

Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING
DATE: **6th April 2022**

AGENDA
ITEM
NUMBER

--

RESPONSIBLE OFFICER: Simon de Beer – Head of Planning

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 Head of Planning 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.

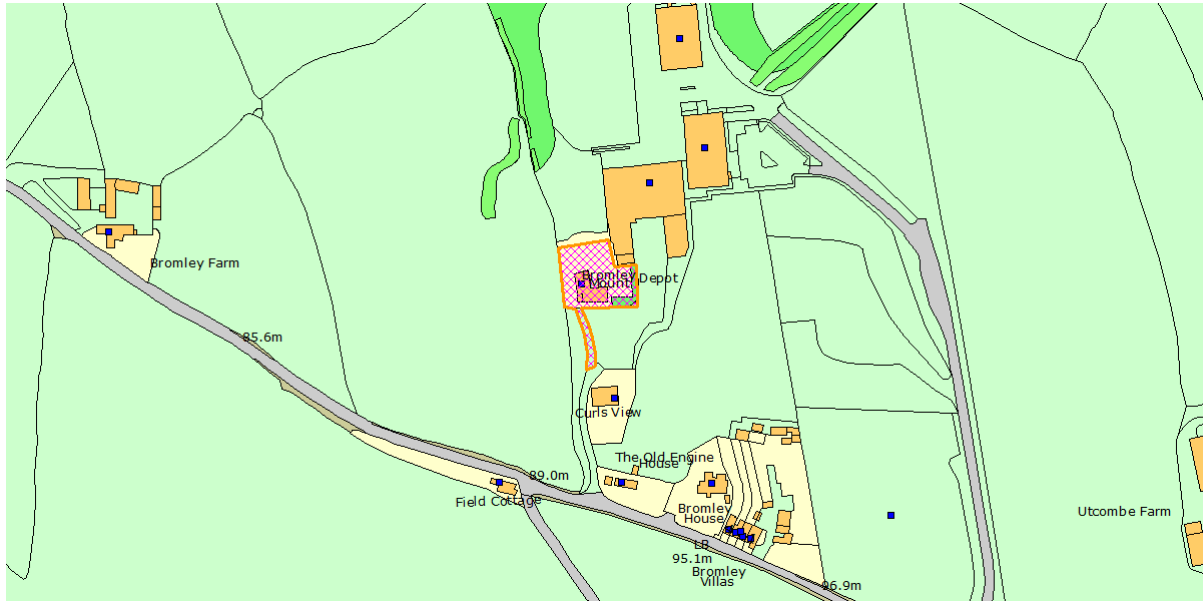
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting 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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02	22/00380/FUL 11 April 2022	Mr T Davies King Edwards School, North Road, Bathwick, Bath, Bath And North East Somerset Replacement of the building's east facade with new curtain walling.	Bathwick	Isabel Daone	PERMIT
03	22/00294/FUL 11 April 2022	Dr Peter Roberts Durley Grange, Durley Lane, Keynsham, Bristol, Bath And North East Somerset Erection of a new outbuilding to an existing dwelling, incorporating an existing garage with new garden room and garden equipment storage space (Resubmission).	Keynsham North	Isabel Daone	REFUSE
04	22/00598/TCA 23 March 2022	Mrs Hodge Audley House, Park Gardens, Lower Weston, Bath, Bath And North East Somerset Cypress - Remove Cherry - Remove Cedar x2 - Remove broken limbs	Weston	Jane Brewer	NO OBJECTION

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 21/05683/FUL
Site Location: Bromley Mount Bromley Road Stanton Drew Bristol Bath And North East Somerset



Ward: Chew Valley **Parish:** Stanton Drew **LB Grade:** N/A
Ward Members: Councillor Vic Pritchard Councillor Karen Warrington
Application Type: Full Application
Proposal: Erection of 1 no. 4bed dwellinghouse
Constraints: Bristol Airport Safeguarding, Agricultural Land Classification, Coal - Standing Advice Area, Coal - Referral Area, Contaminated Land, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Policy M1 Minerals Safeguarding Area, Policy PCS6 Unstable Land-Coal Mining Le, All Public Rights of Way Records, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,
Applicant: Mr Kelston Stark
Expiry Date: 8th April 2022
Case Officer: Christopher Masters
To view the case click on the link [here](#).

REPORT

The application relates to a two storey dwellinghouse set within generous gardens lying to the north of the A368 and 1 mile to the southeast of village of Stanton Drew. The site is located adjacent to the site of Kelston Sparkes Group Ltd who specialise in earthworks, earth moving, crushing, screening, quarrying and training. The site is otherwise situated in a rural setting over washed by the Bristol/Bath Green Belt.

Planning permission is sought for the erection of a four bed dwellinghouse to replace the former dwelling on the site.

Relevant Planning History:

20/01297/FUL - WITHDRAWN - 1 June 2020 - Erection of replacement dwelling.

20/02699/FUL - PERMIT - 26 February 2021 - Erection of replacement dwelling (Resubmission).

21/02487/COND - DISCHARGED - 22 October 2021 - Discharge of conditions 2, 3, 8 and 11 of application 20/02699/FUL (Erection of replacement dwelling (Resubmission)).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses:

Stanton Drew Parish Council - Support. With reference to Neighbourhood Plan policy EL5, and also BANES core strategy D8, the Parish Council recommend that the external lighting (especially around the entrance and garage area) and also on the side facing Field Cottage, should be motion sensitive, to be angled downwards, and also of an appropriate brightness

Councillor Vic Pritchard - There is no definition of materially larger on the NPPF or law. Extending the dwelling at the time of replacement and using the 1/3rd allowance is not only practical, but provides significant environmental benefits in not having to totally complete a dwelling and then re-commence construction several months later. To avoid further future extension, permitted development rights of the approved dwelling can be removed, thus preventing further extension in order to safeguard the openness of the Green Belt. The reason for removing Permitted Development Rights can be justified on any planning approval with a reference that the 1/3rd extension allowance was already included at the time the replacement dwelling was approved. In summary, preventing extension at the time of replacement is illogical, harmful to the environment and I do not believe it would stand up to scrutiny on appeal.

The following responses were received in relation to application 20/02699/FUL which was permitted in 2021.

Arboriculture - No arboricultural objection to the loss of the existing trees on site subject to replacement planting.

Contaminated Land - The application has not included any contamination risk assessment reports, although it is noted that a mining risk assessment report has been submitted. Due to the sensitive nature of the development (i.e. residential dwelling) and the potentially contaminative historical use of the site as a colliery, conditions should be applied to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Coal Authority - The Coal Authority acknowledges that the proposed replacement dwelling would be located clear of the shaft and the 'no-build' zone defined by the applicant's technical consultant. Whilst the submitted report does not confirm that the existing shaft cap meets current industry standards, we note that the use of the land within which the shaft is located will remain as domestic curtilage, albeit to the replacement dwelling. As such, based on the submitted information, the Coal Authority wishes to raise no objection to this planning application.

Drainage and Flooding - No objection or comment.

Ecology - The submitted information confirms compliance with UK law. Conditions for full details of a Bat Mitigation and Compensation Scheme, and compliance report, and details of sensitive external lighting scheme have been recommended.

Highways - There is not expected to be any measurable impact on the volume of trips on the local highway as a result of this development. The proposed car parking and cycle parking are adequate to meet the local plan standards. Highways and Transport do not recommend any objection is raised.

Landscape - No landscape objection to the proposed development subject to conditions being included in the notification of decision for any future planning approval.

Public Rights of Way - No comment.

Representations Received :

None received

POLICIES/LEGISLATION

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 Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
 - Policy GDS.1 Site allocations and development requirements (policy framework)
 - Policy GDS.1/K2: South West Keynsham (site)
 - Policy GDS.1/NR2: Radstock Railway Land (site)
 - Policy GDS.1/V3: Paulton Printing Factory (site)
 - Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)
- o Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP2: Sustainable Construction
CP6: Environmental Quality
CP8: Green Belt
DW1: District Wide Spatial Strategy
SD1: Presumption in favour of sustainable development

Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles
D2: Local character and distinctiveness
D.3: Urban fabric
D.5: Building design
D.6: Amenity
GB1: Visual amenities of the Green Belt
HE1: Historic environment
NE2: Conserving and Enhancing the landscape and landscape character
NE3: Sites, species and habitats
NE5: Ecological networks
NE6: Trees and woodland conservation
ST7: Transport requirements for managing development
H7: Housing accessibility
SCR5: Water efficiency
SU1: Sustainable drainage policy
LCR9: Increasing the provision of local food growing
PC55: Contamination
ST2A: Recreational Routes

The National Planning Policy Framework (NPPF) was published in July 2021 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

The main issues to consider are:

- Principle of development in the Green Belt
- Character and appearance including landscape impact
- Residential amenity
- Highways and parking
- Ecology
- Sustainable construction
- Coal mining legacy
- Contaminated land

- Any other matters

Background Context.

Permission is sought for a replacement dwelling within the Bristol Bath Greenbelt. Prior to this application, the applicant sought permission under application 20/01297/FUL for a replacement dwelling approximately 30% larger than the building to be replaced. The case officer notified the applicant that such an increase was considered to be materially larger and the proposal therefore constituted inappropriate development in the green belt. The application was subsequently withdrawn.

A second application ref. 20/02699/FUL was subsequently submitted, again for a replacement dwelling which was approximately 30% larger than the building to be replaced. Officers reiterated that such an increase constituted inappropriate development in the green belt and could not be supported. Rather than encourage another withdrawal or refuse the scheme, a pragmatic approach was taken and the scheme amended such that the dwelling as proposed was reduced in size such that it was not materially larger. The scheme was subsequently permitted and works are now well underway but are not yet completed.

The applicant has now submitted a further application which again seeks permission for a replacement dwelling which is approximately 30% larger than the original building (now demolished) and the dwelling permitted under application 20/02699/FUL.

Principle of Development:

The site is located outside of a defined Housing Development Boundary and within the Bristol Bath Green Belt. Whether the development is acceptable in principle therefore relies upon whether it constitutes an appropriate form of development within the green belt.

Green Belt:

The primary issue to consider is whether the proposal represents inappropriate development in the Green Belt.

Paragraph 149 of the National Planning Policy Framework states that 'A local planning authority should regard the construction of new buildings as inappropriate in the Green

Belt'. One of the exceptions for a new building in the Green Belt is 'the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces'.

What constitutes a materially larger building is not quantified in the NPPF but is considered to be assessed on the basis of spatial and visual impact.

The proposed dwelling measures 1,947m³ an increase of approximately 477m³ or 32.4% over the volume of the replacement dwelling previously permitted under application 20/02699/FUL which is now under construction.

Notably, the volume of the dwelling as permitted under application 20/02699/FUL was calculated to be approximately 1470m³ which was broadly similar to the volume of the original dwelling representing a difference of less than 5%.

It is therefore held that the replacement building now proposed would be materially larger than the one it replaces and therefore constitutes inappropriate development in the green belt.

Paragraphs 147 and 148 of the NPPF set out that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

In this instance the applicant argues that there will be an environmental benefit of allowing the larger dwelling as it will enable them to build a larger dwelling up front rather than having to extend it at a later date. It is noted that once the dwelling is completed it would benefit from both permitted development rights and the ability to apply for planning permission. Any such scheme would need to be assessed against the relevant policies.

It is argued that in permitting the materially larger building it will save them from additional cost when building in multiple stages and also the significant negative impact two separate build processes will have on the environment.

Cllr. Pritchard has written in support of the scheme and acknowledged that if the Council were to permit a materially larger dwelling, it would be necessary to remove permitted development rights for the property in order to prevent any further increase so that the openness of the green belt is maintained.

Whilst there may be some environmental benefit in undertaking all of the works desired by the applicant upfront, such benefits are slight and are not considered to clearly outweigh the substantial weight which must be given to the harm which shall be caused to the openness of the green belt.

According, the proposal constitutes a materially larger replacement building which is by definition harmful to the green belt. The benefits of allowing a materially larger building are

not considered to outweigh the harm that would be caused and therefore very special circumstances are not considered to exist.

The development as proposed is therefore contrary to policy CP8 of the adopted Core Strategy, policy GB1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 13 of the NPPF. The development is subsequently unacceptable in principle.

Whilst the development is unacceptable in principle, the scheme is in many respects similar to the previously permitted scheme. Many of the matters set out below have been established to be acceptable under application 20/02699/FUL.

Character, appearance and landscape impact:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host dwelling and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

Policy NE2 also infers that in order to be permitted, development needs to conserve or enhance local landscape character, local distinctiveness and important views and that development should seek to avoid or adequately mitigate any adverse impact on landscape.

Planning permission is being sought for the demolition of an existing dwelling and its replacement with a larger self build two storey four bedroom detached house with attached double garage and workshop and associated access, vehicular parking and landscaping.

The original dwelling on the site lacked any distinct architectural merit. It was a product of its time, being constructed in a functional and rudimentary fashion from a range of materials likely available at the time, with the lower parts of the building being constructed in local natural stone with red brick detailing and likely remnants of one of the former colliery buildings. The upper parts were constructed part in timber framed and timber clad construction and part in rendered masonry. It has now been demolished and construction begun on the replacement dwelling permitted under application 20/02699/FUL.

The site lies in a rural location with a number of neighbouring residential properties to the south and commercial premises with large industrial scale buildings to the north east.

Buildings in the locality are in the main two storey and of natural stone, render and timber clad construction, under pitched tiled roofs.

It is noted that the replacement dwelling will be two stories in height with a pitched roof over. It is traditional in form and uses materials similar to those found in the locality, whilst including some contemporary elements such as areas of glazing to give the dwelling a visually appealing character.

The replacement dwelling utilises the topography of the site to partially obscure the massing of the dwelling. This results in reducing impacts on the landscape especially when viewed from the north. The proposed two storey garage and gym is set down in height and sited such that its visual impact is minimised, being largely surrounded by the built form of the main dwelling and adjacent structures which form part of the Kelston Sparkes site.

The proposed dwelling responds well to its context by virtue of its traditional form. A schedule of proposed materials was secured by condition on application 20/02699/FUL. The partially erected dwelling has also been viewed on site and the materials used are considered to be acceptable and appropriate in their appearance.

In addition to the proposed garage / gym, the scheme also seeks amendments to the materials from part rendered and part natural stone elevations to all natural stone elevations as well as minor amendments to window positions and sizes. These amendments are considered to be acceptable.

The removal of on site trees was considered under application 20/02699/FUL. It was noted that while the trees were of poor quality they did form a clearly visible landscape feature which forms part of the landscape setting of the existing building and added to the visual amenity of the Green Belt

It was considered that the quantum of proposed tree planting shown on the submitted proposed site plan would provide adequate compensation for the loss of the previous trees. A condition was also attached requiring the submission of full details of the proposed hard and soft landscaping, to ensure that adequate mitigation for the landscape impact of the proposal and the provision of appropriate hard and soft landscaping was secured in accordance with Policy NE2 of the Bath and North East Somerset Council Local Plan.

The proposal by reason of its design, siting, scale, massing, layout and materials is considered acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

Residential Amenity:

Policy D.6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

Highways Safety and Parking:

Policy ST7 states that development will only be permitted provided, amongst other things, the development avoids an increase in on street parking in the vicinity of the site which would detract from highway safety and/ or residential amenity.

The Highways Development Control Team has been consulted on this application and raised no objection. It is noted that the dwelling will utilise the existing access and that there is not expected to be any measurable impact on the volume of trips on the local highway as a result of this development. The proposed car parking and cycle parking are adequate to meet the local plan standards.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 4 of the NPPF.

Ecology:

The original building which has now been demolished contained a number of bat roosts. An acceptable ecological enhancement scheme was provided by condition under application 21/02487/COND. The details previously submitted under 21/02487/COND do not appear to be included with this submission but could be secured by condition.

Contaminated land and coal mining legacy:

Conditions were previously attached given the sites' previous contaminative use as a colliery. Additional details were secured by condition and found to be acceptable. As such, the development is considered acceptable in this respect.

The Coal Authority previously acknowledged that the proposed replacement dwelling would be located clear of the shaft and the 'no-build' zone defined by the applicant's technical consultant. Whilst the submitted report does not confirm that the existing shaft cap meets current industry standards, it is noted that the use of the land within which the shaft is located will remain as domestic curtilage, albeit to the replacement dwelling. As such, the development is considered acceptable in this respect.

Sustainability:

A sustainable construction checklist and sustainability assessment has been submitted with the application. Environmental sustainability and climate change is a priority for Bath & North East Somerset Council. Our Environmental Sustainability and Climate Change Strategy set a CO2 reduction target for the area of 45% by 2029. Development plays an important role in meeting this target, by minimising the emissions that cause climate change and future-proofing to cope with the climatic changes that will take place within the buildings' lifetime. In order to assess the sustainability of new development from November 2018 all new build proposals that require Building Regulations Part L certification need to complete a sustainable construction checklist.

Track 2 of the sustainability construction checklist for minor new build residential developments has been completed (Minor development: 1-4 dwellings or up to 499m2 floor space). Under this track the percentage CO2 reduction from all measures should be

at least 19%. From viewing the submitted documents the proposed dwelling is intended provide a CO2 reduction percentage of 27% which meets the requirements as set out within the checklist.

Policy SCR5 states that all dwellings will be expected to meet the national optional buildings regulations requirements for water efficiency of 110L per person per day. The policy also states that rainwater harvesting or other methods of capturing rainwater for the use by residents will be required for all residential development. This can be secured by compliance condition.

Policy LCR9 states that all residential development will be expected to incorporate opportunities for local food growing (e.g border planting, window boxes, vertical planting, raised beds etc.). In this instance the site holds enough space which could allow for local food growing meeting the requirements of policy LCR9 of the Bath Placemaking Plan.

In order to ensure the details provided can be achieved conditions would be applicable to any permission given. Based on the above the application complies with Policy CP2 of the Bath Core Strategy and policy SCR5 of the Placemaking Plan.

Public Right of Way:

Policy ST2A seeks to ensure that any publicly accessible routes are not adversely affected by development proposals.

There is a Public Right Of Way (PROW) that runs inside the western site boundary.

This is shown on the application drawings (Site Plan) and it is understood the proposal does not seek to amend the route.

It is noted that concerns were previously raised given the PROW is currently unmarked, and that the proposal may adversely affect its recreational and amenity value by discouraging access through what appears to be private property.

Given the PROW will be retained and separated from the dwelling's outdoor amenity space by a hedge, it is considered that the proposal will not have an adverse impact on the recreational and amenity value of, or access to the PROW. The proposal therefore accords with policy ST2A of the Placemaking Plan for Bath and North East Somerset (2017) and Part 8 of the NPPF (2019).

Conclusion:

In this instance the scheme cannot be supported as it would result in the creation of a replacement dwelling that is materially larger than the one it replaces, contrary to Policy CP8 of the Bath and North East Somerset Placemaking Plan and Part 13 of the NPPF. The proposal is therefore unacceptable in principle and recommended for refusal. The purported PD fall-back position is afforded limited weight because it has not been substantiated (i.e. a realistic alternative scheme with no greater impact on the Green Belt has not been presented).

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed dwelling occupies a Green Belt location and would be materially larger than the one which it replaces. It is therefore, by definition, inappropriate development which is harmful to the Green Belt. The purported Very Special Circumstances put forward are not considered to outweigh this harm and, therefore, the proposed development is contrary to Policy CP8 of the Bath and North East Somerset Council Core Strategy (2014), Policy GB1 of the Bath and North East Somerset Council Placemaking Plan (2017) and Part 13 of the National Planning Policy Framework (2021).

PLANS LIST:

1 This decision relates to the following plans:

All received 23rd December 2021

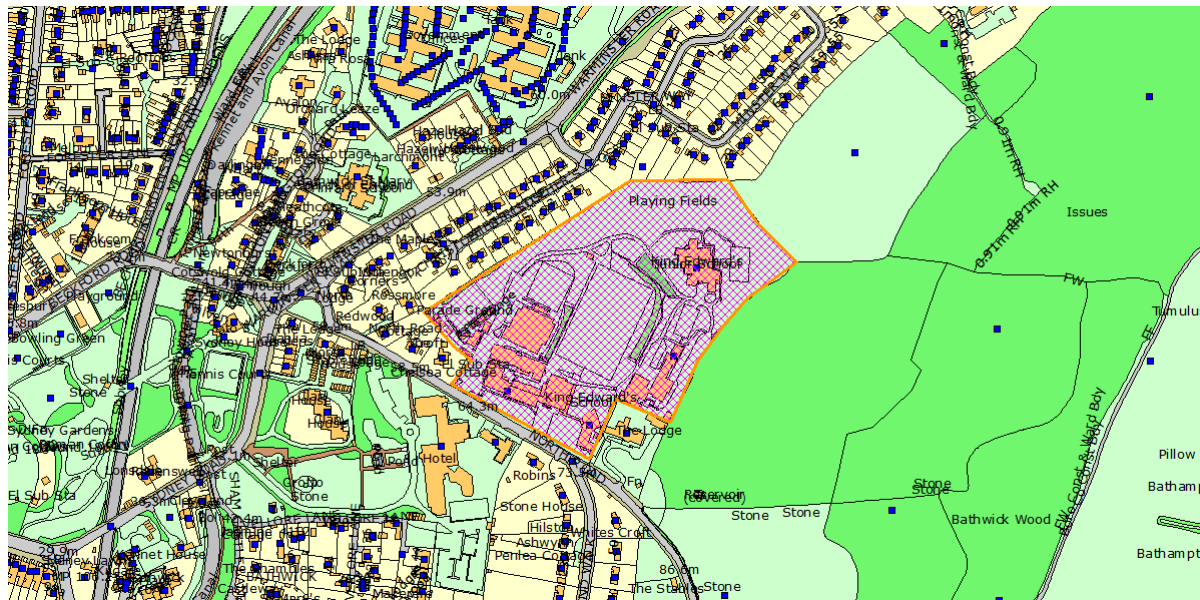
100D EXTANT SITE PLAN
101B EXTANT GROUND FLOOR PLAN
102B EXTANT FIRST FLOOR PLAN
103D EXTANT ELEVATIONS AND SECTION
KS-01 EXISTING FLOOR PLANS
KS-02 EXISTING ELEVATIONS
S6076 2001A PROPOSED SITE BLOCK PLAN AND LOCATION PLAN
S6076 2002A PROPOSED GOUND FLOOR PLAN
S6076 2003A PROPOSED FIRST FLOOR PLAN
S6076 2004A ELEVATIONS AND ROOF PLAN
S6076 2005A PROPOSED SECTIONS
S6076/002A TOPOGRAPHICAL SURVEY

2 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

3 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 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 chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No: 02
Application No: 22/00380/FUL
Site Location: King Edwards School North Road Bathwick Bath Bath And North East Somerset



Ward: Bathwick **Parish:** N/A **LB Grade:** II
Ward Members: Councillor Dr Kumar Councillor Manda Rigby

Application Type: Full Application

Proposal: Replacement of the building's east facade with new curtain walling.

Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, Policy LCR5 Safeguarded existg sport & R, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,

Applicant: Mr T Davies

Expiry Date: 11th April 2022

Case Officer: Isabel Daone

To view the case click on the link [here](#).

REPORT

The application refers to King Edward's School which is a co-education school providing an education for children aged 3 to 18. The site is within the Conservation Area and World Heritage Site. The main school building is Grade II Listed, however Q block (to which this application relates) is not listed.

Planning permission is sought for the replacement of the building's east facade with new curtain walling.

This application has come before the planning committee in accordance with the scheme of delegation because the applicant is Councillor Tom Davies, of Walcot Ward.

Relevant Planning History:

96/00105/FUL

APP - 8 August 1996

Erection of a canopy to provide covered locker area to rear of main block

98/00428/FUL

PERMIT - 22 July 1998

Erection of gabions to reinforce existing retaining wall at Holbeche Centre

99/00478/FUL

PERMIT - 16 July 1999

Erection of pergola and creation of amphitheatre/play area

99/00521/FUL

PERMIT - 16 July 1999

Erection of an extension to existing chair store for the theatre

99/02486/FUL

PER - 9 September 1999

Extension of existing car parking area as amended by letters and plans received on 30th June 1999 and 2nd July 1999.

01/00255/FUL - PERMIT - 27 March 2001 - Erection of a extensions to existing classrooms to The Holbeche Sixth Form Centre

01/01773/FUL - PERMIT - 24 October 2001 - Siting of 4 no. temporary classrooms on Junior School car parking for duration of construction period of new and refurbished classrooms (Holbeche Centre) from September - December 2001

02/01144/FUL

PERMIT - 11 July 2002

Erection of a temporary Science Laboratory building

02/01521/FUL

PERMIT - 7 August 2002

Erection of two clear-glazed canopies to house pupils' storage lockers, replacing existing covered structures

02/01734/FUL

PERMIT - 10 September 2002

Erection of a netball fence enclosing two netball courts

03/01013/FUL

PERMIT - 30 May 2003

Erection of new toilet block following demolition of existing

04/01344/FUL

PERMIT - 11 June 2004

Extension to Drama block and new mansard roof to replace existing flat roof

05/02079/FUL

PERMIT - 1 August 2005

Erection of a temporary science lab classroom (RETROSPECTIVE)

06/02065/FUL

PERMIT - 2 August 2006

Erection of 2 No temporary modular classroom units.

06/02134/LBA

CON - 4 August 2006

Repairs and alterations Nethersole House, King Edwards School, including alterations to doors, partitions and staircase balustrade/rails

06/02469/FUL

PERMIT - 3 October 2006

Erection of teaching block

06/02471/CA

CON - 30 August 2006

Demolition of three single storey classrooms.

07/00341/LBA

CON - 30 March 2007

Internal refurbishment and alterations

07/02723/FUL - PERMIT - 29 October 2007 - Installation of a play trail consisting of 6 elements

extending approximately 17.5 metres

10/04055/FUL - PERMIT - 19 November 2010 - Erection of a two storey extension to the Junior School and associated landscaping works.

11/01585/FUL

PERMIT - 22 June 2011

Provision of new canopy features to replace existing.

12/00690/FUL - PERMIT - 30 April 2012 - Overcladding of the main King Edward's School building

fronting North Road

13/02565/FUL

PERMIT - 14 August 2013

Erection of new building to provide dining hall and multi-functional space and associated works following demolition of existing dining Hall

13/02566/LBA

CONSENT - 13 August 2013

Demolition of existing dining Hall and erection of new building to provide dining hall and multi-functional space and associated works

13/02565/FUL

PERMIT - 14 August 2013

Erection of new building to provide dining hall and multi-functional space and associated works following demolition of existing dining Hall

13/02566/LBA

CON - 13 August 2013

Demolition of existing dining Hall and erection of new building to provide dining hall and multi-functional space and associated works

13/02567/CA

CON - 13 August 2013

Demolition of existing dining hall building

13/04559/FUL

PERMIT - 11 December 2013

Erection of new building to provide dining hall and multi-functional space and associated works following demolition of existing dining hall (amendment to previous approved scheme)

13/04560/LBA

CON - 11 December 2013

Erection of new building to provide dining hall and multi-functional space and associated works following the demolition of existing dining hall (amendment to previous approved scheme)

13/04538/FUL - PERMIT - 11 December 2013 - Demolition of existing Willet Hall dining building
(amendment to previous approved scheme)

14/01558/FUL

PERMIT - 27 May 2014

Erection of front extension and internal remodelling of existing library into Classrooms.

14/02180/FUL - PERMIT - 22 May 2015 - Installation of permanent low impact floodlighting system to existing synthetic turf pitch. (Revised plans)

15/00036/FUL

PERMIT - 2 March 2015

Erection of two storey extension to the existing Sixth Form Centre, demolition works involve minor alteration of the existing building.

16/01302/FUL

PERMIT - 20 May 2016

Provision of new warm up area and new fencing and alterations to existing fencing enclosure. Provision of block paving to existing grassed viewing area.

17/05727/LBA

CON

19 January 2018

Exterior alterations to repair roof, guttering and windows and install insulation.

17/05931/FUL

PERMIT - 1 February 2018

Erection of new teaching accommodation following demolition of existing and replacement parking

17/06012/FUL

PERMIT - 31 January 2018

Erection of educational building following demolition of existing building and associated works.

18/01250/VAR

PERMIT - 24 April 2018

Variation of condition 3 (plans list) of application 17/06012/FUL (Erection of educational building following demolition of existing building and associated works.)

18/01359/FUL

PERMIT - 21 May 2018

Erection of 6no temporary classrooms for a period of 2 years with associated works

19/02020/VAR

PERMIT - 12 June 2019

Variation of condition 1 of application 18/01359/FUL (Erection of 6no temporary classrooms for a period of 2 years with associated works).

19/02890/FUL

PERMIT - 29 August 2019

Installation of all weather playing surface and associated landscaping.

19/05178/VAR

PERMIT - 22 January 2020

Variation of condition 1 of application 18/01359/FUL (Erection of 6no temporary classrooms for a period of 2 years with associated works).

20/02474/FUL

PERMIT - 26 August 2020

Remedial works to retaining wall.

20/02475/LBA

CON - 26 August 2020

External alterations for remedial works to retaining wall.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

None received

Representations Received :

One comment of support has been received:

We support this application as the school are continuing to maintain and update their buildings.

POLICIES/LEGISLATION

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 Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
 - Policy GDS.1 Site allocations and development requirements (policy framework)
 - Policy GDS.1/K2: South West Keynsham (site)
 - Policy GDS.1/NR2: Radstock Railway Land (site)
 - Policy GDS.1/V3: Paulton Printing Factory (site)
 - Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)
- o Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

B1: Bath Spatial Strategy

B4: The World Heritage Site and its Setting

CP6: Environmental Quality

SD1: Presumption in favour of sustainable development

Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles

D2: Local character and distinctiveness

D3: Urban fabric
D5: Building design
D6: Amenity
HE1: Historic environment

National Policy:

The National Planning Policy Framework (NPPF) was published in February 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

SPD's:

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2013) is also relevant in the determination of this planning application.

Conservation Areas:

In addition, there is 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.

Listed Buildings:

In addition, there is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' 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.'

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

The main issues to consider are:

- Character and appearance
- Impact to heritage assets
- Residential amenity

PRINCIPLE OF DEVELOPMENT:

The site is within the built-up area of Bath where the principle of development is acceptable subject to other material planning considerations discussed below.

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

CHARACTER AND APPEARANCE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host building and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

The application seeks permission to replace the existing building façade on the east elevation of Q block. As existing, this façade features single glazed windows with white crittal frames, concrete beams and columns, and light blue spandrel panels below the windows on both the ground and first floor. It is proposed that the windows will be replaced with double glazed windows, with dark grey powder coated aluminium frames, the existing concrete panels and columns retained, and the blue spandrel panels replaced with light grey spandrel panels. The south elevation of this building has recently been upgraded in a similar manner and it is considered that the proposal will improve the visual cohesion of the building. The proposed changes are considered to be visually acceptable and in keeping with the character of the existing building and the locality.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

IMPACT TO HERITAGE ASSETS:

Policy HE1 requires development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to enhance or better reveal its significance and setting.

The proposed development is within the World Heritage Site, therefore consideration must be given to the effect the proposal might have on the setting of the World Heritage Site. In this instance, due to the size, location and appearance of the proposed development it is not considered that it will result in harm to the outstanding universal values of the wider World Heritage Site. The proposal accords with policy B4 of the adopted Core Strategy (2014) and Policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 16 of the NPPF.

The application site is also within the Conservation Area. There is 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. In this case, the proposed upgrading of the façade is considered to enhance the existing building and would preserve the character of the Conservation Area in this location.

The main school building is Grade II Listed. There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' 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. The proposed upgrading of the east façade of Q block is not considered to impact the setting of the listed building.

The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 12 of the NPPF.

RESIDENTIAL AMENITY:

Policy D6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

CONCLUSION:

It is therefore considered that the proposal complies with the relevant planning policies as outlined above and the proposal is recommended for approval.

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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 permission.

2 Plans List (Compliance)

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 This decision relates to the following plans:

26 Jan 2022 2160 AL(0)03 Q BLOCK EXISTING LOWER GROUND FLOOR PLAN
26 Jan 2022 2160 AL(0)04 Q BLOCK EXISTING UPPER GROUND AND FIRST FLOOR PLAN
26 Jan 2022 2160 AL(0)06 Q BLOCK EXISTING EAST ELEVATION
26 Jan 2022 2160 AL(0)07 Q BLOCK PROPOSED EAST ELEVATION
28 Jan 2022 2160 AL(0)01 SITE LOCATION PLAN

2 Permit/Consent Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

3 Condition Categories

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at www.planningportal.co.uk or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

4 Community Infrastructure Levy - General Note for all Development

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. CIL may apply to new developments granted by way of planning permission as well as by general consent (permitted development) and may apply to change of use permissions and certain extensions. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council **before any development commences**.

Do not commence development until you have been notified in writing by the Council that you have complied with CIL; failure to comply with the regulations can result in surcharges, interest and additional payments being added and will result in the forfeiture of any instalment payment periods and other reliefs which may have been granted.

Community Infrastructure Levy - Exemptions and Reliefs Claims

The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply for any relief and have it approved in writing by the Council then notify the Council of the intended start date **before** you start work on site. Once development has commenced you will be unable to claim any reliefs retrospectively and CIL will become payable in full along with any surcharges and mandatory interest charges. If you commence development after making an exemption or relief claim but before the claim is approved, the claim will be forfeited and cannot be reinstated.

Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: www.bathnes.gov.uk/cil. If you have any queries about CIL please email cil@BATHNES.GOV.UK

5 Responding to Climate Change (Informative):

The council is committed to responding to climate change. You are advised to consider sustainable construction when undertaking the approved development and consider using measures aimed at minimising carbon emissions and impacts on climate change.

"I have read and carefully reviewed the arguments put forward by the applicant to justify this building in the green belt. As was the case when this proposal was previously referred, I remain to be persuaded that a large 2 storey outbuilding is necessary for the function described, and that the very special circumstances carry sufficient weight to counter the harm that this development may cause to the openness in the green belt. However, as the applicant has made adjustments to the height and added further information to support the VSC, I agree that the case would benefit from public debate at committee."

VICE CHAIR: COMMITTEE

„I have studied this application carefully, noting KTC & third party support comments, there are modifications to this application to address the reasons for refusal of application 21/02346/FUL & this application has been assessed against relevant planning policies as the report explains.

However, the VSC & size are contentious points & I think this application would benefit from debate in the public arena therefore I recommend the application be determined by the planning committee."

Details of location and proposal and Relevant History:

The application site is located outside of the Housing Development Boundary associated with Keynsham. It is within the Bath/Bristol Green Belt. The site is accessed off of Durley Lane and comprises the main dwellinghouse, Durley Grange, Durley Grange Coach House and an annex.

The current application seeks permission for an outbuilding which will form a garage, garden room and storage area. In 2021, an application for a similar outbuilding was refused at the site (21/02346/FUL) on the grounds of it being inappropriate development in the Green Belt and the scale and massing of the development. This application is a resubmission which seeks to address these concerns.

Relevant Planning History:

06/02835/FUL

PERMIT - 2 October 2006

Conversion of Coach House into dwelling

08/01184/FUL

PERMIT - 2 October 2008

Erection of first-floor rear extension and covered garaging and with conservatory link to house

16/03595/FUL

PERMIT - 12 September 2016

Erection of first floor extension over garage to provide disabled person's accommodation

20/03582/TPO

CONSENT - 19 November 2020

Work to various trees as specified in schedule - covered by TPO no. 526/16

21/02346/FUL

REFUSED

5 July 2021

Erection of a new outbuilding to an existing dwelling, incorporating an existing trailer/fuel store with new garden storage.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

KEYNSHAM TOWN COUNCIL:

- Materials match existing and the design is sympathetic to the location
- The applicant has taken on board comments by B&NES and the revised plans include a reduction in the gable element of the southern aspect.
- Keynsham Town Council do not consider this application to be inappropriate development in the Green Belt or having significant negative impact on the openness of the Green Belt. There is already a large office complex within 50m to the west of the proposal and within the Green Belt.
- Keynsham Town Council are of the opinion that there are very special circumstances to outweigh any harm. These special circumstances include protecting an extensive family from the continued exposure of overlooking from vehicles (including buses) on the A4 bypass, as traffic is regularly at a standstill due to congestion at the Hicks Gate roundabout subjecting the applicant and his extended family to airborne pollutants. When traffic is not at a standstill it is moving rapidly creating visual, acoustic and air borne pollution which is detrimental to the health of the family whose property is less than 30 metres from the by-pass.
- The applicant has shown in his application that his is trying to improve the environmental performance of the development site and is making sustainable lifestyle changes in order to minimise the impact on our Earth and support B&NES in their plans to become a zero-carbon neutral authority.
- Keynsham Town Council consider that the proposal is in accordance with Bath and North East Somerset Council Policies D1 - D6 of the Placemaking Plan 2017.

Representations Received :

3 comments of support have been received and are as follows:

- It will improve the aesthetic of the area
- Reduce our views of the A4 bypass
- Reduce air and noise pollution
- Proposed materials and design appropriate

POLICIES/LEGISLATION

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 Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)

- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
 - Policy GDS.1 Site allocations and development requirements (policy framework)
 - Policy GDS.1/K2: South West Keynsham (site)
 - Policy GDS.1/NR2: Radstock Railway Land (site)
 - Policy GDS.1/V3: Paulton Printing Factory (site)
 - Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)
- o Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP6: Environmental Quality

CP8: Green Belt

DW1: District Wide Spatial Strategy

SD1: Presumption in favour of sustainable development

Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles

D2: Local character and distinctiveness

D3: Urban fabric

D5: Building design

D6: Amenity

GB3: Extensions and alterations to buildings in the Green Belt.

ST7: Transport requirements for managing development

National Policy:

The National Planning Policy Framework (NPPF) was published in February 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

SPD's:

The Existing Dwellings in the Green Belt Supplementary Planning Document is also relevant in the determination of this application.

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon

emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

The main issues to consider are:

- Principle of development in the Green Belt
- Design, character, and appearance
- Residential amenity
- Parking and highways safety

PRINCIPLE OF DEVELOPMENT IN THE GREEN BELT:

The application site is within the Green Belt and outside of the Housing Development Boundary.

Paragraph 149 of the NPPF states that a Local Planning Authority should consider the construction of new buildings in the Green Belt as inappropriate. It goes on to outline a number of exceptions to this, which are as follows:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
 - not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

The proposal is not for agriculture or forestry, is not for outdoor recreation or sport, is not a replacement building, is not affordable housing and is not redevelopment of previously developed land. The proposal is also not an extension to an existing building. It is located some 40m from the main dwellinghouse. This is considered to be a significant separation. Visually the two buildings are separate, and the proposed outbuilding does not read as an

extension of the main dwellinghouse. As such, the building cannot be considered an extension of Durley Grange and criterion (c) therefore does not apply.

The proposal does not fall under any of the exceptions listed in Paragraph 149 of the NPPF and is therefore considered to be inappropriate development in the Green Belt. Officers also consider that the provision of a sizeable, detached building within the Green Belt would cause harm to its openness.

Paragraph 147 of the NPPF makes it clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

The NPPF goes on to explain that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt, Very Special Circumstances (VSC) will not exist unless the potential harm to the Green Belt, by reason of inappropriateness, and any other harm resulting from the proposal is clearly outweighed by other considerations.

The applicant has put forward a number of VSC and as such, an assessment must therefore be made as to whether these constitute VSC and if they outweigh the harm to the Green Belt, which must be attributed substantial weight in any the planning balance.

The VSC put forward are as follows:

- Air pollution
- Noise pollution
- Visual amenity and privacy

The application site is located adjacent to the A4 and Keynsham Bypass. The applicant has made the point that this results in air and noise pollution and also, during the Winter months, that there is limited privacy and views of the road. The applicant has provided information regarding the links between noise and air pollution and disease/illness, and these are not disputed.

However, it is not accepted that the provision of a building in the location proposed would address these issues to an extent for VSC to be considered to apply.

The building is not being proposed specifically to address these issues. The building is being proposed to provide a garden room, garage and residential storage, as opposed to a specific solution to the issues raised above. The potential impacts of having a building in this location in terms of the pollution and amenity issues are considered to be "bi-products" of the proposed development.

Additionally, the existing situation is well established. The level of harm caused to visual and residential amenity was considered to be acceptable when the bypass was constructed. It is acknowledged that during the Winter months when trees are not in leave, that the building would provide some screening from the road and would block some views of the bypass from the property. However, increased levels of privacy and visual amenity (which are the established situation) cannot be considered to represent a VSC which would outweigh the harm to the Green Belt.

Further to this, the proposed building is located at the edge of the plot, some 40m from the main house and 28m from the annex. It has not been made clear what impact, if any, the proposed building would have on reducing the levels of noise and air pollution. Noise travels in multiple directions and although the proposed building may provide some sound buffering immediately adjacent to it, it is considered unlikely that the structure would significantly improve the noise levels to a point which would have meaningful effect on the residential amenity of the residents. It has also not been justified how the building would improve air pollution and officers again consider it unlikely that the positioning of a residential outbuilding would have a meaningful effect on the levels of air pollution at the site.

The VSC put forward are not considered to be sufficient substantiated and do not outweigh the harm to the Green Belt. They will be fully considered against the merits of the proposal in the Planning Balance section of this report.

CHARACTER AND APPEARANCE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host building and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

The proposed outbuilding will feature a pitched roof with two-gable ends. A dormer is proposed to the elevation which faces Durley Grange.

The material palette follows that which is already present on the site and features timber cladding, pennant stone, painted render, and anthracite brick. There is no objection to the use of these materials in this location.

The overall design concept follows the character of the main dwelling and residential annex in terms of the gable detail and overall building form. Officers note the reduction in the scale of the dormer projection from the previously refused scheme.

However, the proposed building is still substantial in scale and appears as two-storey due to the height of the building, particularly from road level. The building's scale is at odds with its function as an incidental outbuilding which will form a garage, garden room and store. It appears disproportionately large when compared to the other buildings on site, which are used primarily for living accommodation. Its disproportionate scale and massing increase the impact to the openness of the Green Belt in this location.

It is therefore considered that the proposal does not respond to the local context and has an excessive scale and massing. The proposal is therefore contrary to policy CP6 of the adopted Core Strategy (2014) and policies D1, D2 and D5 of the Placemaking Plan for Bath and North East Somerset (2017).

RESIDENTIAL AMENITY:

Policy D6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

HIGHWAYS SAFETY AND PARKING:

Policy ST7 states that development will only be permitted provided, amongst other things, the development avoids an increase in on street parking in the vicinity of the site which would detract from highway safety and/ or residential amenity.

The proposal includes the provision of a garage which is located on the lower level of the outbuilding. It will be accessed from Durley Lane. The internal dimensions are considered sufficient to count towards the parking provision on the site and the proposal is therefore considered to maintain the current level of parking.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 9 of the NPPF.

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

PLANNING BALANCE:

In accordance with the NPPF, substantial weight must be given to any harm to the Green Belt. VSC will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

It has been explained in this report that the VSC put forward are not considered to be very special and are not sufficient to outweigh the harm to the Green Belt. In addition, the proposal is considered to have an inappropriate scale and massing, contrary to the Council's design policies which further tips the planning balance in favour of the harms of the proposal.

It is therefore considered that the proposal would result in harm to the Green Belt which is not outweighed by VSC and is contrary to policies CP8 of the Bath and North East Somerset Core Strategy and Part 13 of the NPPF. Additionally, the proposal, by reason of

its scale and massing does not respond to the local context or maintain the character and appearance of the surrounding area. The is therefore contrary to Policy CP6 of the Bath and North East Somerset Council Core Strategy (2014) and Policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan (2017).

The application is therefore recommended for refusal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed outbuilding would result in the erection of a new building in the Green Belt which does not constitute an exception under paragraphs 145 and 146 of the National Planning Policy Framework and is, by definition, inappropriate development in the Green Belt. The proposed outbuilding would have a significant negative impact on the openness of the Green Belt. The purported Very Special Circumstances put forward are not considered to outweigh this harm and, therefore, the proposed development is contrary to Policy CP8 of the Bath and North East Somerset Council Core Strategy (2014), Policy GB1 of the Bath and North East Somerset Council Placemaking Plan (2017) and Part 13 of the National Planning Policy Framework (2019).

2 The proposal, by reason of its scale and massing, does not respond to the local context or maintain the character and appearance of the surrounding area. The is therefore contrary to Policy CP6 of the Bath and North East Somerset Council Core Strategy (2014) and Policies D1, D2, and D5 of the Bath and North East Somerset Placemaking Plan (2017).

PLANS LIST:

1 This decision relates to the following plans:

H6229/001B. Plans and Elevations as EXISTING
H6229/100H. Plans and Elevations as PROPOSED

Received 21st January 2022

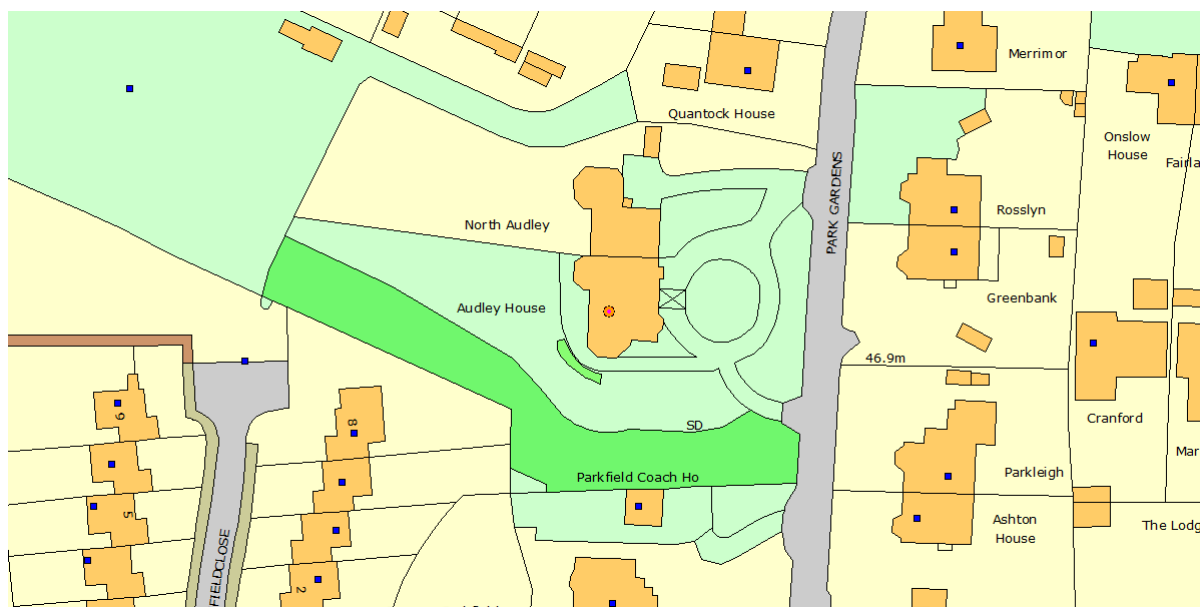
2 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

3 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application

has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

Item No: 04
Application No: 22/00598/TCA
Site Location: Audley House Park Gardens Lower Weston Bath Bath And North East Somerset



Ward: Weston **Parish:** N/A **LB Grade:** II
Ward Members: Councillor Shelley Bromley Councillor Ruth Malloy
Application Type: Tree Works Notification in Con Area
Proposal: Cypress - Remove
Cherry - Remove
Cedar x2 - Remove broken limbs
Constraints: Conservation Area,
Applicant: Mrs Hodge
Expiry Date: 23rd March 2022
Case Officer: Jane Brewer
To view the case click on the link [here](#).

REPORT

REASON FOR REPORTING NOTIFICATION TO COMMITTEE:

The notification relates to a Councillor's trees.

DESCRIPTION:

This notification relates to trees located within the Bath Conservation Area.

The proposal is to fell a cypress growing in the rear garden; fell a cherry growing close to the southwestern corner of the dwelling and to remove damaged branches from two cedars. One cedar is within the front garden and the second, a Blue Atlas Cedar is within the rear garden.

Six weeks notice must be submitted to the Council for tree works or tree felling within a conservation area if the tree has a trunk diameter of 7.5cm or over (when measured 1.5m above ground level) and where exceptions do not apply.

The purpose of a tree notification is to give the Council the opportunity to consider whether a Tree Preservation Order should be made to protect the trees.

The following criteria are used to assess whether trees are worthy of a Tree Preservation Order:

1. visibility to the general public
2. overall health, vigour and appearance
3. suitability of their location and anticipated future management
4. special factors such as contribution to the character of a conservation area, World Heritage Site setting or overall green infrastructure; their rarity; their ecological contribution and whether they have historical significance such as in the case of veteran trees.

Further information regarding trees in conservation areas can be found on the Council's website at:

<https://www.bathnes.gov.uk/services/environment/trees-and-woodlands/trees-conservation-areas>

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

No public comments have been received.

POLICIES/LEGISLATION

Town and Country Planning Act 1990 (in particular sections 197-214 as amended)
Town and Country Planning (Tree Preservation)(England) Regulations 2012

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

The works to both cedars are to remedy damage caused by the recent storms. The cedar to the front of the property suffered two branch breakages leaving long stubs. The removal of the stubs will improve the appearance of the tree and reduce the available woody material which could be colonised by decay-causing organisms.

The Blue Atlas Cedar to the rear has a partially hung-up broken branch which requires removal before it fails.

The Cherry is a small tree with a lean which is growing close to the house which is not readily visible to the public. It would not be a proportionate response to make a Tree Preservation Order to prevent the removal of this tree.

The Italian Cypress is growing within the rear garden and could not be readily identified from surrounding public areas. Dieback represented by brown foliage in the lower canopy on the south side was evident. Scattered yellowing areas of foliage were noted in the remaining canopy. The observations were consistent with coryneum canker which is caused by a slow spreading fungus. A Tree Preservation Order was not considered appropriate in view of the limited public amenity afforded and the decline in tree health.

CONCLUSION:

The Cedar trees are significant and contribute to the amenity of the area but the work proposed is reasonable. The Cherry and Italian Cypress are not considered to be suitable candidates for a Tree Preservation Order.

RECOMMENDATION:

No objection

Advisory notes to be included in the response:

While this letter refers to planning controls, your attention is drawn to the Wildlife and Countryside Act 1981 as amended and the Countryside and Rights of Way Act 2000. Under these Acts all species of wild birds, their eggs, nests and chicks, are legally protected until the young have fledged. Tree work is best carried out outside the bird nesting season, which typically extends from March until September, although it may begin earlier than this. If work must be carried out within the bird nesting season, a qualified ecological consultant should carry out a detailed inspection to ensure that birds are not nesting in the trees that you are proposing to work on. If nesting birds are present the work must not proceed.

Trees provide numerous benefits towards our health and wellbeing so replacement planting when trees are removed is vitally important, particularly in our urban environments. Please contact the tree officer if you would like some advice regarding replacement planting. A comprehensive list of tree species for green infrastructure is available on line from the Trees and Design Action Group at <http://www.tdag.org.uk/>

RECOMMENDATION

NO OBJECTION

CONDITIONS

PLANS LIST:

1 Cypress - Remove
Cherry - Remove
Cedar x2 - Remove broken limbs

2 While this letter refers to planning controls, your attention is drawn to the Wildlife and Countryside Act 1981 as amended and the Countryside and Rights of Way Act 2000. Under these Acts all species of wild birds, their eggs, nests and chicks, are legally protected until the young have fledged. Tree work is best carried out outside the bird nesting season, which typically extends from March until September, although it may begin earlier than this. If work must be carried out within the bird nesting season, a qualified ecological consultant should carry out a detailed inspection to ensure that birds are not nesting in the trees that you are proposing to work on. If nesting birds are present the work must not proceed.

All bats in England are protected under the Wildlife and Countryside Act 1981 as amended and the Conservation of Habitats and Species Regulations 2010. It is an offence to kill, injure or take a bat, and damage, destroy or obstruct access to any place that a bat uses for shelter or protection (including trees). This includes bat roosts whether bats are present or not. It is also illegal to disturb a bat whilst it is occupying a structure or place that it uses for shelter or protection.

3 Trees provide numerous benefits towards our health and wellbeing so replacement planting when trees are removed is vitally important, particularly in our urban environments. A comprehensive list of tree species for green infrastructure is available online from the Trees and Design Action Group at <http://www.tdag.org.uk/>