequate and there is no public parking near to the application site. As a result, queuing cars will back up onto the A37 causing highway safety problems.
- The transport report relies heavily on unsubstantiated data supplied by McDonald's which has not been released for independent scrutiny.

Sustainable Development

- Farrington Gurney is a category R.2 rural settlement. The Local Plan advises that in such settlements development should be more restricted than envisaged within R1 Settlements in order to avoid exacerbating unsustainable travel patterns and protect the countryside.
- As a new Town Centre Use, it should be subjected to the Sequential Test in order to test whether alternative sites closer to town centres are available. A takeaway of this magnitude would be better placed in a town centre location which has sustainable transport links and where a majority of people could walk to it. Farrington Gurney does not provide any additional services such as retail parks, supermarkets or leisure facilities which would allow a multi-purpose car journey. Allowing unsustainable development of this scale in Farrington Gurney would be contrary to the guidance set down in Paragraph 24 of the NPPF and the BANEs local plan.
- People will make extra journeys travelling into Farrington Gurney from the surrounding villages, Radstock and Midsomer Norton, which have limited takeaways and no takeaways with dedicated parking. This is unsustainable development of a scale that should not be allowed in Farrington Gurney, contrary to the Local Plan and the NPPF Sequential test. A development of this scale should be in a town centre, retail park or shopping centre.

Healthy Eating

- In a court ruling, a judge ruled that the proximity of takeaways to schools is a material consideration whether or not a Local Planning Authority has adopted this as a specific policy
- Siting a high volume takeaway near to a school, play park, football fields and BMX track would have an adverse impact on the eating habits of young people in the area, contrary to the social objective of encouraging healthy eating, and the advice in the NPPF that planning should take account of and support local strategies to support health.
- The bus stop which serves the school bus service is located directly opposite the site.
- There is evidence that the close proximity of fast food takeaways to schools, parks and children's amenities does cause unhealthy eating habits and obesity in children.

Residential Amenity

- o Nuisance and disturbance for the neighbouring residential properties will result from this development. The location of the site and its proximity to residential housing is considerably different from 64 other McDonald's FFO/takeaways in the South West.
- o Planning inspectors have cited that nuisance and disturbance to neighbouring properties is a reason for the dismissal of similar proposals in other locations.
- o The outdoor seating area is an additional source of disturbance and nuisance for the neighbouring properties.
- o The Acoustic report only considers noise from the Customer Order Display and ignores other noise sources.
- o The acoustic report only considers the impact of the customer order display, ignoring other sources.

Litter and Nuisance

- o Litter is a material consideration. Farrington Gurney does not have the capacity to cope with litter which will be generated by this operation and the Council do not provide a litter bin emptying service in Farrington Gurney. Litter is managed by the good will of local residents picking it up and taking it home.

Job Creation

- o The application over-states the potential for job creation. The application quoting total job numbers is less helpful than full-time equivalent posts. Many of the jobs will be part-time.
- o The creation of employment opportunities does not override other considerations.

HIGHWAYS DEVELOPMENT CONTROL - NO OBJECTION, subject to a financial contribution of £10,000 and subject to conditions requiring the submission of a construction management plan and travel plan.

This application, in highway terms, is identical to the withdrawn application 12/04937/FUL. There have been no material changes in circumstances in the intervening period. The implications of the proposed development, and measures to mitigate, have been the subject of discussions with, and advice from the Council's Traffic and Safety Team. The accompanying TA supporting this application, very fairly, compares the potential of the site as a Little Chef (A3) to generate traffic with anticipated traffic generation for a McDonalds Restaurant with Drive Through facility (A3 + A5).

As such, the findings of the TA generally support the highway response and recommendation in respect of an earlier application 12/01762/FUL, which stated:

- o The proposed development is located on the inside of a bend on the A39 Bristol Road, subject to a local speed limit of 40mph), and opposite to the Farrington Inn PH.
- o Visibility at the access position is substandard.
- o The proposed development will result in a material increase in the potential of the site to generate traffic and turning movements and for increased conflict with traffic using the access to the PH opposite.
- o The proposed development will result in a material increase in demand for pedestrians to cross the A39 public highway in the vicinity of the site frontage, where no formal crossing facilities exist.
- o Had no such use existed on the site and this application been for the existing A3 use, it is likely that a highway reason for refusal would have been raised. However, given that this application will result in a material intensification in the potential of the site to generate traffic and crossing movements, it is considered that the appropriate way forward would be to secure a contribution towards speed restraint/reduction measures in the vicinity of the site frontage at an estimated cost of £10,000. These measures are likely to be in the form of a reduced speed limit (reduction from 40 mph to 30mph), together with additional features/measures to encourage compliance.

Further, the TA goes on to record that there have been no recorded personal injury accidents in this location during the past 5 years and to demonstrate that the junction of the site access can easily cater for the increase in vehicle turning movements without any problems of capacity on the highway network.

The TA also demonstrates that the proposed site layout and traffic management affords an easily operable solution and concurs with the previous highway recommendation of a contribution towards speed restraint/reduction measures in the vicinity of the site frontage that are likely to be in the form of a reduced speed limit (reduction from 40 mph to 30mph), together with additional features/measures to encourage compliance.

However, this application differs from the application 12/01762/FUL in that there is a proposed extension to the existing building resulting in, according to the TA, an increase in the GIA from 217 sq.m to 293 sq.m.. However, this in itself does not give an accurate picture because, as a result of the proposed works, the floorspace of the restaurant dining area reduces to 70.2 sq.m. from 96.9 sq.m., the kitchen floorspace increases, as does the area of staff facilities, and pay & collection booths are added for the proposed drive through facility. However, this is all accounted for in the submitted TA.

Parking provision is considered adequate to serve the proposed development given the floor area of the resultant restaurant and that, in addition to the parking spaces, there is significant queuing facility for those using the drive-through.

Furthermore, whilst the application covers a change of use from A3 to A3 and A5, I have seen photographic evidence (within an email from Philip Branchflower of SLR consulting, dated 7th December 2012 in respect of application 12/04937/FUL and copied to yourselves) that the previous Little Chef pylon sign advertised take away food, as highlighted in my email to yourselves dated 7th January 2013.

Bearing the above in mind, subject to a financial contribution of £10,000 referred to above being secured, by way of S106 Agreement, as also recommended in the applicant's TA, the highway response would be one of NO OBJECTION.

CONSERVATION - OBJECT

The proposed galvanised fencing at the front of the restaurant fails to reinforce the character and local distinctiveness of the village, which features the consistent use of stone walls to denote boundaries. The design of the fencing is inappropriately urban in character and would detract from the setting of the listed public house opposite.

ENVIRONMENTAL HEALTH - RECOMMEND REFUSAL

The noise impact assessment concludes that the noise from the proposed operations would exceed the Council's plant noise criteria of -5db(A) below the lowest measured background noise level when assessed in accordance with British Standard 4142. The consultant instead opts to use World Health Organisation (WHO) Guidelines for Community Noise as a means of assessing potential impact.

The consultant prefers using WHO Guideline values because it is recognised that British Standard 4142 is not entirely appropriate in situations where very low background noise levels are encountered. In this instance the consultant measured background noise levels of 41 dB(A) and 38dB(A) for night time and morning periods respectively. However, British Standard 4142 states that background noise levels below about 30dB(A) may be

considered very low. In my view, there is no reason why BS4142 should not be applied to assess the noise from the proposed development. The benefit of using British Standard 4142 in assessing the likelihood of complaint from a noise source is that it takes into account local noise conditions specific to the site in question, this is not possible where generic criteria such as the World Health Organisation Standards are applied. There are a number of individual noise sources associated with the proposed development comprising plant noise, noise from vehicles, noise from the intercom and potential noise from voices. Some of these noise sources are easier to predict and therefore quantify than others. I am concerned however about the close proximity of residential properties and in particular Stonelea, which is very close to the development site and the drive-through route. While I accept the difficulty in predicting certain types of noise, there is a lack of detail on the combined impact of all noise sources on the sensitive receptors.

In my opinion the noise from the proposed development will have a significant noise impact on the closest residential properties. This impact is unlikely to be mitigated by the 1.8m noise barrier around the perimeter of the site which will provide limited benefit to sensitive receptors above ground floor height. I therefore object to the application on the grounds of unreasonable exposure to noise associated with the proposed development.

AVON AND SOMERSET POLICE - NO OBJECTION

From a crime reduction point of view I have no objection to this application. I can find no evidence of disorder or anti-social behaviour having taken place at or around this location. My experience of McDonald restaurants are that they are usually well run and do not give us much cause for concern. I would not wish to see it open after 2300hrs. If a condition could be added so that CCTV could be installed to view all of the parking areas and be capable of identifying registration numbers this should alleviate some residents' concerns and provide evidence for the Police should any anti-social behaviour occur.

Policies/Legislation:

POLICIES

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

- D.2 - General design and public realm considerations
- D.4: Townscape considerations
- ES.10 - Air quality
- ES.12 - Noise and vibration
- T.24 - General development control and access policy
- T.26 - On site parking and servicing provision

DRAFT CORE STRATEGY, MAY 2011

- CP6 - Environmental quality
- RA1 - Development in the Villages meeting the listed criteria
- RA2 - Development in Villages outside the Green Belt not meeting Policy RA1 Criteria
- RA3 - Community Facilities and Shops

SV1 - Somer Valley Spatial Strategy

The Draft Core Strategy has yet to be adopted, and is now undergoing public consultation and is yet to be examined. As a result only limited weight can be given to the proposed Changes to the Submitted Core Strategy as a material consideration in any decision.

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

Ministerial statement entitled 'Planning for Growth', 23 March 2011

Officer Assessment:

KEY ISSUES

The following key issues arise from the correspondence received and the reasons for the refusal of the previous application determined by committee, Application 12/01762/FUL.

A. IS THE PROPOSED CHANGE OF USE ACCEPTABLE IN TERMS OF RETAIL PLANNING POLICY AND SUSTAINABILITY CONSIDERATIONS?

As discussed in the Parish Council and other comments, the National Planning Policy Framework and local planning policy advises that new Town Centre Uses should be directed to Town Centre locations.

Due to the incorporation of a drive-through, the application proposes a change of use, from a Use Class A3 to a mixed use comprising A3 and A5 (restaurant and Takeaway) elements. Having stated this, the lawful use of the site as a Little Chef within Use Class A3 already comprises a "Town Centre" Use as defined by the National Planning Policy Framework. As the site can already be used for Town Centre Uses, there is no requirement to assess the application against the retail sequential test, in that a Town Centre Use is already established in this location.

Many of the objections received have raised concerns about the sustainability of the use and proposed location.

Officers accept that drive-through restaurants are by their nature car dependent uses, and therefore, depending on their location can have the effect of reinforcing a dispersed unsustainable, car dependent pattern of development that undermines town centres. Whilst the site is accessible by public transport and within walking distance of residents in Farrington Gurney itself, to a degree some of these criticisms could be levelled at this application.

Having stated this, many of the support letters received comment that at present would-be customers drive a significant distance from the surrounding settlements (Midsomer Norton and Paulton) to the existing McDonalds restaurants in Bath, Bristol or Frome. In these terms, whilst the site is not in a town centre location and the development would undoubtedly increase car borne traffic accessing this site, it is by no means clear that the development would increase the overall need to travel, and could easily result in a reduction in overall travel demand by providing a more local outlet to meet the demand that is evident in the area. Whilst the drive-through is designed around motorists, its location would allow customers to access it by public transport if they wished.

Additionally, officers perceive that when the Little Chef was open, for a proportion of its customers, it operated in a similar way to a service station, providing a rest break for drivers passing north or south along the A37 between Bath / Bristol and Wells / Yeovil / Glastonbury. It is considered likely that were the McDonalds to be approved, a significant proportion of trade would similarly be passing trade, i.e. drivers stopping en-route to another destination, rather than making a specific trip to the McDonalds. Such passing trade would not be additional to the road network.

Additionally, whilst Farrington Gurney does not have a recognised town centre, the site is well located in relation to the other facilities that do exist in the village, particularly the petrol station opposite, and therefore dual purpose trips would be possible. As a result, whilst the use is car dependent in nature, officers do not consider that the development would reinforce a dispersed pattern of development, but would in fact reinforce the range of public uses available within walking distance in the village, and provide a use to meet the evident unmet demand in the villages near the site.

Given these considerations, and the fact that the site has an established restaurant use, which is itself a Town Centre use, it is not considered that reliable evidence could be produced to substantiate the refusal of the application on sustainability grounds.

B. IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN TERMS OF HIGHWAY SAFETY CONSIDERATIONS?

The proposed introduction of an A5 use into the existing building is likely to increase traffic entering and leaving the site. Residents have raised concerns about traffic flows and visibility on the entrance to the site. Officers agree that the existing access does have restricted visibility, particularly to the north-west, and without mitigation the increased use of the existing access would be likely to harm highway safety in the area.

However, the applicant has proposed a £10k financial contribution towards off site transport measures that could include the introduction of a 30 mph speed limit and measures to ensure compliance. Were the speed limit to be lowered to 30 mph as suggested, the visibility, and stopping distances for oncoming vehicles would be acceptable. Highways Officers also advise that there is sufficient capacity in the nearby junctions to accept the additional traffic flows generated. In that context, the highways officer has no objection to the proposals and advises that the impact of the development on highway safety is acceptable.

These measures would need to be taken forward by the Council. The proposed development would result in parking provision within the site being reduced from 35 spaces as existing to 28 spaces, of which 24 would be available for members of the public. Local Plan policy T.26 requires that development incorporates an appropriate level of on-site parking and servicing.

The schedule to policy T.26 sets out "maximum" parking standards. It suggests that the maximum for restaurant (A3) uses is 1 space per 10 square metres of drinking and dining area. The proposed dining area within the building has a floor area of about 70 square metres and the parking provision is therefore well in excess of this requirement. The schedule notes that for hot food takeaway uses, each case is to be assessed on its merits, and the Council's Highways team has advised that the level of parking provision is acceptable.

However, since the overall mix between the proposed A3 and A5 uses is unknown, a condition is recommended to ensure the retention of the existing spaces within the site.

A condition is also recommended to ensure visibility at the point of egress to ensure that visibility is provided and maintained within the site.

Local Plan policy T.26 also requires that one cycle parking space is provided for every 20 car spaces to be provided, with a minimum of two stands to be provided on any one site. It is therefore appropriate to add a condition requiring the installation of cycle parking stands.

Subject to conditions in respect of the above matters and the completion of the unilateral undertaking, the proposals would accord with Local plan policies T.24 and T.26.

C. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THEIR IMPACT ON THE AMENITY OF EXISTING ADJOINING RESIDENTS?

Local Plan policy D.2 states that development will only be permitted where the proposed development will not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reason of increased overlooking, noise, smell, traffic or other disturbance.

Other Local Plan policies (ES.10 and ES.12) seek to ensure that development does not 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 and that it does not result in an unacceptable increase in noise and vibration.

The site is adjacent to the A37 and is opposite a public house and in proximity to a petrol filling station. The neighbouring houses to the north and south of the site are therefore already likely to suffer some degree of disturbance from road traffic and activities at other nearby premises. However, it is likely that the local environment is significantly quieter in the evening and night-time with less road users and furthermore, at the rear of their properties, background noise levels are likely to be lower.

The lawful use of the site as a restaurant, with unrestricted hours, could also result in potential disturbance to neighbouring occupiers with people entering and leaving the premises and the associated car park early in the morning or late at night, however this appears not been the experience of residents living alongside the Little Chef which, according to online reviews, did not stay open beyond 10:00 PM.

The introduction of a Restaurant and Takeaway with a drive-through is likely to significantly increase activity levels towards the rear of the site, and the nature of the use is materially different to the former Little Chef, with customer orders being taken outside through the Customer Order Display, a more rapid and higher throughput of customers, the majority of whom will use the drive-through, with some customers eating in parked cars and outside, sitting at the tables and chairs.

This pattern of use is very different and very much more intense than that of the former Little Chef, where customers would park up, eat in the restaurant and then leave, and

consequently the proposed drive-through would give rise to noise and disturbance of a significantly greater magnitude than the established use. The application also proposes greater opening hours than were previously operated by the Little chef, though it is acknowledged that there was no formal control of the Little Chef's opening hours through the planning system.

There are particular concerns about the drive-through lane, which would pass within 3.5 metres of the boundary with the adjoining property to the south, Stonelea, and the Customer Order Display and pay point which would be located within 9.5 and 7 metres of the boundary respectively. At busy times the drive-through lane would contain queue of cars around the building with their engines running.

Also the drivers would potentially become engaged in conversation with the server and have to shout above car noise and there would be an amplified response, and there would also be the potential for noise from car radios, car doors opening and shutting. This latter type of noise would be different and therefore discernable from background noise from the road.

From parts of the drive-through lane, there appears to be a clear line of sight to the rear upstairs bedroom windows of Stonelea, and therefore clear potential for noise from the development to affect the living conditions of these residents. The acoustic fence is unlikely to be adequate in terms of attenuating noise levels reaching these windows to an acceptable level, but would have the effect of overshadowing the garden of this property, which is set at a lower level than the McDonalds site.

There are similar concerns about the impact on the living standards of the residents to the north of the site in Thornton House. Whilst further from the drive-through lane and customer order display, the application proposes extending the car-park so that it runs at the very back edge of the hedge separating the McDonalds site from this property, bringing parked cars closer to the boundary of this property and their back garden. As discussed above, the nature of the use is different to a conventional restaurant, in that a proportion of guests may buy their food and then return to their cars to eat it. These parking spaces could, particularly during in warm weather, be occupied by cars with windows wound down while the occupants consume their food and listen to music. This would coincide with the time when people are more likely to be relaxing in their gardens and/or would wish to open their bedroom windows at night and thus result in significant harm to living conditions.

As set out in their comments, Environmental Health have commented that from a technical perspective the Noise Report is unsound, in that it does not consider the cumulative impact of these effects, and does not follow the correct methodology. The applicants have proposed that acoustic fences be erected along the southern boundary of the site, but Environmental Health advise that these measures would not overcome their objection,

The Parish Council have quoted an appeal case in Staffordshire for the conversion of a public house to a drive-through KFC, which was dismissed, partially on the grounds of impact on residential amenity, reference APP/D4635/A/10/2138063, 160 Stafford Road, Wolverhampton, WV10 6JT. Whilst the context and noise conditions might be different, there are clear parallels between the appeal case and this case, with the drive-through lane running close to the boundary of a residential property. The inspector found that the proposed arrangement would unacceptably harm the living conditions of the adjoining

residents, and could not be adequately mitigated by a proposed 2-metre high acoustic fence.

The Parish Council have undertaken an analysis of the location of all the McDonalds outlets in the south-west, concluding that all were in shopping centres, retail parks, or services stations, and none were in such close proximity to housing as this site.

Officers do not consider the Parish Council analysis to be conclusive, but it and the appeal case referred to reinforce officers concerns and conclusions that the site seems fundamentally unsuited to use as a drive-through takeaway, due to its proximity to neighbouring properties. Were the development to go ahead, the noise and activity levels generated by the development would likely to thereafter define the adjoining residents' experience of their gardens and potentially homes, unacceptably detracting from the quality of their living conditions, and the character of the immediate area.

The development could potentially give rise to impacts as a result of cooking odours, however such impacts could be overcome through the use of suitable mechanical ventilation and this could be secured through a condition on any consent.

D. ARE THE PROPOSALS CONSIDERED TO BE ACCEPTABLE IN TERMS OF POTENTIAL HEALTH AND OBESITY IMPACTS?

A considerable number of objections have been received raising concerns about the potential health impacts of the McDonalds due to healthy eating concerns, and in particular about the proximity of the site to the primary school and playground on Church Lane, and the bus stop on the A37 where secondary school children are dropped off.

The National Planning Policy Framework is clear that public health issues are capable of being material considerations, and stresses the role the planning system can play in facilitating social interaction and creating healthy, inclusive communities.

The Parish Council also quoted a Legal Challenge in London where a planning consent for a Fast Food takeaway was quashed because the authority had failed to take into account health effects, and the proximity of the development to a nearby secondary school. (A subsequent application on the site was however refused on these grounds, with the decision being overturned and the appeal being allowed at appeal.)

It is clear therefore that the health effects of such developments, and in particular, the proximity of takeaways to schools, are capable of being material planning considerations that can be given weight in planning decisions.

Proximity to Children's Services

According to the Council's mapping, the site is approximately 650 metres walking distance (400 metres in a straight line) from the primary school, play park and BMX track opposite on Church Lane and approximately 160 metres from the Little Start Nursery on the A37. Officers do not however, consider the location to be particularly close to children's facilities, or markedly more so than any other location within a settlement. It should also be stressed that the school is a primary school and that given the volume of traffic using the A37, pupils are unlikely to walk to or from the school on their own, and will be under the control of their parents or guardians whilst outside school premises.

The Parish Council have referred to a case where Stirling Council successfully refused planning permission for a new McDonalds Restaurant and Drive Thru on health and obesity grounds. Officers however consider this case to be materially different. Whilst secondary school children might be tempted to consume fast food at lunch time, this option will not be open to primary school children, who will not be allowed out of school premises without a guardian.

It is also correct that the site is in close proximity to bus stops that are in use by school children, however planning policy advises that such uses should be directed to town centre locations and to site such uses in sustainable locations that are accessible via public transport. It stands to reason that major transport corridors which are well served by public transport where such takeaways seek to be located will often also be routes used by school buses and locations accessible by children. It is not considered that current planning policy would support the refusal of takeaway applications on bus routes to schools.

Officers have undertaken a review of recent appeal decisions relating to obesity and proposed Fast Food Takeaways. Of 5 recent appeals that were found for fast food takeaways or restaurants where obesity and health concerns were an issue, 4 were allowed and 1 dismissed. On none of the appeals were the objections on health grounds upheld as reasons for refusal.

One of the appeals, for the change of use of a pub to a restaurant in Islington 130 metres from a primary school, has clear parallels with this application. Here the Inspector noted that the borough had a significant diet-related health problem, including a high rate of childhood obesity, but reasoned that children of primary school age would be accompanied by an adult, who would be able to guide food choices. The appeal was allowed.

There are genuine issues of public interest relating to public health and food retailing, and sections of the community have significant concerns about the healthiness of McDonalds food. However, for the reasons above officers do not consider that the refusal of the application could be sustainably refused on these grounds or that evidence could be brought forward to demonstrate why a McDonald's restaurant would be unacceptable in this specific location.

E. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF LITTER?

The courts have held that the dropping of litter may be a material consideration in determining a planning application, even though there is other legislation available to control the problem.

In the previous withdrawn application, the applicants submitted a Litter Management Plan, and have recently confirmed that they still intend this to be implemented, and that it would be reviewed every 6 months or less to ensure it is effectively managed.

The Litter Management Plan proposes that McDonalds staff conduct regular litter patrols (1 per shift) and that all litter is collected within a 100 metre radius of the application site. Officers appreciate the concerns raised by residents regarding the impact of littering and the lack of Council litter collections, but the litter management plan and the provision of bins on site is as much as can be reasonably required of the developers. In the appeals

that have been reviewed above, Inspectors took a similar approach. Takeaway operators could be held responsible for the conditions in the immediate area of their sites, but that they could not control the illegal actions of customers littering the wider area, and that this was a matter for other legislation to deal with.

As a consequence, whilst the concerns of residents are understandable, officers do not consider that this should be put forward as a reason for the refusal of the application.

F. IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN TERMS OF CRIME AND DISORDER IMPACTS?

Paragraph 17 of the Crime and Disorder Act 1998 requires all authorities to exercise their functions with due regard to their likely effect on crime and disorder. The good practice guide Safer Places - The Planning System and Crime Prevention 2004 underlined that "The prevention of crime and the enhancement of community safety are matters that a local planning authority should be considered when exercising its functions under the Town and Country Planning legislation".

As a consequence, crime and disorder issues are material considerations. Officers consider that the introduction of a late night use such as that proposed could in some circumstances have the potential to result in anti-social behaviour issues. However the police commented in respect of the previous application that there is no history of such problems occurring in this location, and subject to conditions being imposed to limit the hours of operation and require the installation of CCTV do not object to the application. It is considered likely that these measures would allow any problems that did occur to be managed and avoided.

Whilst as discussed above the application is not considered to be acceptable in terms of noise and disturbance, however there is no evidence to support the assertion that the development would result in anti-social behaviour, and some support letters have commented on anti-social activities that have been occurring within the site whilst it has been disused, as a result of the car park not being monitored. It is not considered that the application could be refused on the grounds of anti-social behaviour.

G. WHAT IMPACT WOULD THE DEVELOPMENT HAVE ON THE CHARACTER OF THE VILLAGE AND THE LISTED PUBLIC HOUSE OPPOSITE THE SITE?

The public house on the opposite side of the road is a Listed Building, and therefore it is necessary to consider the effect of the proposals on its setting. Whilst the amount of traffic on the A37 does to an extent sever the site from the listed pub opposite, nevertheless the historic, rural character of the building is evident, and it contributes to the rural character of the village as a whole.

Local Plan policies D.2 and D.4 stress the importance of design and development respecting the local context. Local Plan policy BH.2 seeks to protect the setting of Listed Buildings. Draft Core Strategy policy CP6 also stresses the need for high quality design which reinforces its specific local context, and for the need to protect the setting of Listed Buildings.

The National Planning Policy Framework (paragraphs 58, 63 and 64) also stress the need for high quality design that responds to the local character and reflects the identity of its surroundings.

The proposed alterations and extensions to the building would be carried out using stone and cladding, matching the existing materials. New and existing window frames and the roof eaves would be re-painted in grey. The new entrance doors would be a khaki green colour. Whilst the existing building is not particularly sensitive to its rural context, these alterations would not worsen its appearance or harm the setting of the Listed Building opposite.

There are however concerns about the profusion of signs and about the proposed fencing and associated lamp posts, benches, tables and bins etcetera located at the front (north and west) of the building. Collectively the signs and structures would have a significant cluttering effect, and would detract from the setting of the Listed Building opposite.

Looking in further detail, the fencing, benches etcetera would be constructed in galvanised steel and artificial wood and would have a hard, urban appearance which does not relate to the rural character of the village, which is strongly characterised by the use of stone boundary walls and soft landscaping.

In culmination, the proposals would detract from the setting of the Listed Building opposite, and it is clear that no allowances have been to adapt the corporate style either for the rural character of the site of the listed building opposite. In confirmation, the Design and Access Statement neither appraises its context (and in particular the common use of stone walls to define boundaries in the village), nor mentions that the Farrington Inn opposite the site is a Listed Building.

H. WHAT WEIGHT SHOULD BE GIVEN TO EMPLOYMENT BENEFITS DERIVING FROM THE PROPOSED DEVELOPMENT?

Government guidance set out in the NPPF gives the planning system a central role in promoting economic development, advising (paragraph 19) that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

The Ministerial Statement "Planning For Growth" March 2011 also stresses the need for the Planning System to do all it can to support enterprise and sustainable economic development.

Whilst the Parish Council challenges the number of jobs that would be created by the development, in the context of the government's pro-growth agenda, the proposed development can be seen as the re-use of an existing empty business premises, and would have a positive impact in terms of job creation and economic development, whatever the exact figure of jobs created.

Officers also note the considerable level of support that has been expressed for the application, with many residents living in Midsomer Norton and Paulton stressing the employment benefits of the development and underlining the unemployment problems in

these rural settlements. These comments are backed up by the Core Strategy, which comments on the problematic imbalance between job provision and housing growth in the Somer Valley.

The development would support economic growth and help to address these problems, and these benefits must be given significant weight in any decision.

However, it is not considered that these benefits would outweigh the very significant harm caused to the living conditions of the residents living immediately to the north and south of the site.

CONCLUSIONS

Whilst the exact number of jobs that would result from the development are disputed, it would nevertheless secure the commercial re-use of a currently vacant commercial property and would thereby support economic growth. These benefits must be given significant weight in the consideration of the application. However, whilst the development would bring forth employment benefits, these would not over-ride the substantial harm that would be caused to the living conditions of the residents on either side of the site, and for these reasons the application is recommended for refusal.

Recommendation:

REFUSE

1 The proposed introduction of the A5 use and associated drive-through Takeaway facility would increase the intensity of the use of the site and would result in increased customer movements into and out of the site and activity within the site itself in the early morning and in the evening until 11:00 PM. The additional activity within the site would result in increased noise, traffic and other disturbance that would cause unacceptable harm to the amenity and living conditions of the adjoining residents. The proposals would therefore be contrary to saved policy D.2 of the Bath and North East Somerset Local Plan.

2 The proposed development by virtue of the design, materials and appearance of the proposed fences and associated lamp posts, outdoor seating and bins would have an inappropriately hard, urban appearance which would fail to reinforce the local character and rural distinctiveness of the village and the setting of the listed building opposite. As such, the proposals would be contrary to policies D.2 (b) D.4 (a) of the Bath and North East Somerset Local Plan and policy CP6 (1, 2) of the draft Bath and North-East Council Core Strategy and the guidance contained in the National Planning Policy Framework.

PLANS LIST:

This decision relates to drawing nos:

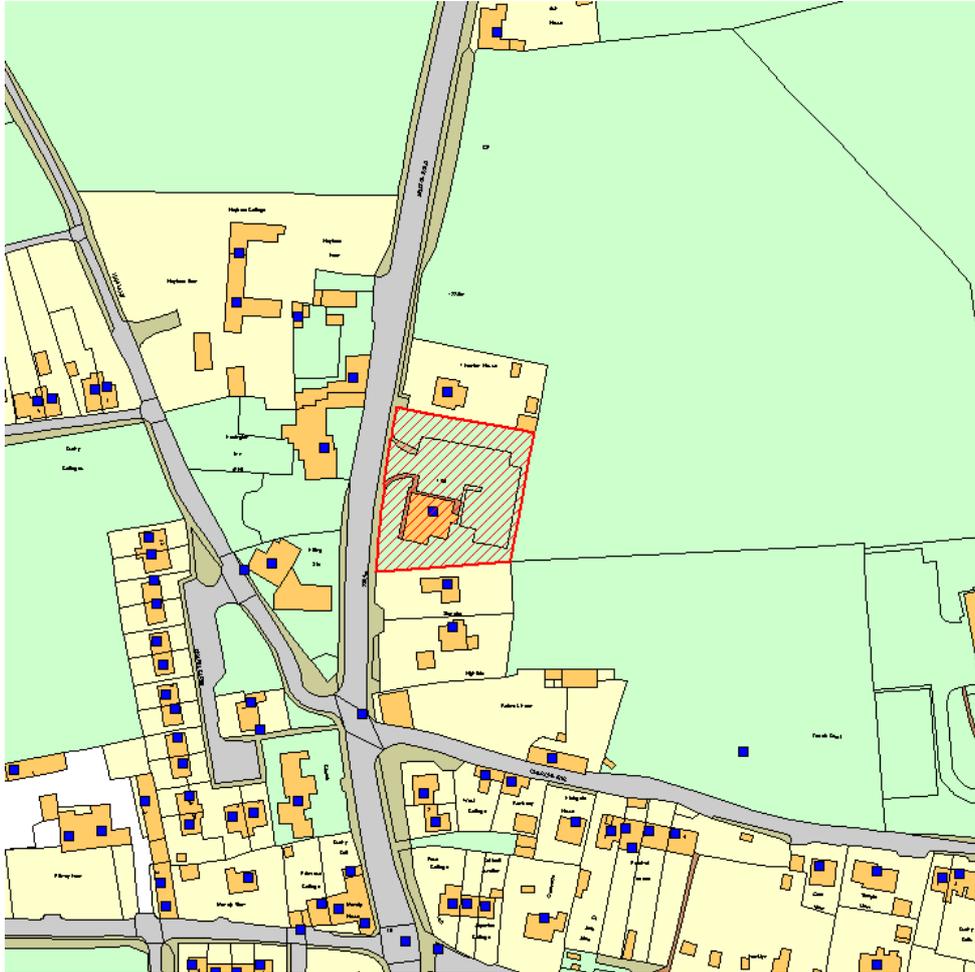
- COD CANOPY
- 4971_8742_1002D BLOCK PLAN
- 4971_8742_1003 EXISTING SITE PLAN
- 4971_8742_1004G PROPOSED SITE PLAN
- 4971_8742_1005C EXISTING AND PROPOSED ELEVATIONS
- 4971_8742_1006B EXISTING AND PROPOSED INTERNAL LAYOUT

- 4971_8742_1001 SITE LOCATION PLAN
- BUTON FURNITURE
- DESIGN AND ACCESS STATEMENT
- FENCING DETAILS WITH PHOTO
- NOISE IMPACT ASSESSMENT
- PATIO FENCING ELEVATION
- PLANNING STATEMENT
- TRANSPORT STATEMENT
- COD AND CANOPY PHOTO
- TYPICAL BARRIER AND LAMP POST DETAIL
- PHOTOGRAPHIC AND PLAN SCHEDULE OF OUTDOOR SEATING

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. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the reasons outlined above and the applicant was advised that the application was to be recommended for refusal unless amendments to the scheme were supplied. The applicant was unable to submit revisions in a timely manner, and did not choose 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: 03 to 05
Application No: 13/01243/AR, 13/01244/AR & 13/01388/AR
Site Location: Former Little Chef Bristol Road Farrington Gurney Bristol



Ward: High Littleton **Parish:** Farrington Gurney **LB Grade:** N/A

Ward Members: Councillor L J Kew

Application Type: Full Application

Proposals: **13/01243/AR** - Installation of 2no. white acrylic 'McDonalds' text signs and 2no. yellow acrylic 'golden arch' symbol signs (revised proposal).

13/01244/AR - Display of 1no. Internally illuminated gateway sign, 4no. Internally illuminated Totem signs 5no. non-illuminated directional signs, 1no. non illuminated banner and 1no. non illuminated hero board. (Revised proposal)

13/01388/AR - Display of 1no internally-illuminated freestanding 8m totem sign (Revised proposal) **Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,

Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,

Applicant:	McDonald's Restaurant Ltd
Case Officer:	Daniel Stone

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The Parish Council strongly opposes the application and the Chair has requested that the application be referred to the Committee in that context and the large number of objections from local people.

DESCRIPTION OF SITE

The application site comprises the former Little Chef premises off the A37 on the edge of the Farrington Gurney.

The site is bounded to the north and south by the curtilages of existing houses with agricultural land to the east. The Farrington Inn public house (a Grade II Listed Building) and a petrol filling station are on the opposite side of the A37, to the west. The site is relatively open to the A37 frontage. The Farrington Inn, on the opposite side of the road is a Listed Building. The site itself has no other designations.

The houses to the north and south of the site both have side windows that overlook the application site. Both houses are within about 3 metres of the boundaries of the site.

APPLICATION

The following applications for advertisement consent are under consideration:

13/01244/AR - Display of 1no. Internally illuminated gateway sign, 4no. Internally illuminated Totem signs 5no. non-illuminated directional signs, 1no. non illuminated banner and 1no. non illuminated hero board. (Revised proposal)

13/01243/AR - Installation of 2no. white acrylic 'McDonalds' text signs and 2no. yellow acrylic 'golden arch' symbol signs (revised proposal).

13/01388/AR - Display of 1no internally-illuminated freestanding 8m totem sign (Revised proposal)

In the interests of brevity, this report covers all three applications, with recommendations set out for each application in the conclusion of the report.

RELEVANT PLANNING HISTORY:

- 12/04934/AR - display of a 10 M double sided internally illuminated pole sign. Withdrawn 16.01.13
- 12/04935/AR – Display of 1 internally illuminated gateway sign, 3 single side internally illuminated totem signs, 1 internally illuminated hero board, 1 triple side internally illuminated totem sign, 2 internally illuminated directional signs, 3 non-illuminated banner signs and 3 non-illuminated dot traffic signs. Withdrawn 16.01.13
- 12/04936/AR – Display of 4 internally illuminated roof mounted fascia signs and 2 internally illuminated wall mounted signs. Withdrawn 16.01.13

CONSULTATIONS

13/01244/AR - Display of 1no. Internally illuminated gateway sign, 4no. Internally illuminated Totem signs 5no. non-illuminated directional signs, 1no. non illuminated banner and 1no. non illuminated hero board. (Revised proposal)
18 Objection letters and 1 letter of support were received to this application.

13/01243/AR - Installation of 2no. roof mounted white acrylic 'McDonalds' text signs and 2no. yellow acrylic 'golden arch' symbol signs (revised proposal).
15 Objection letters and 1 letter of support were received to this application.

13/01388/AR - Display of 1no internally-illuminated freestanding 8m totem sign (Revised proposal)
20 Objection letters and 5 letter of support were received to this application.

LETTERS OF OBJECTION (summarised)

- The proposed illuminated signage (applications 13/01244AR and 13/01388/AR) will result in light pollution affecting bedrooms in Hayboro Farm, and is not acceptable next to dwellings.
- The 8m high illuminated totem sign will be even larger than the Little Chef was, will be an intrusion into the rural landscape and will be visible for miles.
- The 8 metre totem sign (13/01388/AR) will detract from the setting of the Listed pub opposite.
- The signage will distract drivers and endanger highway safety.
- Business signage should be in keeping with and adapted to its location. The signage proposed is contrary to the NPPF which advises that Planning Authorities should take into account the desirability of development making a positive contribution to local character and distinctiveness.

LETTERS OF SUPPORT (summarised)

- The development would provide jobs.
- The development would provide additional facilities and choice in the village
- Some residents in Farrington Gurney support the McDonalds.

Bath and North East Somerset Local Plan

D2 - General design and public realm considerations

D4 - Townscape considerations

BH6 - Development within or affecting Conservation Areas

BH17 - Advertisement consent

T24 - General development control and access policy of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

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.

Town and Country Planning (Control of Advertisement) Regulations 2007
National Planning Policy Framework (March 2012)

OFFICER ASSESSMENT

Policy Context

The Town and Country Planning (Control of Advertisement) Regulations 2007 states that a local planning authority shall exercise their powers under these Regulations only in the interests of amenity and public safety, taking account of:

- the provisions of the development plan, so far as they are material; and
- any other relevant factors
- factors relevant to amenity include the general characteristics of the locality, including the presence of any feature of historic, architectural, cultural or similar interest;
- factors relevant to public safety include: the safety of persons using any highway, railway, waterway, dock, harbour, or aerodrome; whether any display of advertisements is likely to obscure, or hinder the ready interpretation of any road traffic sign, rail way signal or aid to navigation by water or air.

In taking account factors relevant to amenity, the local planning authority may, if it thinks fit, disregard any advertisement that is being displayed.

Adopted Local Plan Policy BH.17 states:

Consent for the display of an advertisement will be granted provided that:

- i) it would not prejudice public safety;
- ii) the proposal, either on its own or cumulatively with other existing or proposed advertisements, would not be detrimental to visual or residential amenity;
- iii) by reason of design, positioning, materials, colour, proportion or illumination it would not be detrimental to the appearance of a building or to the street scene in urban areas and villages; and
- iv) in the open countryside, it would not have an adverse impact on the scenic qualities and rural character.

Local Plan policies D.2 and D.4 stress the importance of design and development respecting the local context. Local Plan policy BH.2 seeks to protect the setting of Listed Buildings. Draft Core Strategy policy CP6 also stresses the need for high quality design which reinforces its specific local context, and for the need to protect the setting of Listed Buildings.

13/01244/AR - Display of 1no. Internally illuminated gateway sign, 4no. Internally illuminated Totem signs 5no. non-illuminated directional signs, 1no. non illuminated banner and 1no. non illuminated hero board. (Revised proposal)

The majority of these proposed signs consist of promotional signs within the area of the drive-through lane setting out the menu choices for customers before they give their order at the customer display unit. As the proposed restaurant / takeaway is proposed to be open after sunset, several of the promotional signs are illuminated, however these signs are predominantly located towards the back of the site and would not be prominent from the road frontage, being largely screened by the building itself.

There is however a profusion of small signs proposed at the front of the site and in the car park area, including directional signs, welcome signs and goodbye signs. These signs appear excessive in number, and don't all seem necessary and would be utilitarian in design and appearance. Taken in totality with the other two signage applications, and in particular the seats and fencing at the front of the site (proposed as part of application 13/01242/FUL), the proposed signage would have a significant cluttering effect on the appearance of the site, particularly in comparison to the relatively minimal signage used by the Little Chef when it was in operation. The cumulative effect would be to detract from the setting of the Listed Building opposite and the rural character of the village.

The remaining sign proposed as part of this application consists of a non-illuminated banner sign in the north-eastern corner of the car park at the rear of the site, measuring 4.8 metres in width and 2 metres in height. This sign would be visible from the road frontage as one passed the site. Whilst large in size, officers do not consider it to be unacceptably out of proportion, given the distance it would be set back from the road frontage.

Notwithstanding this, the application should therefore be refused.

13/01243/AR - Installation of 2no. white acrylic 'McDonalds' text signs and 2no. yellow acrylic 'golden arch' symbol signs (revised proposal).

This application seeks consent for illuminated signs that are proposed to be installed on the northern roof-slope of the building and the eastern and western gables of the building, and which would advertise the restaurant to motorists driving past on the A37. No signage is proposed on the southern roof-slope of the building, facing the adjoining property Stonelea. The applicants have indicated that the proposed signage would be illuminated during opening hours, between 06:00 AM and 23:00.

Officers consider that the signs on the eastern and western gables of the building would be in proportion to the building and would not be excessive in scale or size, and the signs would have no impact on public safety. There are however concerns about the illumination for the sign on the northern roof-slope of the building and its size, which would be clearly visible from the adjoining property to the north Thornton House. This property has 2 first floor windows on its southern elevation that clearly overlook the site, and whilst this resident has not objected to the application, both first floor windows serve bedrooms.

The illuminated sign on the northern roofslope of the building would be 31 metres from the windows of this property, but nevertheless at 5.5 metres in length and 0.9 metres in height would tend to dominate the outlook from the first floor windows of this property, and would be illuminated 17 hours a day, 7 days a week. At night-time and in the early mornings the sign would have a significant detrimental impact on the standard of residential amenity possible from this room.

Officers are recommending the planning application 13/01242/FUL for refusal on the grounds of the impact on residential amenity. It is considered that the proposed illuminated sign on the northern roofslope of the building would be another aspect of the negative impact of the development on the residential amenity of the occupants of the property to the north. This application is therefore recommended for refusal.

13/01388/AR - Display of 1no internally-illuminated freestanding 8m totem sign (Revised proposal)

This application seeks consent for three 1.4 metre wide illuminated signs that would be displayed on an 8-metre high totem pole. The sign would be roughly in the same position as the larger of Little Chef's two totem signs, the frames of which still remain. The larger of Little Chef's totem signs, which also appears to have been illuminated, measured 1.9 metres in width and 6 metres in height.

The proposed totem sign would be two metres higher than the pre-existing totem sign, and would also appear to stand taller than the other totem signs in the village, those belonging to the Murco garage and the Farrington Inn. From the Council's street mapping, the structure of the existing totem sign is visible from approximately 100 metres away to the north, outside of the 40 mile an hour limit for the village. Officers note that were the planning application to be approved, a requirement would be to reduce the speed limit on entering the village from 40 to 30 miles per hour. This being the case, all the signage that would be displayed by McDonalds would be visible for longer for passing motorists, and there is no logical reason why the sign would need to be higher than the existing Little Chef totem sign. The totem sign would have no impact on public safety and would not obscure any road signs.

Officers consider that both the Murco and Little Chef totem signs detract from the character of what is a rural village and a residential area, and from the setting of the Farrington Inn, a Grade II Listed Building. Whilst these signs are pre-existing and to an extent form the character of the road, they are negative elements, and as allowed by the advertising regulations, they should be disregarded for the purposes of assessing this application.

The proposed totem sign, the height of a two-storey house, would further erode the distinctive rural character of the village, and does not take into account its location, on the edge of a rural village and in a clearly residential area.

Taking into account the additional height of the structure, and the proposed internal illumination, it is likely that the sign would be clearly visible from a significant distance further out from the village and due to its excessive height, would dominate and detract from the approach to the village and the setting of the listed building opposite. Officers would therefore recommend that the application be refused.

RECOMMENDATION

13/01244/AR - Display of 1no. Internally illuminated gateway sign, 4no. Internally illuminated Totem signs 5no. non-illuminated directional signs, 1no. non illuminated banner and 1no. non illuminated hero board. (Revised proposal)

This application should be refused.

In culmination with the external structures proposed as part of application 13/01242/FUL (fences, seating, bins) and the totem advert proposed as part of application **13/01388/AR**, the signage at the front (north and west) of the building would result in significant visual clutter, which would erode the setting of the Listed Building and the rural character of the village. As such, the proposals would be contrary to policies D.2 (b), D.4 (a) and BH.17 (ii and iii) of the Bath and North East Somerset Local Plan and policy CP6 (1, 2) of the draft Bath and North-East Council Core Strategy and the guidance contained in the National Planning Policy Framework.

This decision relates to drawing nos

- BANNER UNIT
- DIRECTIONAL SIGNS
- GATEWAY SIGN
- HERO BOARD
- SIGN 34 DRIVE THRU WALL MOUNTED SIGNS
- TOTEM 3 PRESALE BOARD
- TOTEM 4 3 BAY
- 4971_8742_1001 SITE LOCATION PLAN
- 4971_8742_1002D BLOCK PLAN
- 4971_8742_1003 EXISTING SITE PLAN
- 4971_8742_1008 REV F PROPOSED SITE ADVERTISEMENT PLAN

13/01243/AR - Installation of 2no. white acrylic 'McDonalds' text signs and 2no. yellow acrylic 'golden arch' symbol signs (revised proposal).

This application should be refused.

The proposed illuminated signage, by virtue of the location, size and illumination of the sign on the northern roof slope of the building and its relationship to the dwelling known as Thornton House to the north, would dominate and detract from the 1st floor outlook of this property, and unacceptably harm the living conditions of its residential occupiers. As such, the proposed development would be contrary to policies D.2 (f) and BH.17 (ii) of the Bath and North East Somerset Local Plan and guidance in the National Planning Policy Framework.

This decision relates to drawing nos:

- 4971_8742_1002D BLOCK PLAN
- 4971_8742_1007A EXISTING AND PROPOSED ROOF ADVERTISEMENT...
- 4971_8742_1009C EXISTING AND PROPOSED ADVERT ELEVATIONS

- SIGN 19 GOLDEN ARCH FASCIA
- SIGN 5 ALFRESCO ROOF LETTERS
- 4971_8742_1001 SITE LOCATION PLAN

13/01388/AR - Display of 1no internally-illuminated freestanding 8m totem sign (Revised proposal)

This application should be refused.

The proposed sign by virtue of its excessive height and illumination would appear unduly prominent and would dominate and detract from the entrance to the village, and the setting of the Farrington Inn, a Grade II Listed Building opposite the site. As such, the proposed development would be contrary to policies D.2 (b), D.4 (a), BH.2 (v) and BH.17 (ii and iii) of the Bath and North East Somerset Local Plan, policy CP6 of the draft Bath and North-East Council Core Strategy and the guidance contained in the National Planning Policy Framework.

This decision relates to drawing nos

- Drawing 4971_8742_1102D BLOCK PLAN SIGNAGE
- Drawing PROPOSED TOTEM POLE + SIGN - elevations and cross section
- site location plan

Item No: 06
Application No: 13/01606/FUL
Site Location: Church Farm Barn Washing Pound Lane Whitchurch Bristol BS14 0PN



Ward: Publow And Whitchurch **Parish:** Whitchurch **LB Grade:** N/A

Ward Members: Councillor P M Edwards

Application Type: Full Application

Proposal: Repair and rebuilding of existing dilapidated workshop/outbuilding to provide 1 no. one and half storey dwelling with associated access, car parking area and garden area (resubmission).

Constraints: Airport Safeguarding Zones, Airport Safeguarding Zones, Agric Land Class 3b,4,5, Forest of Avon, Greenbelt,

Applicant: Mrs L Maddocks

Expiry Date: 13th June 2013

Case Officer: Jonathan Fletcher

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The Parish Council are in support of the proposal and Councillor Tim Warren has requested that the application is referred to the Committee if officers are minded to refuse the application. The Chairman has agreed that the proposal should be considered by the Committee due to the green belt issues and the support of the Parish Council.

SITE DESCRIPTION AND PROPOSAL:

The application relates to a site located within the Bristol/Bath Green Belt. The application seeks planning permission for rebuilding an existing dilapidated outbuilding to form a one and a half storey dwelling with an access from the corner of Washing Pound Lane and Church Lane. The remnants of the former barn are located to the south boundary of the site and are comprised of sections of wall and hardstanding. The proposal is for a new structure with a dual pitched roof occupying the same position within the site onto the boundary with Church Lane. The building is proposed to be constructed with rubblestone facing to external walls and pantiles to the roof. The dimensions of the structure would be 15m length x 9.5m width x 6.1m height.

RELEVANT HISTORY:

16981 - RF - 14 October 1994 - Proposed conversion to dwelling with new vehicular access.

16981/A - RF - 20 June 1995 - Conversion of barn to form dwelling and vehicular access.

02/01237/FUL - RF - 13 November 2002 - Conversion of existing building to form a dwelling.

05/00689/FUL - RF - 6 January 2006 - Restore barn/store/workshop as original prior to fire damage

10/04816/FUL - RF - 31 January 2011 - Repair of existing dilapidated agricultural outbuilding.

11/00046/RF - DISMIS - 24 October 2011 - Repair of existing dilapidated agricultural outbuilding

13/00347/FUL - RF - 25 March 2013 - Repair and rebuilding of existing dilapidated workshop/outbuilding to provide 1 no. one and half storey dwelling with associated access, car parking area and garden area.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Councillor Tim Warren: A request has been received for the application to be referred to the Development Control Committee if officers are minded to refuse the application.

Whitchurch Parish Council: The application is supported as it is considered the proposal would improve the appearance of the site.

Highway Development Officer: No objection is raised to the application subject to four conditions relating to highway safety and amenity.

Drainage Technician: No objection is raised to the application subject to a condition relating to surface water drainage.

Representations:

One letter has been received in objection to the application raising concern in relation to highway safety and drainage.

POLICIES/LEGISLATION

D.2 - General Design and Public Realm Consideration

D.4 - Townscape Consideration

GB.1 - Control of Development in the Green Belt

GB.2 - Visual Amenities of the Green Belt

T.24 - General Development Control and Access Policy

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

HG.10 - Housing outside settlements (agricultural and other essential dwellings)

ET.9 - Re-use of rural buildings

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

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. It was publicised through the Core Strategy process in 2012 that Bath and North East Somerset Council had not been able to demonstrate a five year land supply and therefore the relevant housing policies can only be given limited weight in the assessment of the application.

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

INTRODUCTION:

The primary issues to consider when determining this application relate to the appropriateness of the development within the green belt, the visual impact on the surrounding area, highway safety and residential amenity. The application is a resubmission of application 13/00347/FUL which was refused as it was deemed to present an inappropriate form of development within the green belt which would be harmful to openness and the character of the area.

GREEN BELT:

As noted in the planning history above, this application follows a number of previous proposals which have been refused to rebuild the former barn for both residential and agricultural uses. It is useful to note the conclusions drawn from previous decisions

relating to the site to consider the appropriateness of the development within the green belt.

Photographs have been included with the application which indicate that there was a roof over the building in 1999 which was then partially reconstructed in 2003 however the building was open with no walls to each gable end at this time. The roof was subsequently removed following an arson attack and the remnants of the building have been left on site since this time. An appeal was dismissed in 2011 against the Local Planning Authority's refusal of planning permission for the rebuilding of the barn for an agricultural use. The Inspector noted the following: 'Given that very little remains of the building that once occupied this site and the considerable period of time that has elapsed since a usable structure existed, I consider the proposed development would amount to construction of a new building.' The current application has also therefore been considered on the basis that the proposal relates to a new building within the green belt.

The guidance within the NPPF does include the construction of new dwellings as an exception to the presumption against development within the green belt. Furthermore, the proposal is not considered to fall within the exception of the redevelopment of previously developed land. A definition of previously developed land is provided at Annex 2 of the NPPF which excludes 'land that has been used for agricultural or forestry buildings'. The applicant has stated that the site has previously been used for motor vehicle repairs for approximately seven years however no evidence has been provided to demonstrate this use and site is currently unoccupied. Furthermore, there is no record of planning permission being granted that this use and the duration of the use would not have resulted in immunity from enforcement action. The historic use of the site for agriculture is therefore deemed to have continued. Moreover, even if the site was to be considered as previously developed land, given the increase in the scale of the development, the proposal would have a materially greater impact on openness and would conflict with the purposes of including land within the green belt. The proposal could not therefore be supported on this basis.

The proximity to the adjacent buildings emphasises the need to prevent new buildings from being constructed in this area. In this case the location of the site is considered to present substantive conflict with the purposes of including land within the green belt. The Inspector noted in the appeal of application 16981/A which sought planning permission for the conversion of the former barn to a dwelling that the site is located in a 'narrow gap' between Whitchurch and Bristol. The development of the site was therefore considered to conflict with the purposes of including land within the green belt identified at paragraph 1.5 of Planning Policy Guidance 2 (PPG2) which seek 'to prevent neighbouring towns from merging and to assist in the safeguarding the countryside from encroachment.' Although PP2 has now been superseded these purposes have been brought forward under paragraph 80 of the NPPF.

The previous application was refused on the basis of the impact of the development on the openness of the green belt and the character of the area. The resubmission presents a design with an alternative massing for the dwelling, excavation works to lower the ground level of the building and changes to the fenestration details. These changes have been incorporated to seek to address concerns in relation to the visibility of the dwelling above the boundary wall on Church Lane and the domestic appearance of the dwelling. The appearance of the development from Church Lane would be improved under this

revised scheme however officers remain concerned in relation to the visual impact of the development. The proposal would require the ground levels to be excavated by approximately 1m in order to limited the that height above the boundary wall however the full scale of the new dwelling would be apparent when viewed from the north. The excavation works would be spread across an extensive area of the site and would create a different character to the existing gentle slope of the site. Although the site is screened by existing vegetation to the boundary, the visibility requirements to accommodate a vehicular access would result in the site being more exposed within the surrounding landscape. The scale of the dwelling, albeit at a reduced floor level, would have a substantially greater impact on the openness of the green belt in comparison to the limited areas of development which have remained on the site.

In light of the points raised above the proposal is considered to constitute an inappropriate form of development within the green belt therefore and very special circumstances would need to be identified to justify the development. The following issues are specified within the Planning Statement for the application as very special circumstances which are contended to outweigh the harm to the green belt.

- the site is surrounded on 2/3 sides by existing houses;
- the site is previously developed land and was an important part of the historic settlement of Church Farm and Whitchurch village as identified on OS plans dating back to 1871;
- there are three substantial walls and hardstandings remaining on site. As recent as 2002 there was a building on the site of a very similar volume to that now proposed;
- the site is untidy and detracts from the appearance of the area;
- the parish council support the redevelopment of the site;
- our client will restore the remainder of the land to meadow if required;
- the NPPF raises as significant material considerations in support of the proposal the need to house a rising population; the need to consider housing proposals favourably; the economic, social and environmental roles relating to sustainable development and matters relating to the more positive approach of the Framework generally and the Planning for Growth agenda. there is an identified housing shortage in BANES at present.
- The Council cannot demonstrate a 5-year housing land supply, the Council will need to assess proposals in light of the presumption in favour of sustainable development set out in paragraph 14 of the NPPF.

These issues can be categorised into four areas for assessment:

PRESUMPTION IN FAVOUR OF DEVELOPMENT SET OUT IN THE NPPF AND HOUSING LAND SUPPLY IN BATH AND NORTH EAST SOMERSET:

The examination of Bathnes Core Strategy 2010 has been suspended however the Council have approved an amended Core Strategy for development management purposes. Paragraph 14 of the NPPF states that there is a presumption in favour of sustainable development and that planning permission should be granted where the development plan is absent, silent or the relevant polices out-of-date unless 'specific policies in this Framework indicate development should be restricted'. The footnote to this extract confirms that these specific polices relate to, amongst other things, land designated as green belt. It should be noted therefore that the application should be

assessed on the basis of paragraphs 89 and 90 setting out the presumption against development within green belt which has been discussed above.

The delivery of housing is a material consideration which can be given substantial weight in the assessment an application. The current proposal is however for a single dwelling which would not provide a significant contribution to the delivery of housing in the area. Moreover, the proposal is not indicated to supply housing which would meet the need for a rural worker. Given the level of harm to the green belt which would be caused by the development, the provision of a single dwelling is not considered to be sufficient to demonstrate very special circumstances exist in this instance. Although each application would need to be considered on its individual merits, this approach to the assessment of green belt development would present a very low threshold for allowing inappropriate development and would compromise the ability to resist small scale residential development being spread across the green belt.

Attention is drawn within the planning statement to the recent appeal decisions within Bath and North East Somerset at Brookside Drive, Farmborough and Sleep Lane, Whitchurch. These decisions present significantly different considerations to the current application in that they both relate to sites which have been safeguarded for development. The contribution to housing delivery would also not be comparable to the current application which seeks permission for a single dwelling.

RELATIONSHIP TO EXISTING PATTERN OF DEVELOPMENT:

It is contended that the proposed dwelling would be assimilated within the existing development adjacent to the site. As noted above, it is considered to be important to retain the open space between Bristol and Whitchuch

Reference is made to an appeal decision outside the Bathnes area at Greenlea Cottage, Hedley in support of the development. This application related to a development of a dwelling on the edge of the village boundary in a position where there were the foundations of previous buildings. The circumstances of this case are deemed to be significantly different in light of the relationship of the site to the settlement and the need to retain the undeveloped gap between Whitchurch and Bristol which is considered to be particularly important in this case.

FORMER DEVELOPMENT ON THE SITE:

The former existence of buildings on the site has been discussed above. Whilst it is accepted that over ten years ago the building previously had a roof, the photographs also indicate that the building was not in use and could not have been secured at this time due to the absence of walls on the gable elevations. The length of time which has now passed would conclusively exclude any rebuilding of the barn from being considered as repair works. Paragraph 89 of the NPPF and policy ET.9 of the Local Plan both confirm that buildings must be of substantial construction to be converted and previous appeal decisions relating to this site have concluded that the proposal must considered as a new building. These circumstances would exist in any situation where a building is no longer capable of conversion without substantial or complete reconstruction.

PARISH COUNCIL SUPPORT AND VISUAL AMENITY OF THE AREA:

The Parish Council are supportive of this scheme as it is thought the proposal would improve the appearance of the site. The planning statement indicates that the applicant would be willing to return the remaining area of the site to a meadow if planning permission was granted. Although this would be beneficial to the visual amenity of the area it is not considered to be sufficient to outweigh the harm to the green belt. The current situation has arisen from an historic agricultural use of the site which has ceased leaving the site unmanaged for a considerable period of time. These circumstances will invariably exist where rural buildings have fallen into a state of disrepair however landscaping provision cannot outweigh the harm which is sought to be resisted by planning policy to prevent new buildings on such sites.

The above areas are not considered to present very special circumstances and consequently the application is recommended for refusal on this basis.

HIGHWAY SAFETY:

The Council's Highway Development Officer has recommended that no highway objection should be raised to the proposed development. A highway objection has previously been raised to application 10/04816/FUL which sought permission to rebuild the barn for an agricultural use due to the location of the access at a junction, a lack of visibility and the restricted widths of the lanes. A subsequent appeal was dismissed however the Inspector considered that the access to the agricultural use was similar to a field access opposite, and as speeds were low, there would not be any significant increased risk of the safety of highway users. Although it is noted that the proposal is for a residential dwelling rather than an agricultural use however the proposal is not considered to be significantly different to warrant an alternative view that that taken by the Inspector. The proposal would incorporate an automated gate mechanism which would ensure vehicles do not have to wait on the highway. The parking and turning spaces within the site would be sufficient to serve the development. It would be necessary to incorporate visibility splays adjacent to the access however this could be secured by condition. Whilst the comments from adjacent occupiers are noted there is not deemed to be sufficient justification to warrant a further reason for refusal on the basis of highway safety.

RESIDENTIAL AMENITY:

The new dwelling would be sufficiently separated from adjacent properties to prevent a loss of privacy and therefore no objection is raised to the basis of residential amenity. One letter objection has been received within the consultation however this does not relate to residential amenity concerns.

CONCLUSION:

For the reasons set out above the proposal is considered to be unacceptable and is recommended for refusal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposal would result in construction of a new dwelling which would constitute an inappropriate form of development within the green belt which would be harmful to the openness of the green belt, the semi-rural character of the area and would conflict with the purposes of preventing neighbouring towns from merging and safeguarding the countryside from encroachment. The very special circumstances put forward by the applicant are not considered to be sufficient to clearly outweigh the harm caused by the development. The proposal is therefore contrary to policies GB.1 and GB.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the guidance set out in the National Planning Policy Framework 2012.

2 The proposed development, by reason of its scale, the required excavation works and the visibility from the surrounding area, would be harmful to the openness of the green belt and the semi-rural character of the area contrary to policies D.2, D.4 and GB.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

PLANS LIST:

Site Location Plan, PL001, PL202, PL204, PL205 received 17 April 2013.

PL002, PL003 received 18 April 2013.

PL201 received 18 June 2013.

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. The Local Planning Authority acknowledges the approach outlined in paragraphs 188-192 in favour of front loading and operates a pre-application advice service. Notwithstanding 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 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.

Item No: 07
Application No: 13/01412/FUL
Site Location: Costa Coffee 50 High Street Keynsham BS31 1DX



Ward: Keynsham North **Parish:** Keynsham Town Council **LB Grade:** N/A
Ward Members: Councillor Brian Simmons Councillor C D Gerrish
Application Type: Full Application
Proposal: Change of use of highway to the siting of 2 tables and 4 chairs
Constraints: City/Town Centre Shopping Areas, Conservation Area, Forest of Avon, Housing Development Boundary, Prime Shop Front,
Applicant: South West Coffee Ltd
Expiry Date: 31st May 2013
Case Officer: Sasha Coombs

REPORT

REASONS FOR REFERRAL TO COMMITTEE

Cllr Charles Gerrish and Keynsham Town Council objected to the proposal and the officers are minded to approve. The application has been referred to the Chairman who decided that the application will need to be presented to the Committee because 'there have been many objections to this application which is a finely balanced issue'.

APPLICATION

This proposal for a change of use of highway for outdoors seating relates to A3 premises on High Street in the centre of Keynsham. The café is located close to a zebra crossing, the width of the pavement outside the premises calculates at approximately 4.9m. The High Street falls within conservation area and the town's central shopping area.

The original proposal sought to introduce 3 tables and 6 chairs, along with associated barriers. Following negotiations and consultation comments, the proposal was amended to reduce the scheme to 2 tables and 4 chairs to the south of the entrance only, the barriers were removed and the proposal site narrowed by approx. 0.5m. The resulting application site now measures 4.3m in width and 0.9m in depth. The proposed chairs are 0.54x0.52m and the folding tables are 0.7m in diameter.

PLANNING HISTORY

DC - 02/02697/FUL - PERMIT - 2 January 2002 - Alterations to shopfront and general shopfitting works

DC - 97/02594/FUL - WDN - 19 August 1997 - Installation of new shopfront

DC - 97/02771/FUL - WDN - 3 October 1997 - Installation of new shopfronts at 50 and 50A High Street and change of use from retail to coffee lounge at 50A High Street.

DC - 97/02995/FUL - PER - 24 December 1997 - Retention of new shopfronts at 50 and 50A High Street

DC - 12/03534/FUL - PERMIT - 5 December 2012 - Change of use to a mixed A1/A3 coffee shop.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS - did not raise an objection to the tables proposed to the south of the doorway as it does not obstruct the footway significantly. The officer requested for a plan clearly identifying the area so that it could be monitored in future.

CONSERVATION OFFICER - No objection from conservation perspective to tables and chairs. Barriers (presumably carrying branding) would contribute to street clutter and should be deleted from the scheme. Highways may object given width of pavement and proximity to road crossing.

KEYNSHAM TOWN COUNCIL - 30/04/13 Object with comments - The objection is on grounds of health and safety. The Planning and Development committee would request that an impact assessment analysis in respect of air quality is carried out in this area and that Bath & North East Somerset Council look at their A Board Policy for Keynsham. 11/06/2013: Object

KEYNSHAM CIVIC SOCIETY - 29/04/13: This proposal is totally inappropriate until, and if, the High Street is pedestrianised. It will exacerbate congestion on the pavement and could even result in accidents. 24/05/13: The revised application proposes to put the reduced number of tables immediately opposite the access to the pedestrian crossing. There is also a cycle stand on the pavement in close proximity to the proposed location. The reasons given for our original objection still stand.

LOCAL MEMBER (Cllr Gerrish) - 22/04/13: I have been approached by a number of residents in opposition to this proposal in view of the close proximity to the pedestrian crossing this would be inappropriate as well as concerns for those who are partially sighted. 22/05/13: The reduction for 6 to 4 seats is immaterial the location adjacent to pedestrian crossing is inappropriate

THIRD PARTY COMMENTS

39 letters of objections and 2 of support were received prior to the revision. Following the amendment of the original scheme, further 13 objections were received.

The main points raised were as follows:

OBJECTIONS:

- The site is located in close proximity to a busy pedestrian crossing and would cause unacceptable obstruction to pedestrian/wheelchair/mobility scooters/etc movement;
- The café has ample seating inside;
- The site is close to a street bench and bicycle parking frame;
- There is already a problem with A-boards on the street;
- If approved, this will be followed by other business premises applying to use the pavement;
- to allow seating outside will make it harder for other businesses to survive;
- if Costa Coffee require a smoking area this should be provided in the parking/service area at the rear of the shop;
- the air quality in the high street is poor, frequently exceeding health guidelines due to traffic congestion.
- smoking outside will result in littering;
- there may be only limited opportunities to eat or drink outside in the centre of Keynsham but that is because the area does not lend itself to it;

SUPPORT

- there are not many outdoor areas to eat/drink in Keynsham and it would bring a nice feel to the High Street encouraging people to spend/stay/bring them to the area;
- the pavement is very wide at this point and also it would only be used during the day when the weather is nice enough;

POLICIES/LEGISLATION

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

D.2: General design and public realm considerations

D.4: Townscape considerations

BH.6: Development within or affecting Conservation Areas

S.7: Siting of tables and chairs outside of A3 or A4 uses

T.24: Highways Safety

BATH AND NORTH EAST SOMERSET SUBMISSION CORE STRATEGY (MAY 2011)

The following policies should be considered:

CP6 - Environmental Quality

National Planning Policy Framework (NPPF) - March 2012

(Section 2) - Ensuring the vitality of town centres

(Section 12) - Conserving and Enhancing the Historic Environment.

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT

The proposed tables and chairs are to be placed on the public concourse, thus a material change of use is certain to occur.

NPPF seeks to promote competitive town centre environments with the policies that support their viability and vitality. Outdoors seating is generally considered to help in increasing street activity and can create a pleasant atmosphere.

Local Plan supports such activity by the provisions of the Local Policy S.7 subject to acceptability in terms of i. highways/pedestrian safety, ii. residential amenity, and iii. impact on the character or appearance of the surrounding historic environment.

Thus the primary material considerations in determining of such change of use and this application relate to the impact the development would have on the amenity of the area, the character and appearance of the surrounding conservation area, as well as the potential highway implications that may rise.

IMPACT ON THE CHARACTER OF THE AREA

Keynsham is an historic market town whose historic character is defined by its linear main street, built up frontage and arrangement of burgage plots. The proposal site is part of the High Street scene within Keynsham Conservation area, which currently has an array of retail/cafes/office uses of the ground floors but little in terms of their activity spilling out onto the pavements outside.

In this respect, the proposed seating is considered to be an addition that would break the dense frontage and emphasise finer grain that characterises the essence of Keynsham as a market town. Bringing a small scale activity outside the shop would give a boost to this part of the Conservation Area which is considered to be a significant positive aspect of the

proposal. The design of the furniture is light and simple and would not detract from the overall shop front.

HIGHWAYS

The proposed site is located in close proximity to a zebra crossing, and the impact of the proposal on highways safety has been one of the key considerations in determining this application.

Highways Officers expressed no objections to limited seating outside the shop. The officers advised that there is an appropriate remaining useable footway as its current width is 4.9m. Following the amendments to limit the seating to two tables only and to narrow the application site to less than a meter, it is considered that sufficient pedestrian space would be retained, in terms of movement but also to allow gathering/interaction (as per the advice of Manual for Streets).

RESIDENTIAL AMENITY

The proposed hours of operation are from 06:30 to 20:00 daily. No objection is raised to these hours as there are no dwellings in the immediate vicinity and they would not be significantly affected by this operation by reason of the intensity of proposal, reasonable hours and positioning of tables and chairs in relation to the closest residential uses.

The corollary of traffic movement through the High Street and the associated air pollution from exhaust fumes has been numerously brought up by the objectors. However, the officers have not found any conclusive evidence confirming that it would be unsafe for the customers to seat outside (the pavement is obviously used by the pedestrians), and there would be no air pollution arising from the proposal itself.

OTHER MATTERS

Notwithstanding this planning application, the proposal also needed to be considered under other legislation. To this effect, the current planning application was preceded by a licensing permission for 3 tables and a barrier (ref: 13/01437/TABLE) issued on 13th May 2013. However this permit in itself does not guarantee a favourable outcome of any subsequent planning applications.

The issue of competition has been brought up with the proposal. The document "The Planning System: General Principles" makes it clear that the planning system does not exist to protect the private interests of one person against the activities of another.

The presence of A boards in the High Street is a separate planning matter and should not warrant the refusal of this application.

CONCLUSION

Considering all the above, the application is recommended for approval as it would be beneficial for the character and appearance of the conservation area and would not adversely affect highway or pedestrian safety.

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 tables and chairs hereby permitted shall not be stationed on the highway other than in accordance with the submitted Proposed Plan with Measurements No 0709-KEYNSHAM/02A received by the Local Planning Authority on 05/06/2013

Reason: In the interests of the character and appearance of the Bath Conservation Area and highway/pedestrian safety.

3 No means of enclosure shall be erected, and no extraneous paraphernalia shall be placed on the Highway at any time other than the tables and chairs permitted.

Reason: To safeguard the character and appearance of the Conservation Area, and in the interests of highways and pedestrian safety.

4 The use hereby approved shall not operate, and all tables and chairs permitted shall be removed from the highway, every day outside the hours of 06:30 to 20:00; unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the amenities of occupiers of nearby buildings.

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:

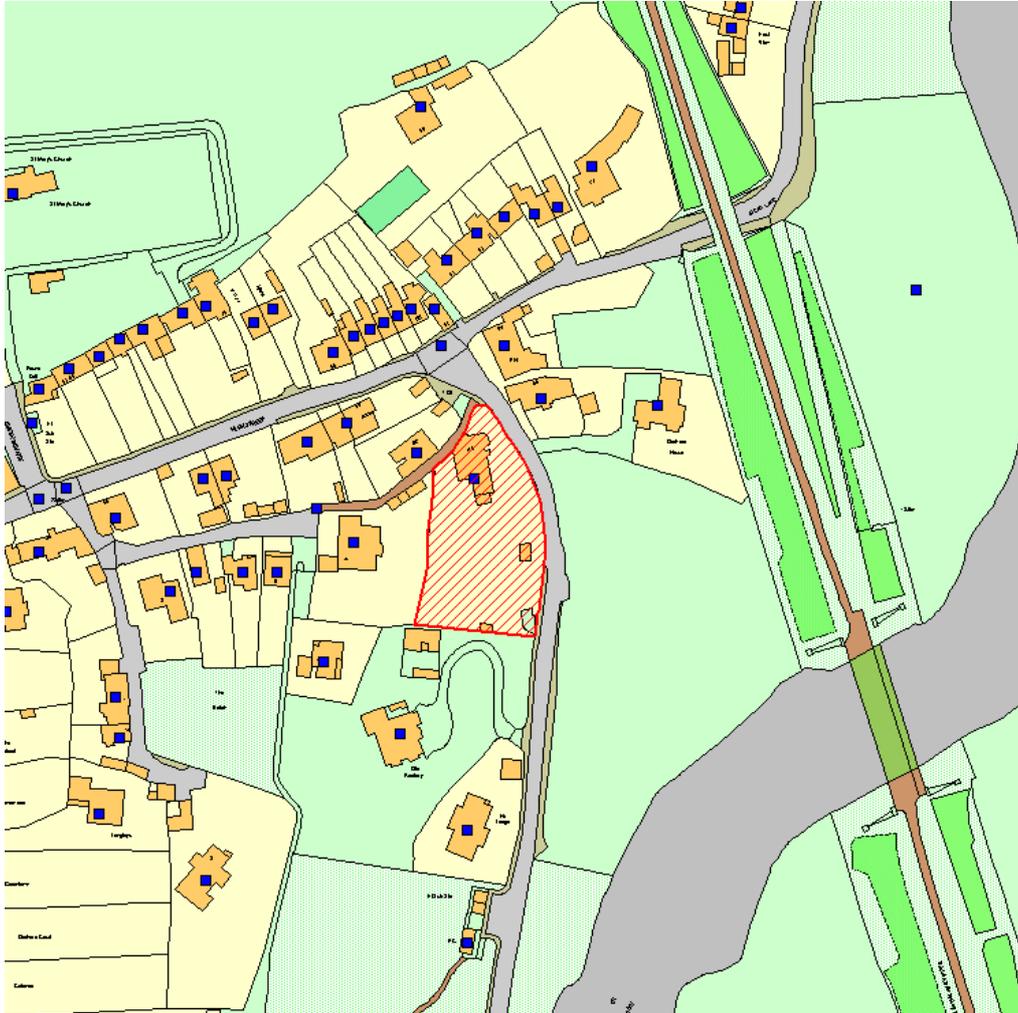
This decision relates to the following plans and documents:

Location Plan received 05/04/2013, External Furniture Specifications received 30/05/2013, Proposed Floor Plan with Measurements No 0709-KEYNSHAM/02A received 05/06/2013.

REASONS FOR GRANTING APPROVAL:

It is considered that the proposed development would not adversely affect highway or pedestrian safety, nor it would result in nuisance or loss of amenity. Furthermore, the proposed scheme is considered to enhance the character and appearance of this part of the Conservation Area. Therefore the proposal is consistent with the requirements of National Planning Policy Framework, as well as Local Policies D.2, D.4, BH.6, S.7 and T.24 of the Bath and North East Somerset Local Plan (including minerals and waste policies) Adopted October 2007.

Item No: 08
Application No: 13/01163/FUL
Site Location: 54 High Street Salford Bristol Bath And North East Somerset BS31 3EJ



Ward: Salford **Parish:** Salford **LB Grade:** N/A
Ward Members: Councillor F Haeberling Councillor Mathew Blankley

Application Type: Full Application

Proposal: Erection of a detached two storey dwelling and a new double garage for use by no 54, modification works to retaining walls to create wider entrance and associated works following demolition of existing single garage and stone retaining walls

Constraints: Agric Land Class 1,2,3a, British Waterways Major and EIA, Conservation Area, Forest of Avon, Housing Development Boundary,

Applicant: Mr Luke Pargeter

Expiry Date: 10th June 2013

Case Officer: Chris Griggs-Trevarthen

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

Councillor Matthew Blankley has requested that the application be determined by the Development Control Committee if it is recommended for approval for the following reasons.

- A transport statement/assessment has not been submitted.
- The properties driveway is on a hairpin from the High Street and The Shallows is a very narrow lane.
- Failure to see how such a modern-build would make a positive contribution to such a historic area.

The application has been referred to the Chairman who has agreed that the application should be considered by the Committee as there are a number of objections from local residents and both Ward councillors and there are highways issues with the application.

DESCRIPTION OF SITE AND APPLICATION

The application site is at the end of a large garden belonging to No. 54 High Street. The site slopes steeply up to the west so that the rear of the site is significantly elevated above the level of the road. The western boundary is demarcated by a retaining wall which serves the garden of 7 The Batch immediately adjoining the site. There are a number of mature trees along the southern boundary and a natural stone wall along the eastern boundary with The Shallows.

The site is within the Saltford Housing Development Boundary and the Conservation Area, the character and appearance of which in the immediate vicinity is of substantial houses in appropriately sized and well landscaped mature plots. Immediately to the east of the site is designated as Green Belt and further to the east lies the route of the Bristol to Bath cycle path which crosses the old railway bridge in view of the application site. The Grade II listed building, The Old Rectory, lies to the south of the application site.

This application is for the erection of a detached, split level dwelling and double garage within the garden of No. 54 High Street. The proposal includes the demolition of the existing single garage and the removal of a 4m section of stone wall to widen the existing access.

RELEVANT HISTORY

08/00595/OUT - Erection of detached dwellinghouse (Outline) - REFUSED - APPEAL DISMISSED

In dismissing the above appeal the inspector considered that:

"The restricted size of the plot and the loss of the trees would fail to preserve or enhance the character and appearance of the Conservation Area and the proposal would be contrary to Policies BH.6, D.2 (a) and D.4(a) of the adopted Bath & North East Somerset Local Plan."

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS OFFICER

The proposal involves the demolition of the existing single garage for No.54, and the erection of a 4-bedroom detached dwelling with integral single garage, together with a new double garage for No.54. The access is also proposed to be amended to create a wider entrance and a shared driveway for the existing and new dwellings, which will provide for shared on-site turning facilities.

The existing driveway rises steeply up to the existing garage, and can provide for up to three cars parked on its length, but there are currently no on-site turning facilities. The visibility from the existing point of access is virtually nil in both directions, due to the high boundary retaining walls, and only a 1m footway across its frontage.

The proposed alterations to the access would involve the removal of a 4m length of wall to create a 9.6m opening which could allow for two cars to pass in the access, although the alignment of the driveway may make this difficult, particularly having regard to the likely gradient of the driveway, of which details have not been submitted. It seems however that two cars wishing to pass would be a relatively rare event as the driveway would be for two dwellings only.

While visibility will be improved, it remains below standard. I am however conscious of the Planning Inspector's comments for a similar application in 2008 application (refused on grounds of highway safety), that an access solution to "safely accommodate vehicles" was possible by way of a "sympathetic realignment" of the wall.

It seems therefore that the solution proposed is the best which can be achieved, and which would therefore appear to accord with the Inspector's comments.

I am conscious that the development of one additional dwelling will generate only a small level of additional traffic. In addition, given there will be a widened access, a marginally improved visibility splay and inclusion of turning space (allowing cars to exit and enter in forward gear), and that there is no existing record of road accidents along this length of road (notwithstanding several other examples of substandard access), I would not raise a highway objection to the proposed development subject to the 3 recommended conditions.

HIGHWAYS (DRAINAGE) OFFICER

No objection, subject to condition requesting details of surface water drainage.

ARBORICULTURAL OFFICER

The proposed development will necessitate the removal of 2 No. Lawson's Cypress, 2 No. Holly and a group of hazel. None of these trees are worthy of a TPO.

Provided the submitted tree protection is implemented the trees to be retained will not be adversely impacted by the proposed development. 3 conditions are recommended.

ECOLOGIST

The proposal affects a large garden and its vegetation including impacts on a number of trees.

I have no objection to the proposal in principle however the garden is likely to support a range of wildlife and could also be used by protected species which if present could be affected by the proposals. In particular the site (including habitats that would be affected

by the proposal) may support reptiles and there are records of slow-worm from very close proximity to the site.

An ecological survey and assessment by a suitably experienced ecologist must therefore be undertaken, and any necessary mitigation measures proposed and agreed, prior to works beginning at the site. This must include in particular surveys for reptiles and full details of all necessary measures for protection of reptiles and mitigation for any unavoidable impacts. The report should also include consideration of potential use of the site by nesting birds, bats, badger and other wildlife, and provide details of appropriate protection and mitigation measures for each.

Due to the nature of the site, the low risk of impacts on European protected species, and the likelihood that all necessary mitigation can be accommodated within the site, I do not in this case request the ecological assessment to be completed prior to any consent for this proposal. It must however be completed prior to works including any tree or vegetation removal.

Please note that a further condition has been included within the recommendation to confirm the requirement for an ecological survey to be undertaken and mitigation measures to be incorporated. Condition recommended.

SALTFORD PARISH COUNCIL

Comments only - Concerns about access and egress to the site; the preservation of trees; the steep gradient undermining the ground and the effect on drainage; possible contravention of policy BH.6; the massing and glass feature at the front section of the building.

COUNCILLOR BLANKLEY

A Transport statement has not been submitted as part of this planning application. The NPPF states that 'plans and decisions should take account of whether safe and suitable access to the site can be achieved for all people'. I make this point because the property's driveway is accessed by a hairpin from High Street end of The Shallows, otherwise the property is access from The Shallows, which is a very narrow road also accessed by a hairpin from Bath Road.

The NPPF states that 'In determining planning applications, local planning authorities should take account of the desirability of new development making a positive contribution to local character and distinctiveness'. I cannot see from the application that this issue has been addressed and I fail to see how such a modern-build would make a positive contribution to such an historic area.

COUNCILLOR HAEBERLING

I strongly object to the proposal for this development. Firstly, as a next door neighbour I did not receive an official notification of the application which although it is in the garden of 54 High Street the development will actually be in The Shallows, which as anyone who lives near will tell you is a single track road in parts, very busy and attracting many visitors particularly at the weekends. Secondly, it is far too large for the site, it is in a conservation area, and the design is totally out of keeping with the surrounding properties and cannot in any way be considered as preserving or enhancing area.

THIRD PARTIES/NEIGHBOURS

6 letters of objection have been received. The main issues raised are:

- The site is in a prominent position in the Saltford conservation area, the Avon Valley and is adjacent to the Grade II listed building, the Old Rectory.
- Harm to the open aspect of the site.
- Would set an undesirable precedent.
- It will in-fill the existing garden
- It will be detrimental to the setting of nearby landmarks, e.g. the cycle track.
- Concern about the impact upon the retaining wall at the rear of the site.
- Dwelling has wrongly been described as two-storey when, in fact, it is three-storey.
- The Shallows is a narrow, busy lane and introducing more traffic will be dangerous.
- The site entrance is on a blind bend and is dangerous.
- Builder's access to the site will be hazardous.
- Taking down the stone wall to widen the access will detract from the character and appearance of the conservation area.
- The style and materials of the proposed dwelling do not respect the local context
- The proposed design does not complement the neighbouring Victorian and listed buildings.
- It will divide a historic landscaped garden.
- Impact upon ecology and wildlife.
- Loss of established mature trees and impact upon root systems of remaining trees.
- The site spacing and layout does not reinforce or compliment the local context.
- Adverse effect on natural site drainage.
- Will dominate the outlook of 7 The Batch, Saltford.
- Concern that a Bed and Breakfast would be operated from the site.
- A previous appeal on the site was dismissed.
- Removal of greenery from the site.
- Does not respect the existing urban grain in relation to street pattern, plot size, rhythm or silhouette.
- Pressure to remove trees in the future.
- Fails to preserve the setting of the adjacent listed building.
- Light intrusion to neighbouring property
- Loss of privacy to the Old Rectory
- Impacts upon the Coach House of the Old Rectory which is proposed to be converted.
- Inadequate off-street parking

1 letter of support has been received. The main points raised are:

- Overall appearance of the proposed house is attractive
- Design is not slavish copy of older houses, but is sympathetic to the area
- The striking gable echoes that of the houses above
- Both houses will have adequate garden space
- The site entrance is at the widest part of the road
- Assuming that technical issues of drainage and arboriculture have been satisfactorily addressed.

POLICIES/LEGISLATION

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.2 - Listed buildings and their settings

BH.6 - Conversation areas

GB.2 - Visual amenity of the Green Belt

T.24 - General access and development control policy

T.26 - 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 in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. Policies D.2, D.4, GB.2, BH.2, BH.6, T.24 and T.26 of the local plan are proposed as saved policies within the submission core strategy.

National guidance in the National Planning Policy Framework (NPPF) is also a material consideration. The following sections are of particular relevance:

Section 7: Requiring good design

Section 12: Conserving and enhancing the historic environment

OFFICER ASSESSMENT

INTRODUCTION

The site falls within the Saltford Housing Development Boundary where the principle of new residential development is acceptable in accordance with policy HG.4 of the Bath and North East Somerset Local Plan (2007).

The main issues to consider in respect of this application are the impact upon the character and appearance of the conservation area, the impact upon residential amenity and the impact upon highways safety and parking.

A previous appeal for the erection of a dwelling on this site was dismissed in 2008. The Inspector's comments in relation to that appeal are a significant material consideration in the consideration of the current application and shall be discussed in the relevant sections below.

CHARACTER AND APPEARANCE

The area immediately surrounding the site on The Shallows is characterised by several traditional properties with large landscaped gardens.

The Inspector for the previous appeal considered that the proposed sub-division of the plot under application 08/00595/OUT would result in a narrow rectangular form with a relatively small garden. It was considered that the narrowness of the plot, being only 15m in width, and resultant small garden would make the proposed dwelling appear cramped in relation to others nearby and out of keeping with the spaciousness of this part of the

conservation area. The perception of the narrow plot was considered to be heightened due to the need to fell mature trees within the site.

The current scheme has significantly increased the size of the application site and has proposed a more even sub-division of the plot. The plot width has been increased to approximately 25m. The proposed sub-division follows the existing landform and, therefore, avoids the creation of a rigid rectangular plot. The proposed application site is considered not to appear too narrow or cramped and creates a reasonably sized garden for the proposed dwelling whilst retaining a good sized garden for No. 54 High Street.

Whilst the sub-division of the existing large plot will inevitably have some impact upon the overall spaciousness of the site, the resultant plots are considered to be adequately sized to preserve the character and appearance of the conservation area. The impacts of this sub-division are also mitigated to a degree by the organic layout of the boundary and the use of a lightweight stock fencing combined with planting to define the northern boundary.

It is accepted that future occupiers may wish to construct a more substantial and permanent boundary fence. The erection of a 2m closed boarded fence or other similarly harsh boundary treatment along this boundary would adversely affect the overall spaciousness of the site. It is, therefore, considered necessary to apply conditions requiring further details of the proposed boundary treatment and planting and to restrict permitted development rights for the erection of fences and other means of enclosure.

The enlargement of the application site over the previous appeal scheme means that the proposed dwelling has been shifted to the north avoiding the need to remove as many trees from the southern boundary. The proposed development will necessitate the removal of 2 No. Lawson's Cypress, 2 No. Holly and a group of hazel. The Council's Arboriculturalist considers that none of these trees are worthy of a Tree Preservation Order (TPO).

Replacement planting is proposed in mitigation for the loss of these trees including a Field Maple, a Holly and an Apple tree along with a mixed native hedge along the northern boundary.

The most significant and mature trees on the site are those directly along the southern boundary. These make a significant contribution towards the character and appearance of the conservation area and contribute towards the visual amenity of the site when viewed in the wider landscape, such as from the cycle path to the east. They also form part of the setting of the adjoining listed building, The Old Rectory, and delineate the southern boundary of the site.

The applicant has set out a scheme of tree protection during construction phase which has been assessed by the Council's arboriculturalist. Provided the submitted tree protection plan is implemented, the trees to be retained along this boundary will not be adversely impacted by the proposed development. Conditions are proposed to ensure the implementation of these tree protection measures.

The proposed dwelling lies to the north of the existing mature trees which cast shadows over parts of the site. However, the enlarged size of the application site over the previous

appeal site means that the proposed dwelling will have more usable garden space that is not entirely shaded and there will be less pressure to fell these trees in the future.

It is therefore considered that the proposal has overcome the concerns of the previous appeal Inspector in regards to the restricted size of the plot and the loss of trees.

Turning to the design of the proposed dwelling, there are a variety of styles and designs in the surrounding area including a number of Victorian properties which are prevalent throughout the conservation area.

The scale of the proposed dwelling is in keeping with the other substantial dwellings surrounding it on this part of The Shallows. It is built into the slope with a split level design to reduce the overall excavation required for its construction. Although raised above the level of the road, the proposed dwelling is lower than the neighbouring coach house associated with The Old Rectory and does not project above the retaining wall at the rear of the site. It is therefore read against the backdrop of the slope and the surrounding vegetation and does not appear unduly prominent in wider views.

The form of the proposed building is not out of keeping with the surrounding area where there are a variety of forms including gables and bays. The projecting bay on the proposed front elevation represents a contemporary approach to the more traditional style bays in surrounding area and also echoes the gable of No. 7 The Batch which sits above the application site to the west.

The majority of buildings in the surrounding area are constructed using natural lias stone. The proposed dwelling would utilise some of the traditional materials found in the surrounding area including coursed blue lias stone for the main elevations and natural slate for the roof. However, some of the detailing will use more contemporary materials such as green oak for the proposed balcony and projecting bay and aluminium frames for the windows.

It is considered that the overall approach to the design respects the predominate character of the conservation area in respect of its scale, form, massing and main materials, but avoids appearing pastiche by incorporating some clearly contemporary elements and materials.

The proposed double garage replaces the existing single garage in a similar position. Although close to the boundary with the Shallows, the proposed garage is set behind the existing stone wall which is approximately 2.7m in height. The bulk of the replacement garage is kept down through the incorporation of a hipped roof form and the proposed materials match those proposed in the main house.

The proposal also includes the removal of a 4m section of the existing stone wall to widen the access to the site. Natural stone walls, such as this, are common throughout the surrounding streets and make a positive contribution towards the character of the conservation area. In considering the proposals to remove part of this stone wall the previous appeal Inspector's comments are relevant.

In dismissing the previous appeal the Inspector did not support the Council's second reason for refusal which asserted that it was not possible to secure safe access to the site

for an additional dwelling without causing further harm to the character and appearance of the conservation area. The Inspector considered that:

"a sympathetic realignment would be possible to improve the visibility sufficiently to safely accommodate vehicles likely to need access to the new dwelling and still maintain the value which the wall contributes to the appearance of the Conservation Area."

It is considered that the proposed scheme represents a 'sympathetic realignment' of the boundary wall which strikes the appropriate balance between providing safe access to the site and preserving the value which the wall contributes towards the appearance of the conservation area. The section of wall to be removed is lower than the more substantial wall further towards the High Street and the resultant opening of approximately 9.6m in length is considered not to harm the character and pattern of boundary treatment along this part of The Shallows.

Overall, it is considered that the proposal represents a contemporary design approach on an adequately sized plot which protects the valuable trees on the site and preserves the character and appearance of the conservation area. Furthermore, as the existing trees along the southern boundary will remain the proposed development is considered to preserve the setting of the adjacent listed building, The Old Rectory.

RESIDENTIAL AMENITY

As previously discussed, the proposal creates adequate outdoor garden space for the proposed dwelling and No. 54 High Street. The distance between No. 54 High Street and the proposed dwelling is approximately 21m. This is considered sufficient to reduce the inter-visibility between the properties to an acceptable level.

Both properties will share the access and part of the driveway. The lightweight nature of the proposed northern boundary also means that the gardens of the two properties will not be formally separated, as would be the case if a closed boarded fence were erected. However, given the nature of the shared driveway and access and the benefits of maintaining the overall openness of the site, it is considered that this approach will still provide an adequate level of privacy and amenity. Furthermore, there will be a degree of caveat emptor for the potential and future occupiers.

There is currently an application being considered for the conversion of the Coach House at The Old Rectory to be converted into self-contained ancillary accommodation (13/01688/FUL). There are two windows on the north elevation of the Coach House which face towards the application site. One of these windows serves the proposed bathroom and one is high level window serving the proposed living area.

There is a change in levels between the Coach House and the application site. The change in levels means that the window serving the Coach House's proposed bathroom is in line with the ground level of the application site. There are only very limited views into and from this existing window due to the existing vegetation and low stone wall along the boundary and the proposed dwelling would not alter this. The proposed high level window is adjacent to the very rear of the application site and, due to the change in levels and the position of the existing shed, will not result in any significant loss of privacy to either property.

No. 7 The Batch lies directly to the west and its garden extends up to the retaining wall at the rear of the application site. The ridge of the proposed dwelling is set approximately 1.7m below the top of the retaining wall and sits below the garden of No. 7 The Batch. Although visible from within the rear garden, the primary outlook from the rear of 7 The Batch will not be adversely affected by the proposed dwelling.

HIGHWAYS AND PARKING

The existing access to No. 54 High Street is off The Shallows. The Shallows is a narrow lane and the access is located at the end of a bend. There is poor visibility due to the stone boundary walls either side of the existing access and insufficient space for turning on the site.

The proposal to widen the access by 4m will create an opening of 9.6m and will enable two cars to pass one another. It will also improve visibility for egress from the site and provide on-site turning space.

The Highways Officer considers that the proposed access is still sub-standard. However, it represents an improvement upon the existing situation and is considered to be in line with the previous appeal Inspector's comments that a 'sympathetic realignment' would be possible to allow the access to 'safely accommodate vehicles'.

Furthermore, it is considered that the development of one additional dwelling will generate only a small level of additional traffic and there is no existing record of road accidents along this length of road. In light of this, the Highways Officer has raised no objection to the proposed access.

The application proposes 2 off-street parking spaces within the replacement double garage for the use by No. 54 High Street and 2 off-street parking spaces (1 garage, 1 driveway) for use by the proposed dwelling. The level of off-street parking proposed is considered acceptable.

OTHER MATTERS

A number of concerns have been raised about the potential impact of the proposed development upon the retaining wall on the western boundary of the site. The proposed dwelling, utilising a split level design, avoids excessive excavation and the applicant's design and access statement includes results of a ground investigation and details of contiguous piled retaining wall proposed to the perimeter of the excavation. The proposal would also be subject to approval under building regulations which would consider issues of ground stability.

Concerns have also been raised about the site's drainage. However, the Highways (Drainage) Officer has no objections to the proposal and a condition is proposed which requires details of the site's surface water drainage to be submitted to and approved by the Council.

CONCLUSION

In conclusion, the application proposes a sensible sub-division of the existing garden resulting in two reasonably sized plots with a layout which enables the significant mature trees along the southern boundary to be protected. It is considered that the proposed design, whilst incorporating contemporary elements, respects the predominant character of the conservation area and does not harm the amenities of adjoining occupiers. The widened access provides an improvement on the existing situation whilst maintaining the value of the stone wall along The Shallows.

It is therefore considered that the proposed scheme overcomes the previous appeal Inspectors concerns and preserves the character and appearance of the conservation area.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

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

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

2 No development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

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

3 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.

4 Prior to the occupation of the dwellinghouse hereby approved the means of enclosure separating the garden of No. 54 High Street from the garden of the approved dwellinghouse shall be erected in accordance with details first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of privacy and the character and appearance of the conservation area.

5 No development shall be commenced on site until a soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; finished ground levels; a planting

specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation.

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

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 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 fences, gates, walls or other means of enclosure shall be erected or placed within the curtilage of the dwellinghouse hereby approved without a further planning permission being granted.

Reason: To maintain the spaciousness of the site and in the interests of the visual amenity and character and appearance of the conservation area.

8 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 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.

9 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 garages or other free standing buildings shall be erected within the curtilage of the dwelling hereby approved, other than those expressly authorised by this permission, unless a further planning permission has been granted by the Local Planning Authority.

Reason: The introduction of further curtilage buildings requires detailed consideration by the Local Planning Authority to safeguard the appearance of the development and the amenities of the surrounding area.

10 No development shall commence until a detailed Arboricultural Method Statement in accordance with BS5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The statement shall include tree protection measures during site

preparation (including clearance, demolition and level changes, taking into account disposal of soil resulting from excavations on site), during construction and landscaping operations. The statement should also include the control of potentially harmful operations such as storage, handling and mixing of materials on site, burning, movement of people, plant and machinery.'

Reason: To ensure that no excavation, tipping, burning, storing of materials or any other activity takes place which would adversely affect the welfare of the trees to be retained on site and on neighbouring property.

11 No development activity shall commence until the protective measures as stated in the 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 protection.'

Reason: To ensure that the trees to be retained are protected from potentially damaging operations.

12 No development or other operations shall take place except in complete accordance with the approved arboricultural method statement unless agreed in writing by the Local Planning authority. Interim Site Inspection Reports and a signed Certificate of Compliance shall be submitted to the Local Planning Authority on completion.

Reason: To ensure that the approved Arboricultural Method Statement is complied with for the duration of the development.

13 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.

14 The area allocated for parking and turning on the submitted plan shall be kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted.

Reason: In the interests of amenity and highway safety.

15 The development hereby permitted shall not be occupied until the access improvement works shown on the submitted plan have been provided. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety

16 No development shall take place until an Ecological Survey and Assessment report together with full details of a Wildlife Protection and Enhancement Scheme produced by a suitably experienced ecologist have been submitted to and approved in writing by the local planning authority. These details shall include:

(i) Survey and mitigation proposals for the protection of reptiles

- (ii) Survey for habitats and all other wildlife including survey for use of the site by protected species as applicable
- (iii) Details of all necessary wildlife protection and mitigation measures
- (iv) Details of appropriate 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 the interests of securing an appropriate survey and mitigation measures for protected species which may be on the site and in accordance with policy NE.11 of the Bath and North East Somerset Local Plan (2007).

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

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

PLANS LIST:

Site Location Plan

SCA-1214-001

SCA1214-002

SCA1214-003

SCA1214-004

SCA1214-005

SCA1214-006

SCA1214-007

SCA1214-010

SCA1214-011

RF-P-022-100 Revision 01

REASON FOR APPROVAL

The proposed dwelling, due to its layout, siting, design, form and materials, preserves the character and appearance of the conservation area, does not significantly harm the amenities of adjoining occupiers and does not prejudice highways safety. The proposal is therefore in accordance with policies D.2, D.4, BH.2, BH.6, GB.2, T.24 and T.26 of the Bath and North East Somerset Local Plan (2007) and guidance in the National Planning Policy Framework.

DECISION MAKING STATEMENT

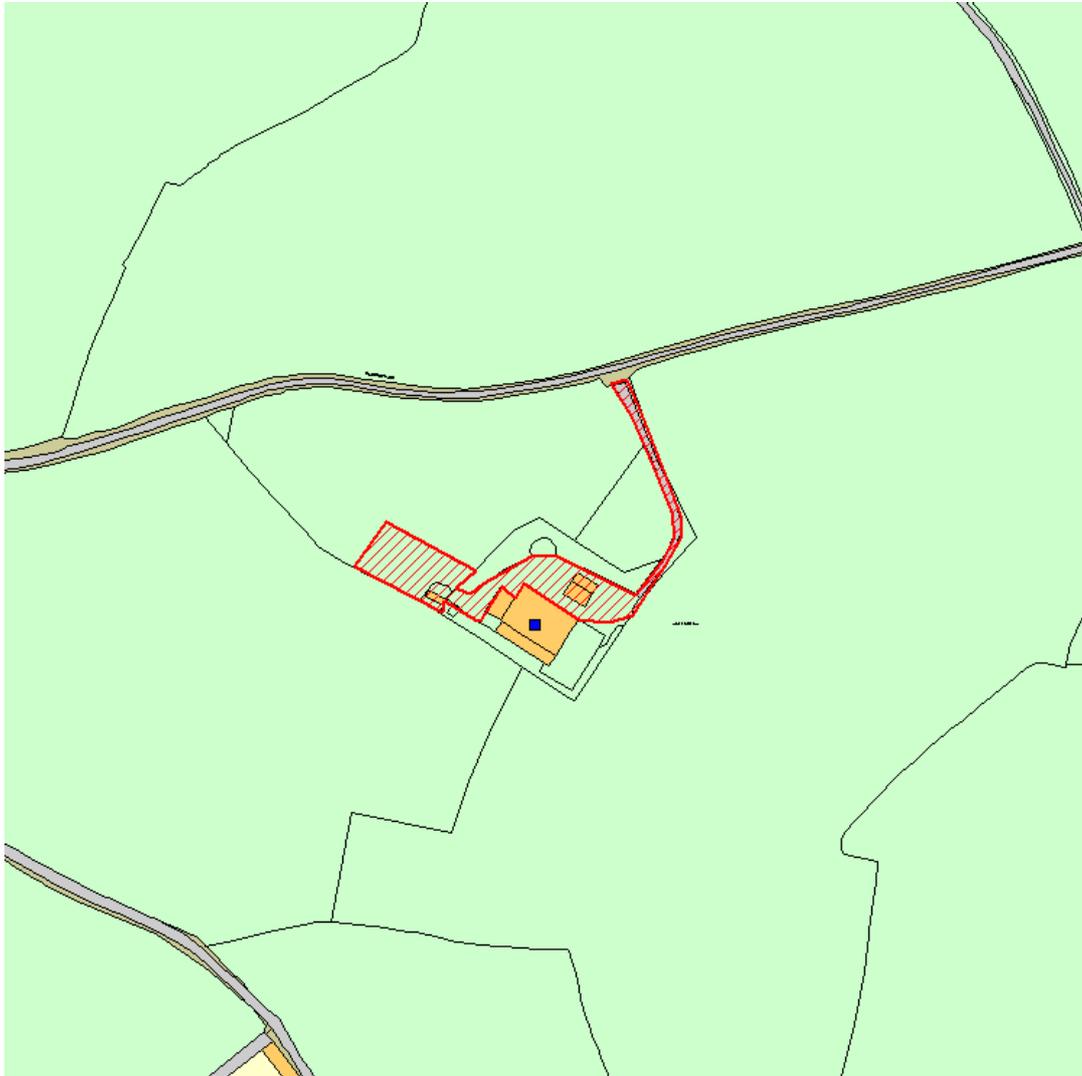
In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and consent 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: 09
Application No: 13/00471/FUL
Site Location: Ashes Hill Farm Kilkeny Lane Englishcombe Bath BA2 9DY



Ward: Bathavon West **Parish:** Englishcombe **LB Grade:** N/A

Ward Members: Councillor David John Veale

Application Type: Full Application

Proposal: Change of use of the land and construction of an all weather horse exercise arena (menage)

Constraints: Agric Land Class 1,2,3a, Forest of Avon, Greenbelt,

Applicant: Mr Andrew Scurlock

Expiry Date: 13th May 2013

Case Officer: Sasha Coombs

REPORT

REASONS FOR REFERRAL TO COMMITTEE

Englishcombe Parish Council supported this proposal and requested for this application to be referred to the Chairman:

'With reference to our telephone conversation could you please run the planning application past the chair of the development control committee as while we agree with your comments re the NPPF we are sure that this was not the government's intention when drawing up the framework.'

The application was then referred to the Chairman who decided that the application will need to be presented to the Committee because 'the application has not been objected to and has the support of the Parish Council'.

DESCRIPTION OF SITE AND APPLICATION:

This application relates to a small plot of agricultural land located in close proximity to Ashes Hill Farm house located to the south of the rural Kilkenny Lane within the Green Belt. The application site incorporates the access track to Ashes Hill Farm and an area of land amounting to 0.35ha to the north-west of the dwelling. The land is located within an existing agricultural unit which comprises approximately 150 acres.

The land is proposed to be changes to equestrian use (sui generis) and a 40m x 20m ménage surrounded by timber fencing would be created for personal use of the applicant.

RELEVANT HISTORY:

DC - 98/02949/FUL - REF - 4 November 1998 - Temporary planning permission for a residential caravan for use of a farmer on his land.

DC - 04/03687/OUT - APP - 25 August 2005 - Agricultural worker's dwelling

DC - 06/00410/RES - PERMIT - 7 August 2006 - The erection of a farmhouse following an outline planning approval 04/03687/OUT (in accordance with letter received from Agent dated 13 April 2006)

DC - 06/03213/AGRN - AGN - 5 October 2006 - Erection of a new barn

DC - 08/00704/FUL - RF - 13 May 2008 - Erection of agricultural storage barn

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS - There is no objection in-principle to this proposal.

However, due to the rural nature of the roads leading to the development, it is important that the development does not generate additional traffic to the local network. I am conscious that the applicant states that it is for private use only I therefore recommend he following conditions be attached to any consent granted:

The use hereby permitted shall ensure for the benefit of the applicant only.

Reason: In the interests of highway safety.

The proposed use shall be solely for purposes applied for which shall not include any events such as competitions, eventing, gymkhanas etc.

Reason: In the interests of highway safety.

ENGLISHCOMBE PARISH COUNCIL - At its planning meeting held on Monday 15 April Englishcombe Parish Council voted unanimously not to object to this application subject to conditions being attached. Note Cllr Scurlock was not present at this meeting. This application confirms to policies GB.1 in the local plan replaced by CP8 in the submitted draft core strategy and GB.2, ET.7, NE.1 of the local plan saved to the submitted draft core strategy and paragraphs 87 and 88 of the NPPF. As this application does not detract from the openness of the Green Belt and is not visually detrimental to the Green Belt it complies with policy CP8 of the draft core strategy and GB.2 of the local plan saved to the submitted draft core strategy. This also means that it complies with paragraphs 87 and 88 of the National Planning Policy Framework. The development also complies with ET.7 as this development does not have an adverse effect on or lead to the fragmentation of the farm. This application complies with policy NE.1 in the local plan saved to the draft submitted core strategy as it does not detract from the distinctiveness of the landscape. In order to comply with policy T.24 of the local plan saved to the submitted draft core strategy a condition should be attached to any approval that ensures that the manège is only for personal use to avoid the introduction of additional traffic on this narrow lane. Similarly to ensure that the development complies with policy D.2 a condition needs to be attached to any approval stating that the surface material needs to be non-contaminant and contained so that it does not cause significant harm to neighbouring properties and the local environment. The council also wants it clarified that it is responding to an application for a manège rather than a household as the application states that it is in fact applying for approval for a menage which is in fact a household. The parish council was also concerned that the site plan is not to scale and does not accurately reflect the location of the development.

THIRD PARTY COMMENTS - none received

POLICIES/LEGISLATION

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

D.2 - Residential Amenity Consideration

D.4 - Design Consideration

GB.1- Control of development in the Green Belt

GB.2 - Visual amenities of the Green Belt

ET.7 - Non-agricultural development on agricultural land

NE.1 - Landscape character

T.1 - Overarching access policy

T.24 - Highways safety

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 the following policies correspond with the national policy approach on the relevant matters:

CP6 - Environmental Quality

CP8 - Green Belt

NATIONAL PLANNING POLICY FRAMEWORK ADOPTED MARCH 2012
Section 9: Protecting Green Belt Land

OFFICER ASSESSMENT

The principal material planning issues in this case are:

- whether the proposal would constitute inappropriate development in the Green Belt for the purposes of the NPPF and development plan policy;
- its effect on the openness of the Green Belt and on the purposes of including land in the Green Belt;
- if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development;

Other material considerations would be the effect of the proposal on the visual and residential amenity and the impact on highways safety.

WHETHER INAPPROPRIATE DEVELOPMENT

This site and all of the surrounding land is located within the Bath/Bristol Green Belt where special controls over development exist. National planning policy in respect of Green Belts is reflected in local planning policy. Policy GB.1 of the Bath and North East Somerset Local Plan precludes development in the Green Belt, except in very special circumstances, other than in the case of certain specified exceptions.

The proposal entails change of use of agricultural land within the Green Belt. Section 9 of the NPPF, which replaced the former Planning Policy Guidance on Green Belts, has omitted the reference to 'material changes of use' as being 'not inappropriate' form of development.

Para 90 of the NPPF provides an exhaustive list of certain other forms of development which are not inappropriate in the Green Belt, providing they preserve the openness of the Green Belt and do not conflict with the purposes of including the land in the Green Belt. This list does not include any reference to material changes of use, which implies that any proposal for a change of use should be considered 'inappropriate' by default.

This is an important material consideration in determining this application because it presents an inherent conflict of the proposal with the national policy on Green Belts.

EFFECT ON OPENNESS AND WOULD IT CONFLICT WITH THE PURPOSES OF INCLUDING LAND IN GREEN BELT?

The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Policy GB.1 criterion iii) of the Local Plan allows for development which maintains the openness of the Green Belt and does not conflict with the purposes of including land in it. One of the five purposes of Green Belt designation, set out at Paragraph 80 of the NPPF, is to assist in safeguarding the countryside from encroachment.

The proposal entails some increase in level of activity on the land as a result of equestrian use and installation of timber fencing along the perimeter of the ménage. Thus, there indeed would be an increase in the volume of built development on the site. However, the land already contains a small stable block at its south-east corner and is set at the rear of a large agricultural barn. Overall it is considered that this development would not be of an order that would be significant, and it is not considered that it would involve any substantial encroachment on the countryside. The siting of the ménage is sufficiently screened and is in context to be acceptable such that there would be no conflict with the purposes of including the land in the Green Belt.

DO VERY SPECIAL CIRCUMSTANCES NECESSARY TO JUSTIFY THE DEVELOPMENT EXIST?

NPPF states that inappropriate development is by definition harmful and should not be approved, unless there are very special circumstances. The 'very special circumstances' test, which needs to be applied if it is found that there would be conflict with Green Belt policy, is embodied in para.88 of the NPPF, which broadly reflects previous guidance in PPG2. This explains that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

It is considered that the information submitted with the application does not amount to very special circumstances to outweigh the harm by reason of inappropriateness within the Green Belt.

OTHER CONSIDERATIONS

The development site is proposed on a rural plot of land, set away from any residential properties, with exception of the farmhouse to which it would belong. Therefore there are no concerns in terms of the impact of the proposal on the residential amenities of the neighbours.

With regards to a wider visual impact within the landscape, the ground levels of the site are set above Kilkenny Lane which also has a mature hedge. The site would need to be levelled after the installation of drainage and the excavated soil would be used to create a small earth banked bund around the ménage. The proposed surface is a mixture of sand and fiber base which is likely to differ from the current verdant character of the plot. Furthermore, untreated softwood posts and rail fencing would be added. However, due to mature hedges around the site, the topography and the siting grouped with the farm yard and buildings, these visual changes would be well screened and are unlikely to affect any public views.

The site is accessed via a very narrow rural lane which is not capable of accommodating any additional traffic to the local network. The applicant states that the ménage would be for private use only, and in this case highways were satisfied that it would not lead to increased pressure on the network. It was, however, recommended that if the consent is issued, conditions should be attached to ensure that it remains in private use by the occupants of the farm.

CONCLUSION

The proposals comprise a material change of use of agricultural land within the Green Belt, and, due to the recently revised national policy approach, constitute inappropriate development which is harmful by definition, unless very special circumstances exist. It is not considered that any very special circumstances exist to outweigh the harm to Green Belt by way of inappropriateness and therefore the application is unacceptable in principle.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

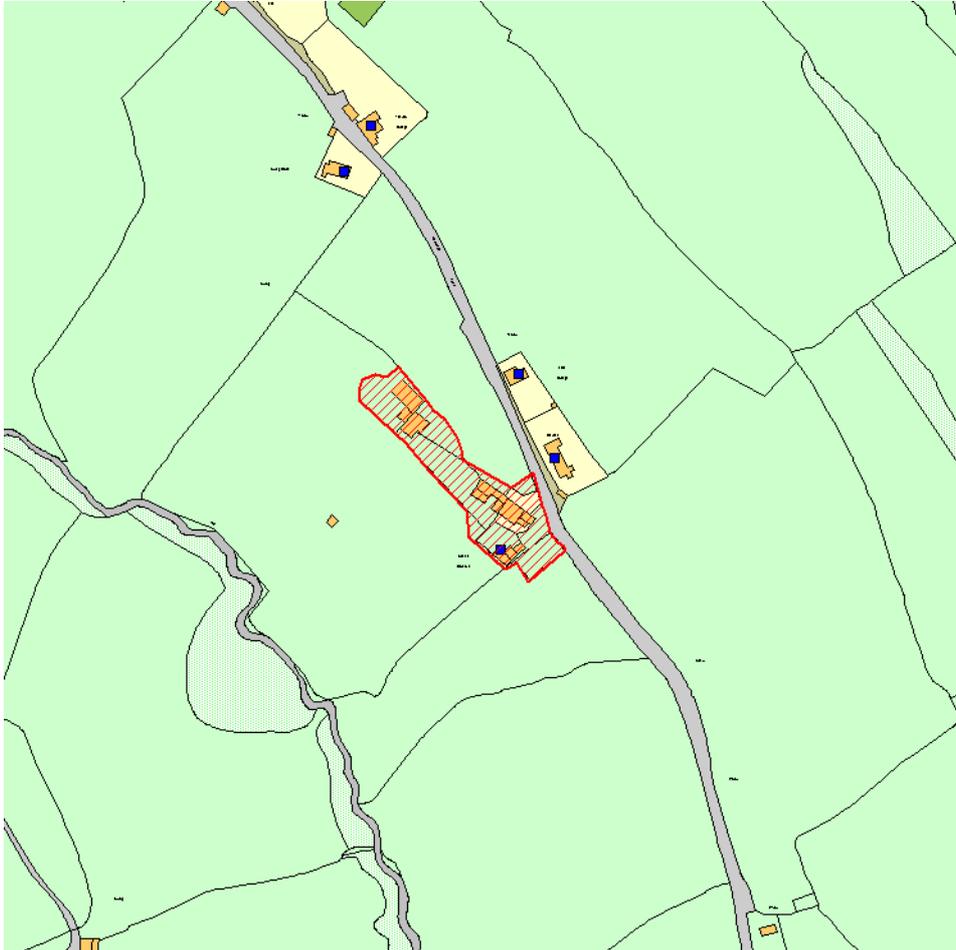
1 The proposed material change of use of agricultural land to equestrian use would comprise inappropriate development within the Green Belt. As such the development is harmful by definition and, in the absence of very special circumstances to outweigh the harm, is unacceptable in principle in line with the national guidance contained within Section 9 of the National Planning Policy Framework (March 2012) and Policy GB.1 of the Bath & North East Somerset Local Plan including minerals and waste (October 2007).

PLANS LIST:

The decision has been reached in accordance with the following plans and documents:

Statement in support of planning application and Drawings No 1403/13/02, 03, 04 received 01/02/2013 and 1403/13/05 received 18/03/2013

Item No: 10
Application No: 13/00596/FUL
Site Location: Hillside Gardens Tadwick Lane Tadwick Bath Bath And North East Somerset



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

Application Type: Full Application

Proposal: Erection of a single storey extension and covered terrace connecting to main house following demolition of dilapidated outbuildings, garages and sheds adjoining main house, remodelling of interior to main house, new windows and doors, renovation of outbuilding to create home office, removal of external hard surfacing, restoration of natural landscape and new permeable road surfacing.

Constraints: Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt,

Applicant: Mr Dan Pearson

Expiry Date: 26th April 2013

Case Officer: Alice Barnes

REPORT

REASONS FOR REPORTING THE APPLICATION TO COMMITTEE

The application is being referred to the committee at the request of Councillor Geoff Ward for the following reasons;

The application has full Parish Council and local support and I am keen to bring life and business back to my Ward's rural areas in accordance with NPPF. I consider the proposal for restoration will considerably improve the current objectionable visual appearance by removal of unsightly blockwork walls and out buildings. Both local residents and I feel there is considerable merit in what the applicants have in mind for rejuvenating this dilapidated property.

The application has been referred to the chairman of the Development Control Committee (DCC) who has agreed that the application should be considered by the (DCC) as this application is supported by the parish and local member. It is not a green belt size issue but overall style, size and design issue.

DESCRIPTION OF SITE AND APPLICATION

Tadwick is a small hamlet located to the north east of Bath. It is located within the wider Woolley Valley which includes the hamlets of Woolley, Swainswick and Langridge. Hillside Gardens is a detached property located within the Area of Outstanding Natural Beauty and Green Belt. The existing dwelling is part of a wider small holding and occupies a rural setting. It is a stand alone dwelling within the open countryside.

The application relates to the erection of a single storey side extension and covered terrace to the dwelling following the demolition of existing outbuildings. The outbuildings are primarily located on the north west side elevation but the demolition includes the existing garage on the south east side elevation. The proposed extension would extend from the side of the main house by 21m.

The application includes the conversion of an existing outbuilding to provide a home office. The outbuilding is listed as including a milking barn and therefore is considered to be an agricultural building rather than being part of the residential occupation of the site.

RELEVANT HISTORY

DC - 98/02806/FUL - PER - 21 September 1998 - Replace rear flat roof with pitched roof

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Building Control: No comment

Highways: Whilst it is possible to obtain acceptable permeable, bound materials to surface the access, the proposed crushed concrete, whilst being permeable, is not a bound material and could result in loose material being spread onto the public highway to the detriment of highway safety. Whilst a new field gate (agricultural access) does not form part of the development description, the application form states a new access is to be formed and one is shown on the submitted plans. However, no details are submitted regarding that access and, in any event, it would appear that it does not comply with the

previously stated requirements regarding gates set back, access layout, visibility splays, construction

Bearing in mind the above, the highway response is one of objection, the proposed development being contrary to Policy T24 of the adopted Bath and North East Somerset Local Plan and detrimental to the interests of highways safety.

Ecology: This proposal involves conversions and demolitions to a group of buildings that have potential to support protected species in particular bats and nesting birds. Protected species surveys and assessment by a suitably qualified ecologist (preferably also a licensed bat worker) must be completed and submitted prior to any decision to permit this proposal. The surveys must meet current best practice standards, and would require close inspection of all affected buildings together with completion of any other surveys (emergence, dawn or activity) necessary. Details of any necessary mitigation measures or other measures to avoid harm to wildlife must be incorporated into the scheme and shown on plans. There appears to be no assessment of ecological impacts and potential impacts on protected species submitted at present. I therefore object to the proposal due to insufficient information and the risk of harm to protected species if present.

Highways drainage: No comment

Swainswick Parish Council: Swainswick Parish Council broadly supports these proposals.

Landscape: No comment

Councillor Geoff Ward: It has full Parish Council and local support and I am keen to bring life and business back to my Ward's rural areas in accordance with NPPF. I consider the proposal for restoration will considerably improve the current objectionable visual appearance by removal of unsightly blockwork walls and out buildings. Both local residents and I feel there is considerable merit in what the Applicants have in mind for rejuvenating this dilapidated property.

Representations: Four representations have been received in support of the application for the following reasons;

The plans will be a major improvement to the property and can only enhance this location and area of outstanding natural beauty.

The proposed changes will create employment, benefit the landscape and the community, and ensure that this small part of our rural and farming heritage remains intact.

The applicants have made in effort to improve to maintain it as an agricultural holding and to improve it's landscape value.

The proposed extension is of a scale, design and of materials that will sit well in it's rural hillside location. The proposed office will enable working from home which will be of environmental benefit.

The proposal makes excellent use of local materials, the house and out buildings would fit in well with the landscape and would be a great improvement both to the visual impact as well as the functionality of the property.

POLICIES/LEGISLATION

D.2: General design and public realm considerations

D.4: Townscape considerations

GB.1: Control of Development in the Green Belt

GB.2: Visual Amenities of the Green Belt

HG.15: Dwelling Extensions in the Green Belt

Ne.1: Landscape character

Ne.2: Area of Outstanding Natural Beauty

Ne.10: Nationally important species and habitats

ET.9: Re-use of rural buildings

T.24: General development control and access policy

T.26: On-site parking and servicing provision

Existing Dwellings in the Green Belt, Supplementary Planning Document, adopted October 2008

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

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 following policies should be considered:

CP6 - Environmental Quality

CP8 - Green Belt

National Policy

The National Planning Policy Framework adopted March 2012

OFFICER ASSESSMENT

The application relates to the erection of a single storey side extension and covered terrace to the dwelling following the demolition of existing outbuildings. The application includes the conversion of an existing outbuilding to provide a home office. The existing dwelling occupies a hillside position within the valley. The surrounding area has an open rural character. The site is located within the Green Belt and Area of Outstanding Natural Beauty.

Design

The proposed side extension will replace a cluster of existing outbuildings and an existing side extension. The application also proposes to remove the existing side garage and front porch. The proposed extension would result in a concentration of all extensions to one side of the property. This would result in one long extension protruding from the side elevation. The width of this extension would be significantly greater than the width of the host dwelling. The host building being 9.7m in width and the extension being 21m in width.

Whilst the development will technically only increase the width of the development by 1.3m the proposal will result in the two storey dwelling appearing as the original with a

large domestic extension on the side which is 21m in width. The built form of the extension would therefore appear visually disproportionate to the host dwelling. The proposed extension would replace the existing outbuildings, which are common features within the rural landscape. The massing of the existing extensions are broken up by a variety of roof heights and the fact that buildings sit either side of the original dwelling. Likewise the varying designs of the existing extensions to buildings help to break up the overall mass and bulk of what are significant extensions. The proposed development would provide one unbroken and unremitting roof form in contrast to the more organic evolution of the building currently witnessed. The footprint of the proposed extension does not provide for any relief in terms of visually breaking up the long length of the extension in elevation form and this would further contribute to the dominant appearance of the extension. The fact that the extension would be positioned on only one side of the dwelling also acts to significantly overwhelm and unbalance the character of the host dwelling.

Policy D.4 requires development to respect and complement the host dwelling and for the reasons outlined above the proposed extension is not considered to do so. The dwelling is located on an open hillside within the Area of Outstanding Natural Beauty and would fail to preserve the surrounding landscape character it is therefore considered to also be contrary to policies NE.1 and NE.2 of the local plan and advice contained within the NPPF.

Green Belt

The application site is located within the green belt. National and local policy allows for limited extension to buildings in the green belt. The supplementary planning document existing dwelling in the green belt, states that extensions of about a third of the volume of the existing property are likely to be acceptable. The applicant has provided calculations to show that the proposed development will not result in an increase in the overall volume of the property. The proposed development will involve the loss of existing and extensions and outbuilding and their replacement with the proposed extension.

The proposed development will be sited within the open countryside. The proposed development will replace the existing outbuildings with a replacement structure of a similar size. Therefore the proposed development is not considered to harm the openness of the surrounding Green Belt.

Development in the green belt is not judged on its volume increase alone. In this case the proposed extension will concentrate all new development to one side of the property resulting in an extension which is 21m in width where the existing dwelling itself measures 9.7m in width. Policy GB.2 of the Local Plan states that permission will not be granted for development within the Green Belt which would be visually detrimental to the Green Belt by reason of its siting, design or materials used for its construction. As stated above the proposed development is considered to be harmful to the appearance of the host dwelling and therefore will harm the visual amenity of the surrounding green belt.

The NPPF states that development will only be permitted within the green belt under very special circumstances. The applicant has not put forward any special circumstances and the local authority is not aware of any such circumstances.

Ecology

The Ecology Officer has requested the submission of a protected species survey. The proposal involves conversions and demolitions to a group of buildings that have potential to support protected species in particular bats and nesting birds. Should bats be found to be present within the buildings then the applicant is required to pass the three tests set out within the Habitats directive. The possible presence of protected species represents a material consideration in determining this planning application. Policy Ne.10 of the local plan states that development that would adversely affect a species which are nationally or internationally protected will not be permitted. As the applicant has not provided a protected species survey it cannot be confirmed that the development will not harm a nationally or locally protected species.

Highways

The highways officer has objected to the application. The objection relates to the provision of a new field access which has already been established to be permitted development as the access would not lead onto a classified road. To implement the new access would be considered to be permitted development. Therefore this does not warrant refusal of the application.

Outbuilding

The application includes the conversion of an existing outbuilding to an office. The floor plans show that the outbuilding would operate as office space with a kitchen and toilet. Such rooms would be considered to be incidental to the enjoyment of the dwellinghouse. The building will be used by the applicant as an office in conjunction with the existing farm. It would not be occupied as a separate planning unit. Therefore the proposed alteration is considered to be ancillary to the main dwellinghouse.

However the building is listed as including a former milking barn and therefore is considered to be an agricultural building rather than forming part of the existing residential curtilage. Therefore the proposed change should be assessed against policy ET.9 re-use of rural buildings. This policy allows for the change of use of rural buildings. It states that the building should not require substantial reconstruction and that in the case of the Green Belt the building should not have a materially larger impact on the openness of the surrounding Green Belt.

In this case the proposed plans show that rear shed and front milking barn will be demolished. Leaving only the central section of the structure with the front and rear sections re built. Therefore the proposed outbuilding is considered to have undergone substantial reconstruction. For this reason the alterations to the proposed milking barn is not considered to comply with policy ET.9.

Policy ET.9 would generally require the building to be marketed as a business use before a residential conversion. In this case as the building would be used as an office in conjunction with the farm then this is not required. The outbuilding will not be materially larger than the existing outbuilding and therefore will not have a materially greater impact on than the present building on the openness of the Green Belt.

Conclusion

The proposed development will result in an extension which is excessively large and visually disproportionate to the host dwelling. It will fail to respect and complement the host dwelling and will cause harm to the visual amenity of the green belt and area of outstanding natural beauty. The applicant has failed to provide a protected species survey and has failed to demonstrate that the development will not cause harm to bats and nesting birds. The existing outbuilding is not capable of conversion without substantial reconstruction. The application is therefore recommended for refusal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed development by reasons of its siting, scale and design will fail to respect and complement the appearance of the host dwelling. The proposed development will detract from the natural beauty of the surrounding landscape of the surrounding Area of Outstanding Natural Beauty. It is therefore contrary to policies D.2, D.4, Ne.1 and Ne.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

2 The proposed development by reason of its siting, scale and design will result in harm to the visual amenity of the surrounding Green Belt. It is therefore contrary to policy GB.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

3 The proposal involves conversions and demolitions of a group of buildings that have potential to support protected species in particular bats and nesting birds. The applicant has not provided a protected species survey in order for the council to establish whether protected species are present on site. Inadequate information has therefore been submitted to demonstrate that the proposals would not be harmful to protected species. The application is therefore contrary to policy Ne.10 and Ne.11 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

4 The proposed outbuilding is not capable of conversion without substantial reconstruction. It is therefore contrary to policy ET.9 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

PLANS LIST:

Existing location plan 036/3011

Existing site plan 036/3002

Existing site plan/demolition plan 036/3003

Existing main house ground floor plan 036/3010

Existing main house first floor plan 036/3011

Existing main house roof plan 036/3012

Existing milking barn ground floor plan 036/3013

Existing main house north elevation 036/3050

Existing main house east and west elevations 036/3051

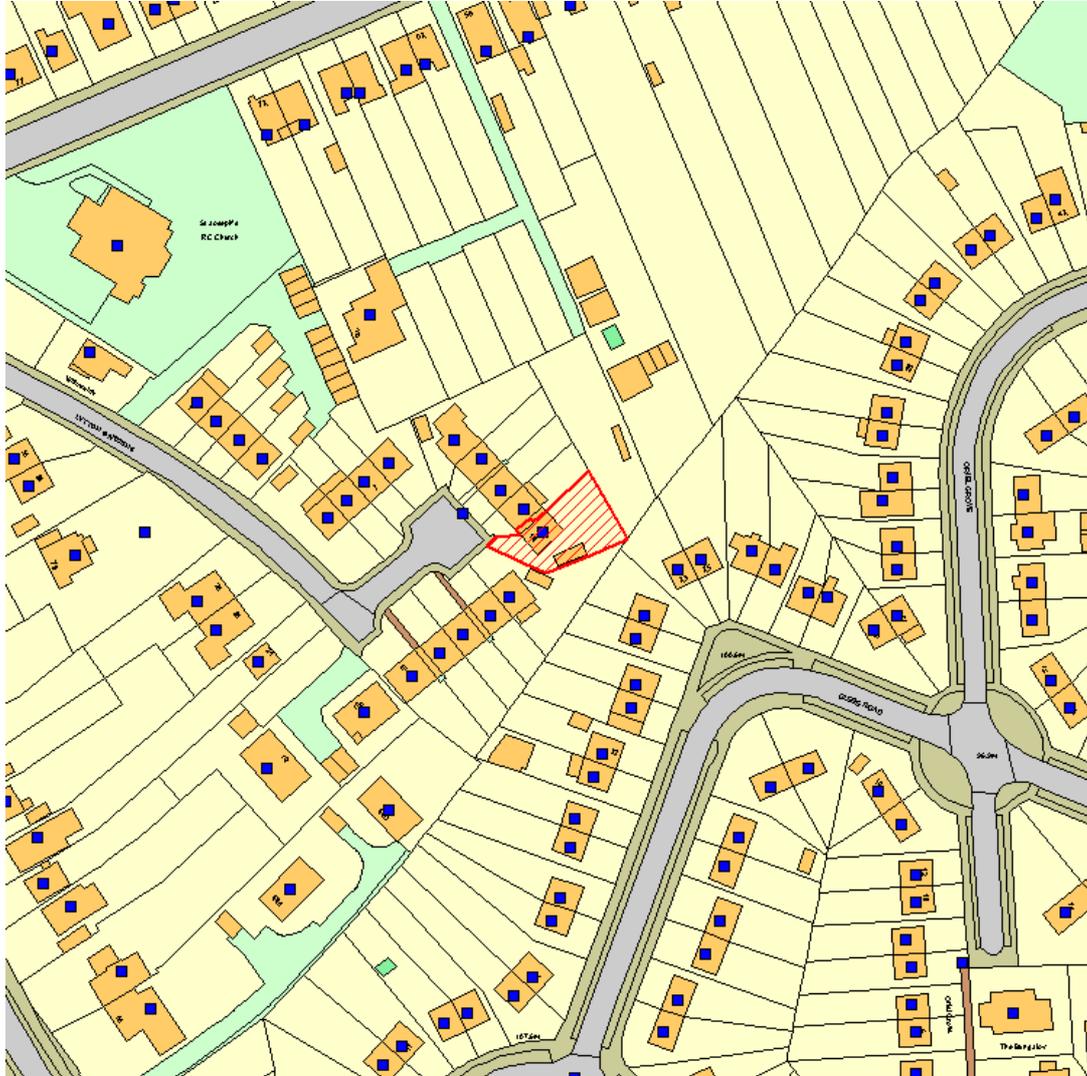
Existing main house south elevation 036/3052

Existing milking barn north-east and south-west elevations 036/3054

Existing milking barn north-west and south-east elevations 036/3055
Existing main house section D long 036/3077
Proposed location plan 036/3101
Proposed site plan 036/3102
Proposed main house ground floor plan 036/3110a
Proposed main house first floor plan 036/3111
Proposed main house roof plan 036/3112
Proposed milking barn ground floor plan 036/3113b
Proposed main house and milking barn 036/3103a
Proposed north elevation 036/3150
Proposed east and west elevation 036/3151a
Proposed south elevation 036/3152
Proposed milking barn north-east and south-west elevations 036/3154
Proposed milking barn north-west and south-east elevations 036/3155a
Proposed main house section A & B 036/3175
Proposed main house section CC and DD 036/3176
Proposed section DD 036/3177

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. 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: 11
Application No: 13/01632/FUL
Site Location: 13 Lytton Gardens Southdown Bath Bath And North East Somerset
BA2 1LW



Ward: Southdown **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor P N Crossley Councillor D M Romero
Application Type: Full Application
Proposal: Installation of rear dormer.
Constraints: Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, World Heritage Site,
Applicant: Mrs N Tew-O'Mara
Expiry Date: 25th June 2013
Case Officer: Alice Barnes

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

The application is being reported to committee at the request of Councillor Dine Romero for the following reasons;

The South of Bath has many dormers of differing sizes, many of which are very noticeable. Although this is a large dormer, it seems unlikely to add significantly to any overlooking to any neighbouring properties as the property is tucked away at the end of the cul de sac and has no properties directly behind. It is also highly doubtful that such a dormer in this part of the city will seriously damage the World Heritage setting of Bath.

The application has been referred to the Chairman of the Development Control Committee (DCC) who has agreed that the application should be considered by the DCC as this is a difficult balanced decision which has had a lot of previous negotiation between officers and the applicant.

DESCRIPTION OF SITE AND APPLICATION

This is an application for the installation of a dormer window on the rear elevation of the existing dwelling. Number 13 is an end of terrace property located outside of the Conservation Area but within the World Heritage Site.

Following negotiations the applicant has reduced the size of the proposed dormer. The proposed dormer will be covered in tiles to match the existing building with UPVC framed double glazing. The dormer would include a flat roof and would not be visible from the street scene.

RELEVANT HISTORY

There is no relevant history relating to this application

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Councillor Dine Romero;

The South of Bath has many dormers of differing sizes, many of which are very noticeable. Although this is a large dormer, it seems unlikely to add significantly to any overlooking to any neighbouring properties as the property is tucked away at the end of the cul de sac and has no properties directly behind. It is also highly doubtful that such a dormer in this part of the city will seriously damage the World Heritage setting of Bath.

Building Control: No comment

Representations: No representations have been received

POLICIES/LEGISLATION

D.2: General design and public realm considerations

D.4: Townscape considerations

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

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

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 following policies should be considered:

CP6 - Environmental Quality
B4 - The World Heritage Site and its Setting

National Policy
The National Planning Policy Framework adopted March 2012

OFFICER ASSESSMENT

The application site is located within the World Heritage Site. In October 2008 World Heritage Sites were classed as Article 1(5) land. If a property is located within article 1(5) land then planning permission is required to construct a dormer window. Therefore since October 2008 planning permission has been required for any dormer window proposed to be constructed within the city of Bath. The planning history for the site shows that no other dormers have been permitted in the surrounding terrace.

Design

The application relates to the erection of a dormer window on the rear elevation of the existing property. Lytton Gardens is located within a cul-de-sac. The surrounding streetscene is characterised by two storey dwellings with gable ends. The dwelling has been constructed from reconstituted Bath Stone with brown concrete double roman tiles.

The rear elevation is not visible from the road and there are no other dormer windows permitted within the existing terrace. The existing dwelling forms part of a terrace of 5 dwellings.

The proposed dormer window is considered to dominate the appearance of the rear roof slope and will result in a dominant and bulky appearance on the rear roof. It has been located just below the existing ridge line and 0.6m up from the eaves line. It is located 0.9m from the end of the terrace and 0.8m from the boundary of number 12. It therefore will dominate the appearance of the rear roof. Furthermore the addition of double doors within the roof are considered to be at odds with the character of the surrounding building.

No other dormer windows have been permitted within the Lytton Gardens and there are no dormer windows within this particular section of the terrace, forming an unbroken roofline. Therefore the proposed dormer window will appear as an incongruous addition to the rear of the terrace. Whilst the proposed dormer window will not be visible from the surrounding street it will be visible from surrounding dwellings and gardens.

Policy D.4 requires development to respect and complement the host dwelling and for the reasons outlined above the proposed development is not considered to do so.

Given the localised impact which the proposed development would have it is considered that the qualities which justify Bath being inscribed as a World Heritage Site would not be compromised by this development.

Amenity

The proposed dormer will primarily overlook the rear garden of number 13. Therefore it is not considered to harm the amenity of nearby residential occupiers from increased overlooking.

Conclusion

The proposed dormer window, due to its bulky appearance and siting will cause significant harm to the appearance of the existing dwelling. The proposal is therefore considered to be in conflict with policies D.2 and D.4 of the Local Plan. Refusal is therefore recommended.

RECOMMENDATION

REFUSE

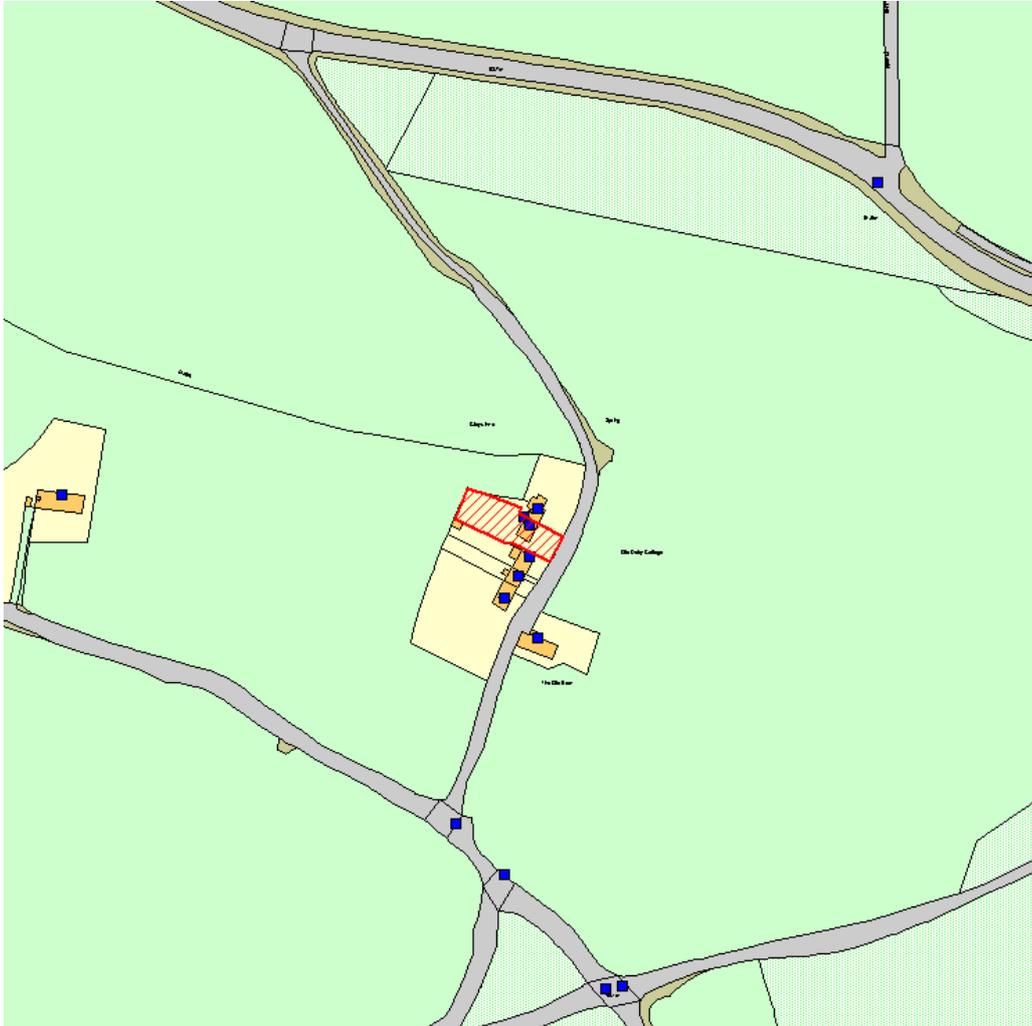
REASON(S) FOR REFUSAL

1 The proposed dormer window by reason of its siting, scale and design would result in an incongruous addition to the host building. It will fail to respect and complement the host dwelling and would damage the appearance of the terraces currently unbroken roof slope. It is therefore contrary to policies D.2 and D.4 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

PLANS LIST:

Existing elevations 001
Proposed elevations 002 rev A
Existing plans 003
Proposed plans 004 rev A
Site and block plan 005

Item No: 12
Application No: 13/01316/FUL
Site Location: Old Dairy Cottage Claysend Cottages Clays End Lane Newton St. Loe Bath And North East Somerset



Ward: Bathavon West **Parish:** Newton St. Loe **LB Grade:** N/A
Ward Members: Councillor David John Veale
Application Type: Full Application
Proposal: Erection of oak-framed outbuilding in rear garden
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt,
Applicant: Mr Harvey G Evans, ACMA, CGMA
Expiry Date: 22nd May 2013
Case Officer: Sasha Coombs

REPORT

REASONS FOR REFERRAL TO COMMITTEE

Newton St Loe Parish Council supports this application and the officers are minded to refuse.

The application has been referred to the Chairman who decided that the application will need to be presented to the Committee because 'this proposal could be seen as an improvement to the garden'.

APPLICATION

Old Dairy Cottage is a semi-detached property, part of a group of small cottages to the south of Pennyquick Lane, on the outskirts of village of Newton St Loe. The area falls within the Green Belt.

The proposal seeks to erect an oak-framed outbuilding in the north-west corner of the garden. The building would consist of two elements: a double pitched roofed building and an integrated lean-to open-sided wood store. The structure would measure 4.5m wide x 4.6m deep x 3.996m high to the roof ridge. It would be constructed of a 'green' oak frame with larch cladding under 'triple delta' clay tiles.

PLANNING HISTORY

Planning permission was granted in 1996 to subdivide the original dwelling into two cottages. Since then a two-storey extension replaced a full width conservatory at the rear of Old Dairy Cottage in 2006, and a front porch was added under permission granted in 2009.

WB 8881/B - PERMIT - 22 March 1996 - Subdivision of dwelling to 2 dwellings

DC - 06/02754/FUL - PERMIT - 25 September 2006 - Erection of a two storey rear extension

DC - 09/01423/FUL - PERMIT - 24 June 2009 - Erection of porch to front elevation and provision of doorway and first-floor window to gable end side elevation

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Newton St Loe Parish Council - support, open countryside at rear. Council is unaware of any objections from neighbours.

Third Party Representations - none received

The applicant has forwarded pre-application email correspondence between himself and the freeholder (Duchy of Cornwall) where The Duchy confirmed that 'Duchy would have no objections to you erecting this building subject to you obtaining planning and building regulation consent.'

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

GB.1- Control of development in the Green Belt

GB.2 - Visual amenities of the Green Belt

HG.14 - Replacement buildings

HG.15 - Dwelling extensions in the Green Belt

Existing dwellings in the Green Belt Supplementary Planning Document - adopted October 2008

BATH AND NORTH EAST SOMERSET SUBMISSION CORE STRATEGY (MAY 2011)

The following policies should be considered:

CP8 Green Belt

NATIONAL PLANNING POLICY FRAMEWORK ADOPTED MARCH 2012

Section 9: Protecting Green Belt Land

OFFICER ASSESSMENT

The main material planning issues in this case are:

- whether the proposed outbuilding would be inappropriate development in the Green Belt for the purposes of the NPPF and development plan policy;
- its effect on the openness of the Green Belt;
- the impact of the outbuilding on the residential and visual amenity; and
- whether any very special circumstances exist to outweigh the harm by inappropriateness.

POLICY

For the purposes of the Green Belt consideration in this application the proposed garage/storage building could be regarded as an extension to the dwelling by reason of its proximity and the functional relationship with the main dwelling.

For extensions which require planning permission, both NPPF and Local Plan policies HG.14 and HG.15 allow some additions/replacements to be made in the Green Belt providing that they do not represent disproportionate addition over and above the size of the 'original building' (the building as it was on 1st July 1948).

Policy HG.14 allows replacement of existing ancillary buildings, providing it would not be materially larger and would not have a materially greater impact on the countryside or openness of the Green Belt, than that to be replaced.

Policy HG.15 also seeks to ensure that there would be no "contribution to deterioration in rural character as a result of the cumulative effect of dwelling extensions."

Paragraph 7.4 of the SPD provides some guidance to instances when the proposed extensions/outbuildings could be considered disproportionate by reason of an increase in size. It states that the decisions should be informed by:

- 'i) the cumulative increase in volume of all extensions as a percentage of the original dwelling; and
- ii) The character of the dwelling and its surroundings'.

The general approach is that 'a volume increase of about a third of the original dwelling would be more likely to be acceptable' providing the proposal satisfies the other material considerations, for example in terms of design and effect on the openness and rural character of the area.

PREVIOUS DEVELOPMENT

Planning history of the property indicates that after the separation into two dwellings, the house has been extended at least twice:

Original volume of the original building calculates at approx. 307.6m³
(Rear Extension (06/02754/FUL) - 132m³ + Porch (09/01423/FUL) - 14.37m³)

Total increase to date - 146.37m³, i.e. 48% of the original cottage

Current Application: The proposed outbuilding - 62.03m³

Overall increase to cottage- 208.4, i.e. approx. 68% of the original cottage

DEMOLISHED OUTBUILDINGS

At the time of the site visit (17/04/2013) the rear garden of the property had been cleared and contained a low fenced playground and a small wooden shed (approx. 1.5m by 2m) placed on the rear patio area.

However, during the application process the applicant sent some further information to illustrate that until recently there were some outbuildings present in the rear garden, which have now been removed. The applicant stated that these consisted of 4 sheds, 1 summerhouse and 2 greenhouses, and provided calculations of their total floor area (21.5m²) and photos.

Whilst the officers have no reason to doubt that these buildings were present until recently, there is no verifiable evidence that they were present in 1948. In the absence of such evidence it is difficult to be certain that these outbuildings, which have now been demolished, formed part of the original dwelling.

This is an important consideration because any extensions/outbuildings that have occurred since the original dwelling was built will count against the overall increase in volume. This takes into account the principle of cumulative effect of extensions mentioned in policy HG.15. To that effect, the outbuildings shown on the photos would have still been

counted as later additions and their replacement would still have to be equated to the volume of the original house.

In view of these calculations and the requirements of the Local Plan policies GB.1 and HG.15, along with the Council's SPD, the proposed extensions would represent a disproportionate addition, over and above the size of the original dwelling and, as such, would constitute inappropriate development.

OPENESS OF THE GREEN BELT

Since these structures are no longer there, the assessment about the impact of the proposal on the openness of the Green Belt had to be made on the basis of the 'existing dwelling', which means existing immediately before the carrying out of development. The proposed outbuilding would represent a greater mass of built form on the site. The overall effect thus would be to increase the scale of development within the Green Belt in a manner that would result in material harm to its openness.

The outbuilding would be visible from the lane leading up to Pennyquick Lane and would visually add to the built up appearance of the rear gardens in this cluster of cottages, thus having an impact on the openness of the Green Belt.

VERY SPECIAL CIRCUMSTANCES

Paragraph 87 (Section 9: Protecting Green Belt Land) of NPPF makes it quite clear that inappropriate development is, by definition, harmful to the Green Belt and that such development should not be approved, except in very special circumstances. No such circumstances were put forward by the applicant.

VISUAL AND RESIDENTIAL AMENITY

In terms of design, the proposal would have an acceptable appearance in relation to the main dwelling and would not have a detrimental visual effect on the character of the plot and its surroundings. The proposal will not result in any significant harm being caused to the residential amenity of the adjacent properties or wider area, and there are therefore no concerns in this regard.

However, in view of the Green Belt designation, the design and amenity merits of such addition to the plot do not outweigh the harm by reason of inappropriateness.

CONCLUSION

Given the above, it is considered that the proposal would constitute inappropriate development within Green Belt due to the disproportional volume increase over and above the original dwelling and impact on openness therefore would have to be recommended for refusal as being contrary to Local Plan Policies GB.1, GB.2, HG.14 and HG.15.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed development by reason of the disproportionate volume increase above and beyond the original building and its effect on the openness of the Green Belt represents an inappropriate development within the Green Belt, and therefore is harmful by definition. In the absence of very special circumstances to outweigh the harm, the proposal is contrary to Policies GB.1, GB.2, HG.14 and HG.15 of the Bath and North East Somerset Local Plan, including minerals and waste policies (2007), as well as guidance contained in National Planning Policy Framework (2012).

PLANS LIST:

This decision relates to the following plans and documents:

Location and Block Plans, Proposed Elevations, Floor Plan, Floor Slab and section through received 27 March 2013; Email from applicant with plans and photos of demolished outbuildings received 05 June 2013