

BATH AND NORTH EAST SOMERSET COUNCIL

Development Control Committee

Date

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

ITEM

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
01	15/02435/MDOBL	Parcel 0006 Maynard Terrace Clutton

Consultation/Representations

Planning Policy: Support the proposal and offer the following comments;

- Applicant has provided details of abnormal site conditions
- This coupled with the low net developable area result in the current scheme being unviable
- In the interests of deliverability, it is considered that the scheme is within the 30% area, the amendment is supported.

Representations: 1 further letter received, raising the following points

- Has the viability assessment been independently tested?
- Is the range of alternatives accessible to the DCC
- Costs are not abnormal for an unsuitable site
- Viability has always be regarded as suspect
- 53% affordable housing became a material consideration in assessing benefit v harm
- Inspector should have ruled on what the minimum percentage affordable should have been
- Recent appeal at Boxbury Hill states that 35%was not enough to outweigh harm to a non-designated heritage asset
- Effectively an application for 7 houses outside the housing development boundary

Officer Assessment

To clarify the nature of this application for Members, the applicants have requested that the Council agree to vary the s106 by reducing the level of affordable housing. Therefore, Members are not being asked to determine a planning application but are instead being asked to agree to vary a contractual obligation. In view that Members are not determining a planning application, the presumption in [s 38\(6\)](#) of the Planning and Compulsory

Purchase Act 2004 (that the decision should be in accordance with the development plan unless material considerations indicate otherwise) does not apply. That is not to say that the development plan is irrelevant but simply that the statutory presumption does not apply. Instead Members need to ask themselves whether the s106 still serves a useful planning purpose.

The additional Planning Policy comments and objection are not considered to raise any further issues and are addressed in the Officer report in the main agenda.

Recommendation

Authorise the Head of Legal and Democratic Services to enter into a deed of variation to the original s106 agreement to reduce the level of affordable housing to 33%.

Item No.	Application No.	Address
2	14/05836/FUL	Land rear of Yearten House Water Street East Harptree

Summary of Consultation/Representations:

One letter of support was received and not referred to in the committee report drafted.

Local Representations:

Three further letter of comment have been received raising the following concerns/matters :

- Confirmation in respect of badger activities proving that the site is clearly active at this moment in time.
- Concerns in respect of the number of units supported by officers.
- Possibility of a Strip of land being purchased so that its retention as a wildlife corridor can be safeguarded.
- Provision of pavement outside Yearten House linking into the site.
- Views through the site
- Green Corridor and density

Officer Comments

Ecology

The comments received in respect of badger activities do not impact on the Council's Ecologists' comments who is satisfied that the suggested conditions will ensure adequate protection/mitigation works to accommodate badgers on the site.

Density

The figure of 8-10 dwellings on this site came from the proposed site allocation and background evidence included in the Placemaking Plan – policy SR6 and supporting site assessment evidence base. In terms of density this is still considered to be a low density scheme in design terms at its current development level.

The density of this development is 18.1 units per hectare.

Purchase of land

It is preferable for all corridors to form part of the landscape scheme in order that their detailing and retention can be ensured as part of a comprehensive scheme. However, any private land sales cannot be controlled by the Local Planning Authority.

Pavement Provision

The section of pavement which is missing and is adopted highway verge was never completed in the 1960s when the bungalow development was built. This section of pavement is considered necessary and it is proposed that its construction be tied in with the 106 agreement for the provision of the pedestrian footway.

Therefore, the recommendation must read:-

Delegate to permit

- A) *Authorise the Head of Legal and Democratic Services to enter into a Section 106 agreement to secure the following:-*
 - i) *The provision and maintenance of the public footpath and the provision of a pavement at the front of Yearthen House.*

Views

There are views from some adjacent properties across the site to the lake. Whilst it is appreciated that these views are important to the residents the development of this site cannot be prohibited in order to preserve these private views.

Density and green corridor.

Concerns have been raised in relation to an appeal on the land at the rear of Home Farm. This appeal was lodged following refusal of planning permission in 1995. At the time density of the development and retention of green space were considered important in relation to the site.

The 'in principle acceptance' of development on this site and the density of such development have now moved on from the position in 1995 due to changes in government and local legislation and advice.

Clarification in respect of nearby appeal decisions

Appeal on site nearby Middle Street 12/02266/FUL- 9 dwellings on 0.49 hectares-density below 30 per hectares min. as required in 2012. (DENSITY 18.3 dwellings per hectare).

Site at the rear of Home Farm 1995 WC 003468/B

Approval of three houses followed dismissal of an appeal for 5 houses. The appeal was dismissed for 5 houses as primarily they were considered to be out of character with the surrounding context. In terms of their footprint and height (8m). The density refused was 3 dwellings per hectare. The approved scheme was for 1.8 dwellings per hectare.

Officer comments- this decision was made 20 years ago. A balance has to be made between the realistic acceptable density of development in line with current housing needs as identified in the Core strategy and the emerging Neighbourhood Plan.

Amendments to conditions 3, 9, 10 and 11.

Amendment to plans:

The submitted plans incorrectly indicate that the property on plot 6 is a four bedroomed house this is incorrect. Plot 6 is a three bedroomed house of TYPE A style.

The type of houses proposed are as follows: 1 number two bedroomed house (plot 2), 6 number three bedroomed houses plots 1, 3, 4, 5, 6, and 7 and 1 four bedroomed house (plot 8).

Therefore it is not necessary in line with Council Policy for this unit to have 3 car parking spaces.

Therefore, condition number 3 is amended to read:

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

REASON -To ensure that adequate parking provision is provided and retained within the development.

9- Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows, roof lights or openings, other than those shown on the plans hereby approved, shall be formed on the dwellings shown on plots 1, 3, 4, 5, 6 and 7 at any time unless a further planning permission has been granted.

Reason: Given the proximity of the new dwellings to the existing dwellings the creation of additional windows, roof lights and/or openings could impact on the amenities of adjoining occupiers from overlooking and loss of privacy.

10 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwellings shown on plots 4, 5, 6, 7 and 8 hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Due to the AONB location of this site and the relationship of the approved dwellings to adjacent existing dwellings any further extensions require detailed consideration by the Local Planning Authority to safeguard the amenities of the surrounding property and the visual amenity of the area.

11 The proposed first floor windows in the west elevation of the proposed dwellings on plot 1 and the proposed first floor windows in the east elevation of the proposed dwellings on plot 3 shall be glazed with obscure glass prior to the first occupation of this dwelling and permanently retained as such.

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

The following ADDITIONAL CONDITIONS are necessary.

15-Prior to the commencement of development, a detailed drainage strategy must be submitted to and approved by the Local Planning Authority. The drainage strategy should include the following items:

- Agreement of points of connection and 'in principal' adoption of proposed surface water sewer with the Water Company (Wessex Water). This should be provided in writing.
- Runoff volume estimates for the 1in100 year 6 hour event for both greenfield and post development conditions. The difference in these volumes to be held in long term storage and released at a rate that is the greater of QBAR or 2l/s/ha.
- Simulations demonstrating that there will be no flooding of any part of site for the critical 1in30 rainfall event. These simulations should be submitted as an electronic Micro Drainage file (.mdx file).
- Simulations demonstrating that there will be no flooding of any building or utility plant for the 1in100+climate change rainfall event. These simulations can be submitted as an electronic Micro Drainage file (.mdx file).
- an indication of exceedance routes for any flood flows above the critical event
- a detailed design drawing of the drainage network including flow control and attenuation structures
- a drawing showing the proposed outfall structure
- details of the long-term ownership of the drainage system together with any long-term maintenance requirements.

This strategy must indicate who will be responsible for the on-going maintenance of the permeable paving for the main access road. A maintenance regime for the permeable paving and any other important flow control (Hydrobrake chamber) or attenuation structures should be provided.

Reason: The information does not provide adequate details in relation to the above matters and therefore these will require full consideration prior to the development commencing to ensure there will not be any drainage problems within the locality as a result of this proposal.

16- Prior to the commencement of development, details of a Scheme to mitigate and compensate for impacts on badgers and on the badger sett at the site, and to prevent harm to badgers during works, shall be submitted to and approved in writing by the Local Planning Authority. This shall include:

- i. findings of the most recent update survey and assessment, carried out during the active season
- ii. provision of all necessary mitigation measures, to include, as applicable, mapped habitat areas, orchard planting and badger runs; provision of an artificial sett, if applicable; all measures to be in accordance with the recommendations of the approved ecological reports and findings of further survey.

iii. All measures to be incorporated into the scheme and shown on all relevant plans and drawings including the layout plan and landscape design
iv. Full method statement and proposed timing of works for sett closure as applicable and copy of licence application as applicable;
v. full details of all necessary measures, exclusion zones and protective fencing as applicable to prevent harm to badgers during site clearance and construction
vi. proposed long term management objectives, prescriptions and provision for all retained / new mitigation features
The development shall be carried out in accordance with the approved Scheme or any amendment to the Scheme as approved in writing by the Local Planning Authority.

17-No new lighting shall be installed without full details to demonstrate that these corridors shall not be lit, and full details of proposed lighting design being first submitted and approved in writing by the LPA; details to include:
i. a plan showing mapped proposed dark corridors, and mapped details to demonstrate predicted light levels of 0 lux within the dark corridors and 1 lux adjacent to the dark corridors
ii. lamp specifications, positions, numbers and heights;
iii. details of all measures that shall be used to limit use of lights when not required and to prevent light spill onto dark corridors, vegetation and adjacent land

Reason: to avoid harm to bats and other wildlife

18-No development shall take place until full details of a Wildlife Protection, Management and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall include:
(i) Final reptile mitigation strategy
(ii) Full details of protection of retained habitats to include specifications and scale plans showing fenced exclusion zones
(iii) Full details of all other wildlife mitigation and enhancement measures, with specifications, numbers and positions to be shown on plans and drawings as applicable for example on details of soft landscape design
All works within the scheme shall be carried out in accordance with the approved details, unless otherwise approved in writing by the local planning authority. The works shall be carried out prior to the occupation of any part of the development.

Reason: to avoid harm to wildlife and to mitigation for impacts on wildlife

19-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, to include mapped areas of, orchard planting, and habitat creation with exclusively native species planting, incorporating necessary mitigation for reptiles and badger, and details of long term conservation management prescriptions; 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 and wildlife mitigation to the development.

Additional Informative:

Bath and North East Somerset Council will not adopt any drainage features.

Other Matters

CIL payment requirement.

The officers report states:

Due to the scale of the proposed development, is the scheme is for less than 10 houses and the scale of the development i.e. less than 1000 square metres therefore, no CIL payment is required.

However, this is in error the suggested threshold was for developments of ten-units or less (and which have a maximum combined gross floor space of no more than 1,000 square metres). However this 1,000 square metres threshold relates to tariff style contributions which were previously required to be paid and were the subject of 106 agreements.

Since the introduction of CIL in April 2015 a development of this nature would be CIL liable.

Clarification of levels across the site.

The submitted plans indicate levels across the site as existing and the ffl of the proposed dwellings. Sections through the site indicate that in principle the units will be sit 'down' in the site.

The land rises by approximately two metres from North East to South West. The highest part of the site is the South Western corner. The ffl of the units are shown on the layout plan.

Plot 8 – the land here is shown to be 122.50 m AOD (above sea level) with the slab level of the property being set down at 121.4m. Therefore the plans indicate that the slab level of the property will be one metre lower than the ground level. Sections through the site indicate how the new units relate to the adjacent properties and the existing site levels. The ridgeline height of the unit on plot Plot 8 is 1.75m higher than Malabar House.

Item No.	Application No.	Address
4	15/01226/FUL	153 Newbridge Hill Newbridge Bath

Following the submission of the report the following update is made

A further reason for refusal is added to the report stating that;

The applicant has not provided any significant justification to identify that there is a need to provide additional off-street car parking in this location and there are no details relating to how the parking spaces are currently used. The proposed development is therefore contrary to policy T.20 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted October 2007.

Item No.	Application No.	Address
7	15/01873/LBA	10 Grove Street Bathwick Bath BA2 6PJ

The policy section of the report is updated to remove reference to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act as follows:

The primary consideration is the duty placed on the Council under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant listed building consent for any works...to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.' There is also a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area.

Section 12 'Conserving and enhancing the historic environment' of the National Planning Policy Framework sets out the Government's high-level policies concerning heritage and sustainable development. (The Historic Environment Planning Practice Guide published jointly by CLG, DCMS, and English Heritage provides more detailed advice with regard to alterations to listed buildings, development in conservation areas and world heritage sites.) The National Planning Policy Framework can be awarded significant weight.

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Council's Development Plan now comprises:

- Core Strategy
- Saved Policies in the B&NES Local Plan (2007)
- Joint Waste Core Strategy

The following policies of the Core Strategy are relevant to the determination of this application:

CP6 - Environmental quality

B4 - The World Heritage Site (where applicable)

The following saved policies of the Bath and North East Local Plan, including minerals and waste policies, adopted October 2007 are also relevant to the determination of this application.

BH.2 - Listed buildings and their settings

BH.6 - Development within or affecting conservation areas