

Bath & North East Somerset Council		
MEETING:	Development Control Committee	AGENDA ITEM NUMBER
MEETING DATE:	4th June 2014	
RESPONSIBLE OFFICER:	Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)	
TITLE: APPLICATIONS FOR PLANNING PERMISSION – SITE VISIT		
WARDS:	ALL	
BACKGROUND PAPERS:		
AN OPEN PUBLIC ITEM		

#### **BACKGROUND PAPERS**

List of background papers relating to this report of the Group Manager, Development Management 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.

## **INDEX**

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	14/00591/FUL 4 April 2014	Mr R Mohr Land Between Access Road And Canal, Sham Castle Lane, Bathwick, Bath, Erection of 1no. detached dwelling (revised resubmission).	Bathwick	Alice Barnes	PERMIT

<b>Item No:</b>	001
<b>Application No:</b>	14/00591/FUL
<b>Site Location:</b>	Land Between Access Road And Canal Sham Castle Lane Bathwick Bath



<b>Ward:</b>	Bathwick	<b>Parish:</b>	N/A	<b>LB Grade:</b>	N/A
<b>Ward Members:</b>	Councillor Nicholas Coombes		Councillor David Martin		
<b>Application Type:</b>	Full Application				
<b>Proposal:</b>	Erection of 1no. detached dwelling (revised resubmission).				
<b>Constraints:</b>	Agric Land Class 1,2,3a, Article 4, British Waterways Minor and Householders, Conservation Area, Forest of Avon, Hotspring				

	Protection, Sites of Nature Conservation Imp (SN), World Heritage Site,
<b>Applicant:</b>	Mr R Mohr
<b>Expiry Date:</b>	4th April 2014
<b>Case Officer:</b>	Alice Barnes

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE

The application is being referred to the committee at the request of Councillor David Martin who has objected to the application for the following reasons;

- there is significant harm to the amenity of neighbouring properties due to overlooking (policy D2)
- there is an adverse impact on the character of the public realm (policy D2);
- there is an adverse impact on the conservation area (policy BH6)

The application has been referred to the chairman of the Development Control Committee who has agreed that the application should be considered by the Development Control Committee.

Following the meeting of the 7th May the committee resolved to refer the application for a site visit and the application will be considered at the meeting of the 4th June.

### Relevant History

DC - 12/00039/FUL - RF - 2 March 2012 - Erection of 2no. detached dwellings

DC - 12/03180/FUL - PERMIT - 25 September 2012 - Erection of 1no. detached dwelling (revised resubmission).

## SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Ecology: Following the receipt of further information, no objection is raised subject to the relevant conditions.

Highways: The access and parking arrangements are essentially the same as previously approved, but now includes an additional parking space on the driveway, in a parallel form to the access road, for visitor parking.

The garage does not have a full length driveway in front, on which to park a car whilst garage doors are opened, and therefore remotely operated doors should be installed, so as not to interfere with the use of the private access drive by other residents.

Highways drainage: No objection is raised but details of the proposed drainage should be required by condition.

Building control: No comment

Arboricultural officer: The proposal does not result in any additional arboricultural comments when compared with the previous application.

Canal and rivers trust: No comment

Councillor David Martin: Object;

- there will be significant harm to the amenity of neighbouring properties due to overlooking (policy D2)
- there will be an adverse impact on the character of the public realm (policy D2);
- there will be an adverse impact on the conservation area (policy BH6)

Representations: 7 representations have been received objecting to the application for the following reasons;

An outbuilding has already been constructed on site and the site does not yet benefit from permitted development rights.

The reconstructed boundary wall is lower than its previous height.

The proposed dwelling will sit closer to the boundary wall and the balcony will be visible above the boundary wall.

The levels on the proposed scheme are not correct.

The drawings are not consistent.

The living room will increase by approximately 50%.

The development is set closer to the boundary wall increasing the potential to overlook properties on the opposite side of the canal.

The balcony and dwelling will overlook the properties of on the opposite side of the canal bank.

The gable ends increase the dominance of the proposal and the revised design increases its impact and overlooking of nearby properties.

The balcony is now an attached free standing balcony. It has been brought forward closer to the boundary wall increasing its visibility from the tow path. It will result in increased overlooking of properties on the opposite side of the canal.

The increased prominence of the design will overlook properties on the other side of the canal.

The proposed development will detract from the appearance of the canal. It will harm the surrounding Conservation Area.

The development will overlook the nearby properties of Brook Cottage on the southern side of the site.

## **POLICIES/LEGISLATION**

D.2: General design and public realm considerations

D.4: Townscape considerations

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

BH.6: Development within or affecting Conservation Areas

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

NE.9: Locally important wildlife sites

NE.11: Locally important species and habitats

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 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:

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

National Policy

The National Planning Policy Framework adopted March 2012

National Planning Policy Guidedance

## **OFFICER ASSESSMENT**

### **PLANNING HISTORY**

Permission was granted in 2012 for the provision of a dwelling at the above site. This application seeks permission for a revised design of the proposed dwelling. Work has commenced on site on the permitted dwelling.

The main changes from the permitted design includes alteration to the roof form to include gable ends. The provision of a free standing rather than inset balcony and the re siting of the dwelling closer to the boundary wall.

When permission was granted for the original application the application site was derelict. The boundary wall with the canal was in a state of disrepair. The boundary wall has since been re built but to a lower height than it was originally. The applicant has stated that they will restore the height of the wall to its original state.

## **OFFICER ASSESSMENT**

The application relates to the erection of one four bedroom dwelling with associated parking. The existing site is located within a private access road. The existing site forms a triangular plot of land bordered by Sham Castle Lane to the east. It sits above the banks of the Kennet and Avon canal to the west. There were some walls within the site suggesting there has been some structure on site in the past. The historic maps show that one dwelling has occupied the site in the past, but this is prior to the construction of the four bungalows which now occupy the access road.

### **Principle**

The application site is located within the city of Bath. Therefore the principle of residential development is allowed under policy HG.4 of the local plan.

Furthermore permission already exists on site for the construction of a dwelling and work has commenced on site. This application seeks to alter the design of the permitted development. Therefore the principle of residential development has been established on site.

## Appearance

The proposed dwelling would be located on a previously unoccupied plot of land. The existing road is characterised by four single storey dwellings constructed from reconstituted bath stone. The proposed dwelling would be viewed as being a single storey dwelling from the road and will drop to a two storey building to the rear of the plot as it is a split level dwelling. The dwelling has been redesigned from the permitted development whereby the roof has been altered. The central section of the building includes a pitched roof with gable ends. The south section of the property has been reoriented to include a gable end to the front and rear of the property. It is intended to construct the dwelling from Bath Stone with Ashlar to the upper floor and rubble stone to the lower floor. The roof will be covered in natural slate.

The east side of canal path where the development is proposed was originally heavily vegetated. A substantial level of vegetation has been removed by the canal and rivers trust and development is now more easily visible from the canal path than when the previous application was considered. The retaining wall of the site is clearly visible from the canal path. The west side is more developed largely with residential dwellings. The canal path runs beneath the application site and therefore the proposed development would not be easily visible from the canal path. However the proposed development would be clearly visible to the properties on the western side of the canal bank.

The existing boundary wall has been repaired since permission was granted and the wall appears to have been reduced in height from when permission was originally granted. The applicant has agreed to reinstate the wall to its original height which would partially screen the view of the proposed house from the canal. Whilst the revised design represents some changes from the originally permitted design the proposed dwelling will largely retain the original proposed built form and it not considered to be far removed from the original permitted design. In this respect the proposed dwelling would preserve the character of the surrounding Conservation Area.

## Highways

The highways officer has not raised an objection to the application. The proposed development will result in the same parking and access arrangements as the previous application. The driveway is not of adequate length to accommodate a parked car therefore the highways officer has requested that remote operating doors should be installed.

## Ecology

Following the receipt of further information the Ecology officer has raised no objection to the application. It has been requested that a condition is attached to ensure that the development is carried out in accordance with the submitted Badger mitigation.

## Amenity

Concern was raised over the size of the proposed balcony and the rear elevation. The balcony was originally proposed to run across the full rear width of the proposed dwelling. This has been reduced in size so that the balcony will be situated on the south west corner of the rear elevation similar to the position of the previously permitted design.

Concern has been raised that the development has been brought closer to the boundary wall and therefore would result in increased overlooking of the dwellings on the opposite side of the canal bank. The previous application was a maximum of 7.6m, from the boundary and a minimum of 0.6m. On measuring the revised drawings the balcony will be approximately 5m from the boundary wall with the north west corner would be adjacent to the boundary wall. On balance the re positioning of the propose dwelling would still mean that the windows would be over 30m from the houses at Sydney Wharf. Therefore the re siting of the dwelling is not considered to warrant refusal of the application.

Concern has been raised that windows on the south elevation will overlook the nearby dwellings of Rivelin and Brook Cottage. When permission was granted for the previous application no windows were proposed on the south elevation. The windows on the lower ground floor will be located below road level and as such as not considered to overlook these properties.

The applicant has submitted a section to show that the windows on the ground floor of the south elevation facing Rivelin and Brook Cottage will be approximately 11m from the boundary with Rivelin and Brook Cottage, and at least 20m from any habitable windows. Furthermore as the proposed dwelling is at least 20m from these properties it is not considered to be overbearing to the neighbouring occupiers. Therefore this is not considered to justify refusal of the application based on harm to neighbour amenity.

#### Other Matters

When the previous application was considered there was a question over whether the existing boundary wall was listed and this has been referred to in the representations. The records show that whilst the section of wall is close to Cleveland house is listed the section at the application site is not. This is further evidenced by the fact that a section of wall between the listed part and the application site has been rebuilt using reconstituted stone.

Concern has been raised within the representations that an outbuilding has been erected on site which is not included in the plans. The applicant has included the outbuilding in the revised plans.

Concern has been raised that the levels of the proposed development are not accurate. The applicant has submitted a levels plan to show the levels of the existing site.

Following the meeting of the 7th May the committee resolved to refer the application for a site visit.

## **RECOMMENDATION**

PERMIT with condition(s)

## **CONDITIONS**

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

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

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

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

3 The garage 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.

4 The garage door shall be of a remotely operated type, details of which shall 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 amenity and highway safety.

5 The development hereby permitted shall be carried out only in accordance with the approved report entitled Survey of Badger Setts and Badger Activity by Country Contracts dated May 2012 and statement entitled Mitigation for Badgers by Country Contracts dated 7 February 2014. Including the provision of an artificial badger sett and the provision of robust fence to inhibit disturbance to badgers.

Reason: For the protection of badgers and their setts.

6 No development shall commence until details of the discharge of the surface water have been submitted to and approved 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 highway safety.

7 Prior to occupation of the permitted dwelling hereby approved, details of the height and appearance of the boundary wall on the west boundary shall be submitted to

and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

Reason: In the interests of the appearance of the surrounding Conservation Area.

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

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

**PLANS LIST:**

1 Location plan  
Roof plan 1655 2.6F  
Site plan 1655 2.7F  
Lower ground floor plan 1655 2.0F  
Upper ground floor plan 1655 2.1F  
Section A-A- 1655 2.8.1F  
Section B-B 1655 2.8.2F  
Proposed elevations 1655 2.9F

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