

**Democratic Services**

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**Your ref:**

**Our ref:**

**Date:** 20 September 2011

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**To: All Members of the Development Control Committee**

Councillors: Councillor Lisa Brett  
Councillor Gerry Curran  
Councillor Liz Hardman  
Councillor Eleanor Jackson  
Councillor Les Kew  
Councillor David Martin  
Councillor Douglas Nicol  
Councillor Bryan Organ  
Councillor Martin Veal  
Councillor David Veale  
Councillor Brian Webber

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Development Control Committee: Wednesday, 28th September, 2011**

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 28th September, 2011 at 2.00 pm** in the **Council Chamber - Keynsham Town Hall**.

The agenda is set out overleaf.

Yours sincerely

David Taylor  
for Chief Executive

**If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.**

*This Agenda and all accompanying reports are printed on recycled paper*

## NOTES:

1. **Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact David Taylor who is available by telephoning Bath 01225 - 394414 or by calling at the Riverside Offices Keynsham (during normal office hours).
2. **Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting David Taylor as above.

3. **Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting David Taylor as above.

Appendices to reports are available for inspection as follows:-

**Public Access points** - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

**For Councillors and Officers** papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

4. **Attendance Register:** Members should sign the Register which will be circulated at the meeting.
5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.
6. **Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

**Development Control Committee - Wednesday, 28th September, 2011**

**at 2.00 pm in the Council Chamber - Keynsham Town Hall**

**A G E N D A**

**1. EMERGENCY EVACUATION PROCEDURE**

The Chair will ask the Committee Administrator to draw attention to the emergency evacuation procedure as set out under Note 6

**2. ELECTION OF VICE CHAIR (IF DESIRED)**

**3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

**4. DECLARATIONS OF INTEREST**

Members who have an interest to declare are asked to state:

(a) the Item No and site in which they have an interest; (b) the nature of the interest; and (c) whether the interest is personal or personal and prejudicial.

Any Member who is unsure about the above should seek advice from the Monitoring Officer prior to the meeting in order to expedite matters at the meeting itself.

**5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR (Pages 7 - 16)**

The Chair has agreed that the following additional report will be considered:

**6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS**

(1) At the time of publication, no items had been submitted.

(2) To note that, regarding planning applications to be considered, members of the public who have given the requisite notice to the Committee Administrator will be able to make a statement to the Committee immediately before their respective applications are considered. There will be a time limit of 3 minutes for each proposal, ie 3 minutes for the Parish and Town Councils, 3 minutes for the objectors to the proposal and 3 minutes for the applicant, agent and supporters. This allows a maximum of 9 minutes per proposal.

**7. ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS**

To deal with any petitions or questions from Councillors and where appropriate Co-opted Members

8. MINUTES: WEDNESDAY 31ST AUGUST 2011 (Pages 17 - 28)

To approve as a correct record the Minutes of the previous meeting held on Wednesday 31<sup>st</sup> August 2011

9. MAJOR DEVELOPMENTS

The Senior Professional – Major Developments to provide an oral update

10. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 29 - 64)

Notification was received on 22<sup>nd</sup> September 2011 that application no 3:

07/02424/EOUT

Purnell Property Partnership, Closed Polestar Purnell Factory Site, Access Road To Works, Paulton, Bath and North East Somerset, BS39 7LQ

Mixed use redevelopment of former printworks comprising offices, industrial, residential, continuing care retirement community, pub/restaurant, community building, open space, associated infrastructure, landscaping and access roads

had been withdrawn and would not be considered by the Committee.

11. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 65 - 70)

To note the report

12. EXCLUSION OF THE PUBLIC

The Committee is asked to consider passing the following resolution:-

"That, having been satisfied that the public interest would be better served by not disclosing relevant information, and in accordance with the provisions of Section 100A (4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information as defined in paragraph 5 (Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) of Part 1 of Schedule 12A of the Act as amended".

13. PROPOSED CLAIM FOR JUDICIAL REVIEW - STOWEY QUARRY, STOWEY ROAD, BRISTOL (Pages 71 - 102)

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

<b>Bath &amp; North East Somerset Council</b>		
MEETING:	<b>Development Control Committee</b>	<div>AGENDA ITEM NUMBER</div>
MEETING DATE:	<b>28<sup>th</sup> September 2011</b>	
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager of Planning and Transport Development (Telephone: 01225 477281)	
TITLE:	<b>DRAFT NATIONAL PLANNING POLICY FRAMEWORK</b>	
WARD:	<b>ALL</b>	
BACKGROUND PAPERS: Draft National Planning Policy Framework		
<b>AN OPEN PUBLIC ITEM</b>		

### **The Issue**

- 1.1 The Government is in the process of streamlining and national Planning policy. To this end it has issues a draft National Planning Policy Framework (NPPF). Once adopted, this will replace existing planning policy and planning applications will need to be determined in accordance with it.
- 1.2 The NPPF entails policy changes which have significant implications for Bath & North East Somerset. The Government has asked for comments on the NPPF by 17<sup>th</sup> October and the Cabinet meeting on 12<sup>th</sup> October will be agreeing the response from B&NES. Attached to this report is the draft Cabinet report. The report outlines the key implications of the policy changes for B&NES and recommends a response to Government.

### **Recommendation**

That the Development Control Committee;

- a. consider the changes to national policy arising from the draft National Planning Policy Framework and the implications for B&NES as set out in the attached draft report and,
- b. advise the Cabinet on the need for any further changes to the draft National Planning Policy Framework

Bath & North East Somerset Council		
MEETING:	Cabinet	
MEETING DATE:	12 October 2011	EXECUTIVE FORWARD PLAN REFERENCE:
		E 2316
TITLE:	National Planning Policy Framework – Response from Bath and North East Somerset Council	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: APPENDIX ONE: KEY CHANGES TO NATIONAL PLANNING POLICY		

## 2 THE ISSUE

- 2.1 This report highlights some of the implications for Bath & North East Somerset of the Government's key changes to planning policy as proposed by the Draft National Planning Policy Framework (NPPF), and sets out a proposed response to the consultation.
- 2.2 This report is not a comprehensive review of the National Planning Policy Framework and its potential implications. The NPPF has generated a considerable reaction from numerous bodies who will be submitting their own responses to specific elements of the NPPF consultation.

## 3 RECOMMENDATION

The Cabinet agrees that:

- 3.1 The comments in paras 5.4 – 5.17 of this report, as well as those contained in Annex 1 are forwarded to the Department for Communities and Local Government, with the request that amendments are made to the Draft NPPF.

## **4 FINANCIAL IMPLICATIONS**

- 4.1 The National Planning Policy Framework, in seeking to radically streamline and simplify planning policy within a rapid timeframe, contains a number of inconsistencies and uncertainties that have the potential of increasing the number of appeals that the Council needs to defend. This could result in additional costs to the Council.

## **5 CORPORATE PRIORITIES**

- *Building communities where people feel safe and secure*
- *Improving life chances of disadvantaged teenagers and young people*
- *Sustainable growth*
- *Improving the availability of Affordable Housing*
- *Addressing the causes and effects of Climate Change*
- *Improving transport and the public realm*

## **6 THE REPORT**

- 6.1 The NPPF will be a material consideration in the preparation of B&NES planning policy. The B&NES Core Strategy has been prepared within the context of existing national policy. It should be noted, following a request from the Planning Inspector, that a report was presented to the September Cabinet meeting highlighting the changes that would be needed to the Core Strategy to enable it to better reflect the Draft National Planning Policy Framework, as it is currently drafted. This new report looks more generally at some of the proposed changes to the National Planning Policy Framework, and the Council's response to it.

### **Introduction**

- 6.2 The Government has published a draft version of the National Planning Policy Framework (NPPF) for consultation. This NPPF entails a review of existing national planning policy and its replacement with a single national policy document. It replaces 1,300 pages of planning policy with a single document of 58 pages long, and is due to be adopted by the end of this year. Following this, it is proposed to review and refine the 6,000 pages of supporting guidance to existing national planning policy. There is no clear programme for this task.
- 6.3 The key issues proposed in the National Planning Policy Framework are highlighted in Appendix A. Some of the most pertinent issues, together with a recommended response to each, are included below.

### **Sustainable Development**

- 6.4 The NPPF introduces the 'presumption in favour of sustainable development' as well as also re-emphasising the importance to be placed on the plan led system. There is concern however that even if a Council's Local Plan is up to date and consistent with the NPPF, interpretation by parties will differ as to what constitutes sustainable development and that this could place additional resource pressures on the part of the Council in relation to defending its position. It is considered that adding the presumption in favour of sustainable development creates an ambiguity and will undermine the development plan.

- 6.5 If the Council does not have an up-to-date plan, then the national policy of a presumption in favour of development will apply in the determination of planning applications. Therefore, if the Council wishes to achieve its own priorities for managing change and protecting assets within the District, it is imperative that the Council has an up to date Local Plan. This certainty provides business and investor confidence in what development will be encouraged and be acceptable with the District.
- 6.6 **Comment to CLG: The ambiguity in the term ‘sustainable development’ should be resolved in the NPPF with an unambiguous definition of sustainable development, and clarification as to how this should be weighted against other material considerations. Or, the ambiguity could be resolved by removing the presumption in favour of sustainable development.**
- 6.7 **Additionally, a comment should be made as to whether a Sustainability Appraisal of the Draft NPPF has been carried out.**

#### **Housing land supply**

- 6.8 Local Planning Authorities are still required to maintain a rolling supply of specific deliverable sites sufficient to provide five years worth of housing . However, the NPPF introduces a significant new requirement that the five year supply should include an additional allowance of at least 20% to ensure choice and competition in the market for land. The Strategic Housing Land Availability Assessment (SHLAA) will need to be updated to take this into account. If the SHLAA cannot demonstrate a five year +20% supply of housing land then the NPPF states that applications would be permitted in accordance with the presumption in favour of sustainable development
- 6.9 This is a significant issue for B&NES and many other authorities because we do not have a five year +20% supply of housing land. This potentially means that the Core Strategy will be found unsound by the Inspector with the resultant risk of increased planning appeals at a range of development locations.
- 6.10 **Comment to CLG: The addition of 20% to the 5 year housing land supply should be removed from the NPPF.**

#### **Certificate of conformity**

- 6.11 The NPPF states that ‘local plans are the key to delivering development that reflects the visions and aspirations of local communities’ and that ‘up-to-date Local Plans ... which are consistent with [the NPPF], should be in place as soon as practical’.
- 6.12 The NPPF suggests that Local Councils can apply for a Certificate of Conformity to demonstrate that their existing Core Strategy conforms to NPPF. Plans that are not in conformity will be deemed ‘out-of-date’ and the presumption in favour of sustainable development would therefore apply to all planning applications.
- 6.13 It is unclear whether a Certificate of Conformity would be granted to the Council’s saved local plan policies. Guidance on achieving a Certificate of Conformity will be published when the NPPF is adopted, and therefore it is difficult at this stage to make a judgment as to whether our saved policies would be granted a Certificate of Conformity or not. This uncertainty could create a serious policy vacuum until these policies have been reviewed and updated as part of the Placemaking Plan. Members should be mindful of the

potential need to accelerate this review should it be found that the saved policies are not able to be used in the determination of planning applications.

- 6.14 **Comment to CLG: Transitional arrangements need to be established that enable local authorities to maintain existing planning policies whilst generating new local plans.**

#### **Housing Requirement**

- 6.15 The Draft NPPF states that local plans should plan for *full* housing requirement as suggested by local evidence (which is clarified elsewhere as population/household projections). Projections are merely an extrapolation of the last 5 years trends and do not represent a robust basis on which to plan for the future.
- 6.16 **Comment to CLG: the apparent requirement for housing need assessments process is not solely reliant on extrapolations of past rates but is based on a fuller assessment of housing need including local testing (informed by public debate/scrutiny).**
- 6.17 **Green Belt:** Core Green Belt protection will remain in place, although four changes to the detail of current policy are proposed:
- (1) Development on previously-developed Green Belt land is already permissible if the site is identified in the local plan as a Major Developed Site – it is proposed to extend this policy to any site not already identified in a local plan
  - (2) Park and Ride schemes are already permissible, with certain safeguards – it is proposed to extend this to a wider range of local transport infrastructure and maintain these safeguards.
  - (3) Community Right to Build schemes will be appropriate development provided they reserve the openness of the Green Belt
  - (4) The alteration or replacement of dwellings is already permissible – it is proposed to extend this to include all buildings, but it is not clear if the existing safeguards will remain.
- 5.17 In all cases, the test to preserve the openness and purposes of including land in the Green Belt will be maintained. These changes entail a policy change of particular significance for B&NES, potentially loosening existing restrictions on development permissible in the Green Belt. Members may wish to object to these amendments.
- 5.17 The appropriateness of existing Green Belt boundaries should only be considered when a Local Plan is being prepared or reviewed. At that time, authorities should consider the Green Belt boundaries having regard to their intended permanence in the long term, so that they should be capable of enduring beyond the plan period. Preparation of the Placemaking Plan will entail a review of the detailed Green Belt boundaries.

## **7 RISK MANAGEMENT**

- 7.1 The report author and Lead Cabinet member have fully reviewed the risk assessment related to the issue and recommendations, in compliance with the Council's decision making risk management guidance.

## 8 EQUALITIES

- 8.1 An equalities impact assessment is not required for this report as it is a response to proposed government policy that should be subject to its own equalities impact assessment.

## 9 RATIONALE

- 9.1 The Draft National Planning Policy Framework, as currently worded, is ambiguous in a number of areas. If these are not addressed it could have an adverse impact on the robustness of the Council's planning policy frameworks including the saved local plan policies, the Draft Core Strategy and the emerging Placemaking Plan. It will also place significant additional resources on the Planning Service.

## 10 OTHER OPTIONS CONSIDERED

- 10.1 None.

## 11 CONSULTATION

- 11.1 *Ward Councillor; Cabinet members; Parish Council; Town Council; Trades Unions; Overview & Scrutiny Panel; Staff; Other B&NES Services; Local Residents; Community Interest Groups; Stakeholders/Partners; Other Public Sector Bodies; Charter Trustees of Bath; Section 151 Finance Officer; Chief Executive; Monitoring Officer*
- 11.2 Anyone can respond directly to the consultation. However the Council has facilitated this through a community engagement exercise which invites comments on how the NPPF could affect policy in the emerging Core Strategy.

## 12 ISSUES TO CONSIDER IN REACHING THE DECISION

- 12.1 *Social Inclusion; Customer Focus; Sustainability; Human Resources; Property; Young People; Human Rights; Corporate; Health & Safety; Impact on Staff; Other Legal Considerations*

## 13 ADVICE SOUGHT

- 13.1 The Council's Monitoring Officer (Divisional Director – Legal and Democratic Services) and Section 151 Officer (Divisional Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

<b>Contact person</b>	<i>David Trigwell Divisional Director, Planning and Transport 01225 394125 Simon de Beer Policy &amp; Environment Manager 01225 477616</i>
<b>Sponsoring Cabinet Member</b>	<i>Councillor Tim Ball</i>
<b>Background papers</b>	<i>Draft National Planning Policy Framework see: <a href="http://www.communities.gov.uk/publications/planningandbuilding/draftframework">http://www.communities.gov.uk/publications/planningandbuilding/draftframework</a></i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

## APPENDIX 1 To Cabinet Report : Key changes to national policy

- The NPPF is a draft document currently out for consultation<sup>1</sup> which is intended to bring together Planning Policy Statements, Planning Policy Guidance Notes and some Circulars into a single consolidated document. Whilst still in draft, it must be recognised that many of the changes contained in the NPPF are likely to be adopted and that they indicate the Government's proposed 'direction of travel'. The Government's intention is for the final NPPF to be published by the end of the 2011.
- ***Removing office development from 'town centre first' policy:*** Current town centre policy applies to office development as it does to retail and leisure development. The objective of the change in the NPPF is to free office development from the need to follow the requirements of the 'Town Centre First' policy. This will enable proposals to be judged on their individual merits including taking account of local and national policies on the location of new development that generates significant movement of people and the relative supply and demand of or for office space in different locations.
- ***Removing the brownfield target for housing development:*** A specific target for brownfield land was first established by the 1995 housing white paper, which aspired to 50 percent of all new dwellings being built on brownfield land. In 1998, this was increased to 60 percent. Government wants to move away from a prescriptive designation of land towards a concept of "developable" land where local areas decide the most suitable locations for housing growth based on their local circumstances. Local councils will be able to allocate sites that they consider are the most suitable for development without being constrained by a national brownfield target.
- ***Remove the national minimum site size threshold for requiring affordable housing to be delivered:*** Current national planning policy sets a minimum site threshold of 15 units for requiring affordable housing to be delivered for all local councils. This means that any development of 15 units or more will trigger a negotiation over a contribution (paid by the developer) for affordable housing via a section 106 agreement. By removing the centrally set 15-unit threshold for affordable housing, complete control will be given to local councils. This will allow greater flexibility for local councils to seek optimum solutions for their local areas, based on local evidence of need. This complements the existing Core Strategy approach.
- ***Removing rural exception sites policy:*** Current policy allows local councils to set 'rural exception site' policies which allocate and permit sites solely for affordable housing in perpetuity for local people in small rural communities. However, currently, the rigid requirement for sites to be only for affordable housing limits local councils' options for meeting the full range of housing needs. This can lead

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<sup>1</sup> <http://www.communities.gov.uk/publications/planningandbuilding/draftframework>

to local councils being discouraged from taking a wider view on the need for housing in those rural areas and considering the balance to be struck between the benefits of meeting housing needs and maintaining current constraints. The Government's objective is to maintain the focus on affordable housing but give local councils greater flexibility to set out their own approach to delivering housing, including allowing for an element of market housing where this would facilitate significant additional affordable housing to meet local requirements. To ensure development is sustainable, rural housing that is distant from local services should not be allowed. The Core Strategy already covers this by allowing market housing to deliver affordable housing, although only in relation to rural exception sites.

- ***Removing the maximum non-residential car parking standards for major developments:*** The current policy (Planning Policy Guidance Note 13: Transport) sets out national maximum parking standards for non-residential uses (i.e. the upper level of acceptable car parking provision) and size thresholds at which these maximum standards should apply. Current Government policy on non-residential parking standards for major developments, such as retail and leisure developments over 1,000m<sup>2</sup> and offices over 2,500m<sup>2</sup> is considered too centralised and prevents local councils from developing policies that are most appropriate to their local circumstances and communities. Although it is open to us to provide our own maximum parking standards for non-residential development if deemed necessary - and this can be done in the Placemaking Plan - it would be of benefit for reasons of consistency to establish agreement between neighbouring authorities on appropriate standards to apply at the sub-regional level.
- *There are a number of general concerns over proposed changes to transport policy, such as:*
  - *A lack of clarity over definitions eg 'transport grounds' is vague, 'residual impacts' are unclear and 'severe' is undefined and unhelpful. It is unclear how any of these terms would be viewed by an inspector at an appeal, potentially leading to inconsistent decision making*
  - *Planning policies that seek to ensure that development is located in areas which reduce the need to travel or where the use of sustainable transport can be maximised, can only apply where proposals are likely to 'generate significant movement'. This, subject to other policies in the NPPF, would ignore the cumulative impacts of more minor development.*
  - *A weakened emphasis on sustainable modes of transport with escape clause statements such as 'where practical' . 'encouragement', 'support' and 'reasonable to do so'.*
  - *Local planning authorities will be required to 'provide robust evidence' when identifying and safeguarding sites and routes which might be critical in developing infrastructure to widen transport choice. Whilst*

*this may seem reasonable, it will put additional resources on local planning authorities to provide such evidence, and any evidence could potentially be undermined if delivery cannot be demonstrated within a reasonable period. This belies the nature of many strategic transport interventions that rely on incremental development or staged funding to enable their implementation.*

- **Local Green Space designation:** The Government's preferred option would be to introduce a new protection for locally important green space that is not currently protected by any national designation, giving greater discretion and decision-making powers to local councils and local communities reflecting the fact that some land is particularly valued by communities and requires additional protection. Local Green Spaces can only be designated at the plan making stage, for example through Neighbourhood Plans or Council local plans.
- **Decentralised energy targets:** The Government expects local councils to continue to support decentralised energy but does not need to require local councils through national planning policy to set council wide decentralised energy targets. If local councils wish to set their own targets they can, and the policies in the Framework would not prevent such targets provided in their implementation they do not make development unviable. This complements the existing Core Strategy approach.
- **Proactive approach to identifying opportunities for renewable and low carbon energy:** The objective is to ensure that the planning system contributes effectively to the delivery of the Government's energy and climate change policy. The preferred option expects local authorities to consider identifying suitable areas for renewable and low-carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources. Where developers bring forward proposals outside opportunity areas mapped in a local or neighbourhood plan they are asked to demonstrate that the proposed location meets the criteria used in plan making. This should provide transparency, and bring greater predictability to the planning application process.
- **Historic environment:** This section of the NPPF streamlines and simplifies the existing policy position of PPS5 (Planning for the Historic Environment). Whilst there continues to be an emphasis on the importance of the historic environment, there is concern that a consequence of this streamlining is increased ambiguity which could result in a weakening of protection for the historic environment and could lead to buildings and sites of archaeological interest being harmed without adequate investigation and expert analysis.

In addition, the emphasis on and interpretation of, the presumption in favour of sustainable development as a material consideration may undermine the protection of heritage assets. It should be noted that the NPPF highlights that development which has a 'significant effect on sites protected under the Birds

and Habitats Directives would not be sustainable', and that similar approach does not apply to World Heritage Sites. This is something that the Local Authority World Heritage Forum (LAWHF) is considering in their response to Government.

The presumption in favour of conservation contained within Policy HE 9 of PPS 5 appears diminished within the less certain "should be" Objective 176 of the NPPF. The reinstatement of the presumption should be requested.

Para HE1.1 to Policy HE1 of PPS 5 made a good point that the retention of heritage assets avoids the consumption of building materials, energy and waste created by the construction of replacement buildings, and a place should be found for it within the NPPF.

The overriding statutory requirements in the Town & Country Planning (Listed Buildings and Conservation Areas) Act to consider the preservation of listed buildings and conservation areas are not directly reduced by the proposals but the NPPF could establish difficult tensions particularly as regards to the setting of heritage assets. The concern lies with undesignated parts of local heritage. The NPPF seems to be inadequate in respect of undesignated heritage assets, in particular archaeological sites which previously drew protection only through PPG 16 and PPS 5. Specific reference to the need to protect irreplaceable and finite archaeological resources should be included as an Objective.

**DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING**

**BATH AND NORTH EAST SOMERSET**

**MINUTES OF DEVELOPMENT CONTROL COMMITTEE**

Wednesday, 31st August, 2011

**Present:-** Councillor Gerry Curran in the Chair

Councillors Lisa Brett, Neil Butters, Liz Hardman, Eleanor Jackson, Les Kew, David Martin, Douglas Nicol, Bryan Organ, David Veale, Brian Webber and Sally Davis (In place of Martin Veal)

Also in attendance: Councillor David Bellotti

**34 EMERGENCY EVACUATION PROCEDURE**

The Senior Democratic Services Officer read out the procedure

**35 ELECTION OF VICE CHAIR (IF DESIRED)**

A Vice Chair was not required

**36 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was received from Councillor Martin Veal whose substitute was Councillor Sally Davis

**37 DECLARATIONS OF INTEREST**

Councillor Sally Davis stated that, as Ward Councillor for the application at Barton House, Barton Lane, Corston (Item 1, Report 10), she would leave the meeting for its consideration.

**38 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR**

There were no items of Urgent Business. The Chair however informed the meeting that, due to certain circumstances, a request had been received from another speaker to make a Statement against confirmation of the Tree Preservation the subject of Agenda Item 12. The Committee agreed that she should be allowed to make a Statement on this occasion.

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

The Senior Democratic Services Officer informed the meeting that a speaker wished to make a Statement on the Tree Preservation Order the subject of Agenda Item 12 and that they would be able to do so when reaching that Item. The Committee had earlier agreed that an additional speaker would also be allowed to make a Statement on this matter. He informed the meeting that there were also several speakers

wishing to make Statements on the planning applications in Report 10 and that they would be able to do so when reaching those items in that Report.

#### **40 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS**

There were no items from Councillors

#### **41 MINUTES: WEDNESDAY 3RD AUGUST 2011**

The Minutes of the previous meeting held on Wednesday 3<sup>rd</sup> August 2011 were approved as a correct record, and signed by the Chair

#### **42 MAJOR DEVELOPMENTS**

The Senior Professional – Major Developments circulated a Briefing Note for Members on the proposed residential development at Parkhouse Lane, Keynsham (“K2”) which had been allowed on appeal.

He then gave an Update on current major developments at (1) Bath Spa Railway Station where new entrances were proposed at the front and rear of the building; and (2) Bath Western Riverside where work was progressing. The Officer answered Members’ queries on these developments.

In response to a Member’s query regarding proposed development on the Former Railway Land at Norton Radstock, he informed the Committee that there were 2 schemes – one for the housing development by Linden Homes and the other for the traffic scheme involving Traffic Regulation Orders. These were separate schemes and mustn’t be linked together.

The Committee noted the update.

#### **43 PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE**

The Committee considered

- A report by the Development Manager on various applications for planning permission
- Oral statements by members of the public etc on Items 1-3, the Speakers List being attached as *Appendix 1* to these Minutes

**RESOLVED** that, in accordance with their delegated powers, the applications be determined as set out in the Decisions List attached as *Appendix 2* to these Minutes.

**Item 1 Barton House, Barton Lane, Corston – Erection of a single storey front and side extensions and a rear orangery** – The Case Officer reported on this application and her recommendation to Refuse permission. The applicant’s Agent made a Statement in support of the proposal.

Members asked questions regarding the proposed increase in volume to which Officers responded. Councillor Brian Webber referred to Green Belt policy and the

high percentage increase in volume that was proposed. Although he sympathised with the applicant, he considered that the policy should be upheld. He therefore moved the Officer recommendation to Refuse permission. The motion was seconded by Councillor Eleanor Jackson.

Members debated the motion. Some Members supported the motion whereas others did not. It was considered to be a borderline decision as to whether permission should be refused or not. The Team Leader – Development Management gave advice on comments raised by Members. The motion was then put to the vote. Voting: 6 in favour and 5 against. Motion carried.  
(Note: Councillor Sally Davis was not present for consideration of this item.)

**Item 2 No 96 Entry Hill, Combe Down, Bath – Provision of loft extension with rear dormer** – The Case Officer reported on this application and his recommendation to Refuse permission. The applicant made a Statement supporting the application and the Ward Councillor David Bellotti made a Statement in favour of the proposal.

Members discussed the proposal. The Case Officer responded to comments regarding the size and design of the proposal and a possible alternative design. Councillor Les Kew expressed concern with regard to dormers generally and considered that they had an adverse impact on host buildings. Councillor Liz Hardman moved that the recommendation be overturned and permission granted on the basis that she considered that there was no significant loss of visual amenity, it was an acceptable design, there was already a dormer in the terrace, there were no objections from local residents and she did not agree that this proposal would have a detrimental impact on the character or appearance of the host building or the streetscene. This was seconded by Councillor Doug Nicol and the motion was put to the vote. Voting: 8 in favour and 3 against with 1 abstention. Motion carried.

**Item 3 No 12 Bennett Street, Bath – Internal alterations to replace existing carpet with floating bamboo flooring in galleries** – The Historic Environment Team Leader reported on this application and on the recommendation to Refuse consent. A representative of the Museum of East Asian Art made a Statement in support of the proposal.

Councillor Brian Webber opened the debate. He considered that a balanced decision was required as there was the need to preserve the building but also to maintain the cultural and tourist benefits to the City from the operation of the Museum. He referred to the destruction of the building during the second World War with the loss of original features. Also many buildings in Bath were now used as offices with the consequent loss of features or at least being hidden from view. On balance, he supported the proposal and therefore moved that the recommendation be overturned and consent granted on the basis that there was no material impact on the historic fabric or character of this listed building. The motion was seconded by Councillor Neil Butters.

Members debated the motion. Comments centred on the fact that this was a floating bamboo laminate floor which would be placed on top of hardboard which was already in place under the carpet. The process is reversible – the original flooring was not being removed and the laminate floor would protect the historic floorboards. The benefits of the building as a museum also shouldn't be ignored. Some Members

considered however that the character of this town house would be lost as a result of using a modern laminate and therefore could not support the motion. Before the vote, the Historic Environment Team Leader considered that the decision should be delegated to Officers to enable conditions to be added including details of how the materials would be fixed. Members considered that this was unnecessary and that standard conditions, together with the method of fixing to be agreed by the local planning authority, could be imposed. A Member suggested reasons for granting permission which were accepted by Members, namely, that it was considered that the proposal would protect the historic floorboards and preserve the character of the listed building. The motion was then put to the vote. Voting: 9 in favour and 3 against. Motion carried.

#### **44 PLANNING AND LICENSING LEGISLATION**

Referring to the Statement made by Edward Drewe at the previous meeting of the Committee, the Development Manager and the Senior Legal Advisor submitted a joint report addressing the issue of the perceived conflict between licensing and planning as regards food outlets open after 11pm. The report set out the issues, the relevant law and policy and the relationship between licensing and planning. Where a planning permission and a Premises Licence differ, the operator must abide by the earlier time and, if they did not, they would leave themselves open to enforcement action.

**RESOLVED** to note the report which Members agreed was very clear and to be commended.

#### **45 TREE PRESERVATION ORDER - LAND BETWEEN 6 AND WILMSLOW, BANNERDOWN ROAD, BATHEASTON, BATH NO 15**

The Committee considered

- the report of the Senior Arboricultural Officer which recommended that this provisional Tree Preservation Order be confirmed without modification
- oral statements by Andrew Jeffryes and Catherine Gregory (owners of the land in which the tree was situated) speaking against the Order being confirmed

Councillor Eleanor Jackson considered that the Tree Preservation Order should be confirmed so as to protect a tree which makes a significant contribution to the landscape and amenity of the area. She therefore moved the Officer recommendation to confirm the Tree Preservation Order without modification. The motion was seconded by Councillor Doug Nicol. It was commented that this was a magnificent tree that needed to be protected – the care exercised by the current owner could not be guaranteed in the future if ownership changed hands. The motion was then put to the vote and carried, voting being 7 in favour and 3 against with 2 abstentions.

**RESOLVED** to confirm without modification the Tree Preservation Order entitled “Bath and North East Somerset Council (Land between 6 and Wilmslow, Bannerdown Road, Batheaston No 15) Tree Preservation Order 2011”.

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

Members commended Officers on the high rate of success of appeals being dismissed.

The report was noted.

The meeting ended at 3.35 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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**SPEAKERS LIST  
BATH AND NORTH EAST SOMERSET COUNCIL  
DEVELOPMENT CONTROL COMMITTEE**

**MEMBERS OF THE PUBLIC ETC WHO MADE A STATEMENT AT THE  
DEVELOPMENT CONTROL COMMITTEE ON WEDNESDAY 31<sup>ST</sup> AUGUST  
2011**

**SITE/REPORT                      NAME/REPRESENTING    FOR/AGAINST**

<b>AGENDA ITEM 10 PLANS LIST REPORT</b>		
Barton House, The Barton, Corston (Item 1, Pages 25-29)	Adrian Hurst (Applicant's Agent)	For
96 Entry Hill, Combe Down, Bath (Item 2, Pages 30-33)	Daniel Richards (Applicant)	For
12 Bennett Street, Bath (Item 3, Pages 34-36)	Michel Lee (Museum of East Asian Art)	For
<b>AGENDA ITEM 12 TREE PRESERVATION ORDER – LAND BETWEEN 6 AND WILMSLOW, BANNERDOWN ROAD, BATHEASTON</b>		
	Andrew Jeffryes (Owner of the land)	Statement against confirmation
	Catherine Gregory (Owner of the land)	Statement against confirmation

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**BATH AND NORTH EAST SOMERSET COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**31st August 2011**

**DECISIONS**

<b>Item No:</b>	01	
<b>Application No:</b>	11/02459/FUL	
<b>Site Location:</b>	Barton House, The Barton, Corston, Bath	
<b>Ward:</b> Farmborough	<b>Parish:</b> Corston	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of a single storey front and side extensions and a rear orangery.	
<b>Constraints:</b>	Agric Land Class 1,2,3a, Conservation Area, Forest of Avon, Greenbelt, Housing Development Boundary,	
<b>Applicant:</b>	Mr B Houghton	
<b>Expiry Date:</b>	8th August 2011	
<b>Case Officer:</b>	Tessa Hampden	

**DECISION** REFUSE for the following reasons:

1 The proposed development, due to the design, size, scale and siting of the extension would result in a disproportionate addition over and above the size of the original dwelling. This represents inappropriate development within the Green Belt, which is, by definition, harmful. No very special circumstances have been demonstrated to outweigh the presumption against inappropriate development in the Green Belt. The proposal is contrary to Policies GB.1, GB.2 and HG.15 of the Bath and North East Somerset Local Plan including minerals and waste policies adopted 2007.

**PLANS LIST:** 001 to 006 date stamped 10th June 2011

<b>Item No:</b>	02		
<b>Application No:</b>	11/02635/FUL		
<b>Site Location:</b>	96 Entry Hill, Combe Down, Bath, Bath And North East Somerset		
<b>Ward:</b> Lyncombe	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A	
<b>Application Type:</b>	Full Application		
<b>Proposal:</b>	Provision of loft conversion with rear dormer		
<b>Constraints:</b>	Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, Water Source Areas, World Heritage Site,		
<b>Applicant:</b>	Mr Daniel Richards		
<b>Expiry Date:</b>	19th August 2011		
<b>Case Officer:</b>	Jonathan Fletcher		

**DECISION** PERMIT with the following conditions:

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

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

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

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

**PLANS LIST:** 1a received 23 June 2011.  
2a, 3, 4a, 5, 6a received 13 June 2011.

#### REASONS FOR GRANTING APPROVAL

1. The design of the proposed dormer window would preserve the character and appearance of the host building and the surrounding area. The proposal would maintain the residential amenity of adjoining occupiers.

2. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the Policies set out below at A.

A

D.2, D.4 and BH.1 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

<b>Item No:</b>	03
<b>Application No:</b>	11/02371/LBA
<b>Site Location:</b>	12 Bennett Street, City Centre, Bath, Bath And North East Somerset
<b>Ward:</b> Abbey	<b>Parish:</b> N/A <b>LB Grade:</b> II
<b>Application Type:</b>	Listed Building Consent (Alts/exts)
<b>Proposal:</b>	Internal alterations to replace existing carpet with floating Bamboo flooring in galleries
<b>Constraints:</b>	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, World Heritage Site,
<b>Applicant:</b>	Mr Thomas Parkinson
<b>Expiry Date:</b>	29th July 2011
<b>Case Officer:</b>	Caroline Waldron

**DECISION** CONSENT with the following conditions

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

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

2 Full details of any required fixing of the materials to the building, particularly the fillet strips proposed to the skirting boards and chimney pieces, shall be submitted to and agreed in writing by the Local Planning Authority before works commence. The works shall then only be implemented in accordance with the agreed details.

Reason: In order to protect important architectural features in the long term.

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

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

**PLANS LIST:** This decision notice relates to the submitted location plans, ground, first and second floor plans, drawing TWP/5, 2 no. photographs, and Design and Access Statement, all dated stamped 3 June 2011.

#### REASONS FOR GRANTING CONSENT

The decision to grant consent subject to conditions has been made in accordance with section 16 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation of the building. The reversibility of the works without long term damage to the structure was a key consideration. The decision is also generally consistent with Planning Policy Statement 5: Planning for the Historic Environment, and has taken into account the views of third parties. The Council considers the proposals will preserve or enhance the character of the Conservation Area and World Heritage Site.

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<b>Bath &amp; North East Somerset Council</b>		
MEETING:	<b>Development Control Committee</b>	AGENDA ITEM NUMBER <div style="border: 1px solid black; width: 80px; height: 40px; display: flex; align-items: center; justify-content: center;"> </div>
MEETING DATE:	<b>28th September 2011</b>	
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)	
TITLE:	<b>APPLICATIONS FOR PLANNING PERMISSION</b>	
WARDS:	ALL	
BACKGROUND PAPERS:		
<b>AN OPEN PUBLIC ITEM</b>		

## BACKGROUND PAPERS

List of background papers relating to this report of the Development Manager, Planning and Transport Development about applications/proposals for Planning Permission etc. The papers are available for inspection online at <http://planning.bathnes.gov.uk/PublicAccess/>.

- [1] Application forms, letters or other consultation documents, certificates, notices, correspondence and all drawings submitted by and/or on behalf of applicants, Government Departments, agencies or Bath and North East Somerset Council in connection with each application/proposal referred to in this Report.
- [2] Department work sheets relating to each application/proposal as above.
- [3] Responses on the application/proposals as above and any subsequent relevant correspondence from:
  - (i) Sections and officers of the Council, including:
    - Building Control
    - Environmental Services
    - Transport Development
    - Planning Policy, Environment and Projects, Urban Design (Sustainability)
  - (ii) The Environment Agency
  - (iii) Wessex Water
  - (iv) Bristol Water
  - (v) Health and Safety Executive
  - (vi) British Gas
  - (vii) Historic Buildings and Monuments Commission for England (English Heritage)
  - (viii) The Garden History Society
  - (ix) Royal Fine Arts Commission
  - (x) Department of Environment, Food and Rural Affairs
  - (xi) Nature Conservancy Council
  - (xii) Natural England
  - (xiii) National and local amenity societies
  - (xiv) Other interested organisations
  - (xv) Neighbours, residents and other interested persons
  - (xvi) Any other document or correspondence specifically identified with an application/proposal
- [4] The relevant provisions of Acts of Parliament, Statutory Instruments or Government Circulars, or documents produced by the Council or another statutory body such as the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007

### **The following notes are for information only:-**

- [1] "Background Papers" are defined in the Local Government (Access to Information) Act 1985 do not include those disclosing "Exempt" or "Confidential Information" within the meaning of that Act. There may be, therefore, other papers relevant to an

application which will be relied on in preparing the report to the Committee or a related report, but which legally are not required to be open to public inspection.

- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting the requirements of the above Act, other letters and documents of the above kinds received after the preparation of this report and reported to and taken into account by the Committee will also be available for inspection.
- [4] Copies of documents/plans etc. can be supplied for a reasonable fee if the copyright on the particular item is not thereby infringed or if the copyright is owned by Bath and North East Somerset Council or any other local authority.

## **INDEX**

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	11/02504/FUL 18 August 2011	Oldfield School Oldfield School, Kelston Road, Newbridge, Bath, Bath And North East Somerset Erection of a new 4 court sports hall incorporating changing rooms, car park, multi use game area, associated external works and landscaping	Newbridge	Victoria Griffin	PERMIT
02	11/03051/FUL 7 September 2011	Filers Coaches Tia Filers Coaches, Wick Lane, Stanton Drew, Bristol, Bath And North East Somerset Extend area of coach/bus stationing for an additional 10 vehicles (resubmission).	Clutton	Mike Muston	REFUSE
03	07/02424/EOUT 2 November 2007	Purnell Property Partnership Closed Polestar Purnell Factory Site, Access Road To Works, Paulton, Bath And North East Somerset, BS39 7LQ Mixed use redevelopment of former printworks comprising offices, industrial, residential, continuing care retirement community, pub/restaurant, community building, open space, associated infrastructure, landscaping and access roads	Paulton	Mike Muston	APPROVE

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

**Item No:** 01  
**Application No:** 11/02504/FUL  
**Site Location:** Oldfield School, Kelston Road, Newbridge, Bath



**Ward:** Newbridge      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor L Morgan-Brinkhurst    Councillor C M L Roberts  
**Application Type:** Full Application  
**Proposal:** Erection of a new 4 court sports hall incorporating changing rooms, car park, multi use game area, associated external works and landscaping  
**Constraints:** Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Forest of Avon, Gas Pipelines, Greenbelt, Hotspring Protection, Major Existing Dev Site, World Heritage Site,  
**Applicant:** Oldfield School  
**Expiry Date:** 18th August 2011  
**Case Officer:** Victoria Griffin

## **REPORT**

### **REASON FOR REPORTING APPLICATION TO COMMITTEE**

This application is being referred to Committee on the basis that it is a Council proposal which raises Green Belt policy issues which need to be considered by Members.

The application seeks permission for the siting of a 4 no. courts (badminton) sports hall incorporating changing rooms, office, male and female WC and showers, a plant room and external and internal storage rooms. Other works include a car park, multi use games area (MUGA) and associated external works and landscaping.

The proposed sports hall has a total gross floor area of approximately 985sqm. The height measures approximately 10.2m to the ridge and 9.5m to the eaves. The floor level of the hall has been set to keep the roofline within the limits of the existing school buildings. The main entrance to the sports hall would be situated to the side from within the school grounds.

The sports hall by its nature is a large volume that has been designed to accommodate the provision of various indoor sports. The overall size of the building has been influenced by the minimum space standards guidance set in Sport England's Sports Halls Design & Layouts (2011), and by the need to meet Department for Education requirements associated with the committed transfer of the school to co-educational use. Materials proposed include vertical timber and polycarbonate cladding at high level with render and facing stonework and stonework to the lower sections of the building.

The MUGA pitch area would be situated to the east of the Sports Hall on part of the recreation ground that is connected by a new footpath which links to the existing east west path network and the proposed sports hall changing rooms. The pitch is proposed to be enclosed by a mesh perimeter fence. On-site parking is retained within a central hardstanding area that would form the main access to the sports hall and reception area to the school.

The application site is situated to the west of the city centre on the edge of the built up area of Weston with school access from Kelston Road and Penn Hill Road. The site is one of two halves which is divided by a public footpath that dissects the site between the easterly historic part of the site (which accommodates a grade II listed building that provides a 6th form centre), and the modern school development to the west.

Specifically the building is proposed on a piece of open space situated on the Kelston Road which is within the modern part of the site. The siting of the building in this location has followed a detailed landscape and visual assessment and public consultation that considered a number of alternative positions within the school grounds. A detailed landscape analysis has been submitted which has considered the prominence of the building from various vantage points along Kelston Road and the wider context which seeks to retain the pond to the front of the building. It is considered that this position would ensure the ecology of the pond area for school purposes which would form the optimum position for the sports hall.

The site falls outside of the Conservation Area but is situated within the Green Belt, Forest of Avon, Hotspring Protection zone, World Heritage site and is a Major Existing

Development Site. The land to the south, north and west of the site is located within an Area of Outstanding Natural Beauty.

The application is supported by a number of documents including:

- A design & access statement,
- An amended Landscape and Visual Assessment, Tree Constraints Plan, Tree protection plan,
- Ecological Walkover Assessment and Ecology Method Statement,
- A planning statement addressing Green Belt policy
- A Travel Plan, Traffic operation statement,
- Construction Management Plan, Heritage statement, Sustainable Construction checklist and;
- An Archaeological desk study

#### RECENT PLANNING HISTORY:

DC - 04/00943/FUL - PERMIT - 1 July 2004 - Erection of a building to house dance studio and changing rooms

DC - 05/01148/LBA - CON - 20 June 2005 - Partial demolition and alterations to curtilage wall (Penn Hill House) in Kelston Road (Regularisation)

DC - 06/02619/FUL - PERMIT - 27 September 2006 - Replacement windows in the toilets of the rear elevation of the main building

DC - 07/02001/FUL - PERMIT - 30 August 2007 - Replacement of existing modular classroom building

DC - 07/02209/FUL - PERMIT - 31 August 2007 - Erection of an extension to existing classroom

DC - 08/01664/FUL - PERMIT - 2 July 2008 - Erection of first floor extension to existing resource centre

DC - 11/00436/REG03 - PERMIT - 12 May 2011 - Erection of a new external stair link, uniting three existing stair cores

DC - 11/02952/FUL - Pending Consideration - Installation of solar panels on the roof and electrical inverters.

#### **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

HIGHWAYS: No objection subject to conditions (summarised) being attached to any permission granted (dated received 06/09/11):-

(1) Prior to the occupation of the development, an operational statement shall be submitted to and approved in writing by the Local Planning Authority and shall include details of the management of the access and parking areas by both the School and any community groups.

Reason: To ensure the safe operation of the highway.

(2) Prior to the occupation of the development a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

(3) I would also recommend that a suitably worded condition be imposed to restrict the use of the sports facilities by community groups and outside bodies, either through hours of use or the number of days that the facility can be offered for hire.

LAND DRAINAGE TEAM: Comments only - (clarification sought on the site area, as indicated by the red line, which does not exceed 1ha)

- The applicant's proposal is located outside the Flood Zones- Flood Zone 1
- Applicant indicated that the surface water from the site will be discharged to Main Sewer, however a drainage strategy that incorporates SuDS features should be provided.
- Confirmation from Wessex Water that they are happy to accept additional discharge to their network is required.
- Surface water should be attenuated on site to greenfield runoff rate of 1 in 100 year event with an additional 30% allowance for climate change.
- The proposed discharge rates should be submitted for approval.

PUBLIC RIGHTS OF WAY TEAM: Comments only, possible public right of way CQ24 shown on the plan by an orange dashed line runs through the development site. The full width of the path should not be affected during or after construction. No gates or barriers may be erected across the path.

BUILDING CONTROL: No comment received

ECOLOGY: FURTHER COMMENTS dated 11/08/11 in response to revised ecological assessment (summarised):

- Planting - a stronger scheme is required
- Ecological fencing should be secured for the pond and badger setts within the site
- If plans are amended to re-site the pond a mitigation plan and methods would be required

ARCHAEOLOGY: No objection, subject to a watching brief condition.

LANDSCAPE TEAM: Comments received DATED 27/06/11 raise the following points (summarised):

- A number of points raised concerning the options presented as part of the pre-application submission
- Significant impact on the green corridor along the north side of Kelston Road and the removal of trees
- Key entry point into the city and WHS

- It would block views due to its forward position
- Landscape and Visual Assessment requires further illustration and detail with cross sections and photomontages of a few key viewpoints
- Conditions for the design and implementation of a hard and soft scheme is required to include the site boundary treatment and a condition for preparing a landscape management plan.
- This option would have a significantly greater impact because of the high impact on the Kelston Road corridor which is a key entry point into the city within the World Heritage Site.
- Option 2 however would significantly extend the apparent influence of the larger buildings on the site with a greater impact on the Green Belt, Area of Outstanding Natural Beauty setting and the character of the Kelston Road.

Verbal comments received 12/09/11 - Maintain position in line with previous response and Urban Designer comments and would like to provide further representations to Landscape and Visual Assessment. These will be reported at the meeting of the Committee.

ARBORICULTURAL: Comments received DATED 20/07/11 raising a number of concerns (summarised):

- The submitted Arboricultural Report does not provide sufficient information to permit an objective assessment of this application.
- It would be preferable to allocate the trees unique numbers for the purpose of the arboricultural report rather than the database numbering that has been used in this instance.
- Root Protection areas are not shown and the proposed layout drawing does not indicate which of the existing trees are to be removed and which are to be retained.
- Measures for the protection of trees to be retained are not shown on a Tree protection Plan. This should include where protective fencing in accordance with BS5837:2005 is to be located and where special engineering solutions are to be employed where Root Protection Areas will be breached. There are no indications of changes in levels.
- A detailed Tree Constraints Plan showing existing levels and a detailed Tree Protection Plan showing proposed level changes should be produced.
- A Preliminary Arboricultural Method Statement is also required in order to demonstrate that the proposed development can be achieved without compromising the retained trees.

Officer note: Additional details have been submitted (dated 04/08/11) to address issues with Landscape and Arboricultural matters that includes a Tree Constraints Plan, Tree Protection Plan and Amended Arboricultural Statement including a preliminary Arboricultural Method Statement which are based on a recent topographical survey. Furthermore a site section as requested to include the fields to the north and properties to the south - drawing PL-AL(99)108 has been submitted.

With reference to the request for photomontages these have already been prepared from viewpoints along Kelston Road and further afield from the A4 approach road. The photomontages formed part of the Landscape and Visual Assessment prepared by Davies Landscape Architects, the Design and Access Statement and the Pre Planning

Submission Design Summary April 2011 Rev E prepared by Boyes Rees Architects, all submitted as part of this application.

Further comments dated 13/09/11:

Further to my earlier comments I have viewed the revised drawings and remain unconvinced that the trees have been taken into account.

A revised Arboricultural Impact Assessment and a Preliminary Arboricultural Method Statement would have highlighted a number of issues such as that the Sycamore (801670) shown for retention already has a canopy spread to the west of 5m, however, the proposed building is shown on drawing 456PL-AL (90) 101B 6m which suggests that the future growth of this tree and subsequent pruning requirements have not been taken into consideration. The proposed retaining wall is within the root protection area of this tree which already has a compromised rooting area to the south east due to the presence of the path and wall.

The use of the database numbering, not presenting these in numerical order and the style of overlaying the numbers onto the proposed site plan (some numbers are not legible) has created difficulties in cross referencing.

The revised Proposed Site Plan includes existing levels and several spot levels which suggest that any level changes are within the confines of the retaining wall and surrounding path around the building. This is useful information which has addressed my earlier concern.

The revised layout has an increased impact on the existing trees with fewer retained with the loss of 6 B category trees and an important group which collectively warrant a B category.

Those retained immediately around the sports hall (trees 801570 - Sycamore, 801650 - Ash, 801610 - Ash and 801670 - Beech) are unlikely to be able to reach their full potential following development.

The Tree Protection Plan needs to include the proposed planting area beside Kelston Road to ensure that the soil structure is maintained and to prevent contamination.

On a positive note, it does at least provide more scope for new planting along the frontage for the future compared with the previous proposal.

Overall, I can not support this proposal, however, if consent is given please include the following conditions:

- No development shall take place until a detailed arboricultural method statement with tree protection plan has been submitted to and approved in writing by the Local Planning Authority. The statement shall identify measures to protect the trees to be retained and the new planting areas beside Kelston Road and include tree protection measures during site preparation (including clearance and level changes, during construction and landscaping operations. The statement should also include the control of potentially harmful operations

such as the position of service runs, storage, handling and mixing of materials on site, burning, location of site office and movement of people and machinery.

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

- No development activity shall commence until the protective measures as stated in the approved Arboricultural Method Statement are implemented. The local planning authority is to be advised two weeks prior to development commencing of the fact that the tree protection measures as required are in place and available for inspection.

Reason: To ensure that the trees are protected from potentially damaging activities.

- No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement unless agreed in writing by the local planning authority. A signed certificate of compliance shall be provided to the local planning authority on completion.

Reason: To ensure that the approved method statement is complied with for the duration of the development.

SPORT ENGLAND: Satisfied that the proposal for the sports hall and MUGA is of sufficient benefit to outweigh the harm caused by the loss of playing fields. No objection subject to condition 1 which states that:

Prior to development opening for use A Community Use Scheme for the new sports hall and multi use games area (MUGA) shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of a pricing policy, hours of community use, access by non school-users/non-members, management responsibilities and include a mechanism for review. The scheme shall be implemented upon commencement of development.

Reason: To secure well managed safe community access to the sports facility, to ensure sufficient benefit to the development of sport and to accord with Sport England and LDF policy.

SPORTS AND LEISURE TEAM: This facility is important for the school to deliver effectively against the PE and Sport requirements of the national curriculum and to provide high quality out of school hours activity opportunities to pupils, so the educational need of this facility is recognised. There is also potential for the local community benefit from the sports hall and MUGA as there are no similar facilities close to this location in the City. The sports hall in particular could become an important community asset for delivering against the Council's Get Active Strategy and for helping the local community to be more active more often contributing to improved health and wellbeing. I would recommend the following condition:

Prior to the development opening for use a Community Use Scheme for the new 4 courts sports hall and multi use games area (MUGA) shall be submitted to and approved in writing by the Local Planning Authority. The Scheme shall include details of pricing policy, hours of community use, access by non-school users/non members, management

responsibilities and include a mechanism for review. The Scheme shall be implemented upon commencement of use of the development.

URBAN DESIGN: (summarised) COMMENTS dated 07/09/11 raising the following points:

- the visual impact of the proposal on key views along Kelston Road is underplayed.
- the revised proposal has taken a more integrated approach, retaining an arrival /parking area and enabling a single and deeper frontage landscape buffer to screen and minimise the visual impact of the proposed hall as a strategy to mitigate the identified harm.
- The applicant was encouraged to recess the hall as far back into the site as possible, it is therefore disappointing that the applicant has chosen to compromise the visual impact mitigation measures in favour of retaining the pond for school operational reasons.
- it is noted that the base plinth material has been amended as requested to buff coloured blockwork
- It would be helpful to confirm what measures have been integrated to optimise the identified viable opportunities. Failure to do so on a publicly funded scheme would fail to set an example and meet corporate sustainability objectives.
- The proposal has improved in terms of siting and materials. However, by choosing to retain the existing pond, it has failed to deliver the optimum solution to reduce its visual impact. It has also not committed to viable renewable energy solutions, failing to deliver exemplar environmental performance on a publicly funded scheme. It is therefore considered to demonstrate a response to context but falls short of optimising opportunities.
- Conditions should be placed to require the approval of all facing materials and quality of the external landscape including tree specimens.

ENVIRONMENT AGENCY: We have no comments on the above planning application. The proposal is outside those topics requiring consultation with the Environment Agency, as set out in Articles 16 and 17, and Schedule 5 of the DMPO.

ENVIRONMENT PROTECTION: NO OBJECTION (summarised), the Acoustic Statement says "The cumulative noise level of all plant associated with the proposed sports hall is designed not to exceed 52LAeq (1 hour) decibels. Noise from the plant should not contain any impulsive or tonal sounds". That being the case and bearing in mind the likely hours of use, I have no objections to these proposals.

WESSEX WATER: Comments advise foul water and water supply connection agreement is sought by the developer prior to commencement of the development.

HERITAGE: NO OBJECTIONS comments received 15/08/11 (summarised):

- My main concern relates to the absence of context drawings showing the proposed sports pitch and how it will be enclosed especially as it is this that is closest to the Penn House, which makes it difficult to reach a firm conclusion on the impact of the proposed development on the setting of nearby heritage assets, and indeed other properties nearby.
- As with many such educational listed buildings they often form part of modern education facilities, as this does, it remains the case that the historic setting of the

building has been compromised by previous development within the school grounds. The proposed building would fill up the open space between the road/entrance and the school and accurate context drawings would also help in understanding if the proposed larger building would tend to dominate the approached to the school and surrounding properties. That said the site is a school and there a number of large educational buildings, which set the character and appearance of the site and in this respect an additional building will not, in my view be detrimental. It should also be noted that the drawings of the proposed dwelling are at a small scale, and are missing the type of detailed construction drawings normally required for a heritage site.

- Finally I would state that the Council should be seeking to control the usage of the MUGA sports pitch so that it does not cause disturbance to those properties close by.

**REPRESENTATIONS:** Two letters of objection and one letter of comment/objection from local residents raising the following issues (summarised):

- poor access
- insufficient parking spaces
- parking management problems currently would be exacerbated
- alternative less prominent positions available within the site
- concern with overflow parking on Penn Hill Road and surrounding areas
- impact of flow of water from spring above the hillside to pond
- suggest it is built adjacent to the MUGA pitch
- concern over co-ed status would generate more overspill parking
- unclear for need of co-ed status with the retention of Culverhay
- a feasibility study for parking demands should be carried out
- suggest underground parking
- concern over site security within the grounds
- assurances that PROW will be retained and no impact on listed walls
- out of hours parking arrangements should be clarified
- height appears out of proportion with buildings in the area

Any further comments that are received will be reported at Committee

## **POLICIES/LEGISLATION**

The following policies are a material consideration:

D.2 - General Design and Public Realm Consideration

D.4 - Townscape Consideration

NE.4 - Trees and Woodland Conservation

GB.1 - Control of Development in the Green Belt

GB.2 - Visual Amenities of the Green Belt

GB.3 - Major Existing Development Sites

BH.1 - World Heritage Site

BH.2 - Listed Buildings and Their Settings

BH.9 - Parks and Gardens of Special Historic Interest

BH.12 - Important Archaeological Remains

SR.1A - Protection of Playing Fields and Recreational Open Space

SR.4 - New Sports and Recreational Facilities

T.24 - General Development Control and Access Policy

T.26 - On-site Parking and Servicing Provision

of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies  
Adopted for October 2007

National Policy:

PPG.2 - Green Belts

PPS.5 - Planning For the Historic Environment

PPG.17 - Planning For Open Space, Sport and Recreation

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes.

The following policies should be considered:

CP6 - Environmental quality

CP8 - Green Belt

DW1- District-wide spatial Strategy

## **OFFICER ASSESSMENT**

### **GREEN BELT CONSIDERATIONS**

**GREEN BELT AND MAJOR EXISTING DEVELOPMENT SITE:** The main issues in this case are considered to be:-

- Whether the proposal amounts to inappropriate development in the Green Belt,
- Whether there would be any impact on the openness of the Green Belt and the effect of the proposal on the character and appearance of the area
- Any benefits of the proposal and, if it amounts to inappropriate development in the Green Belt, whether these benefits would clearly outweigh any harm to the Green Belt and any other harm, so as to amount to very special circumstances.

From Planning Policy Guidance: 2 (Green Belts) and in a number of cases which have been determined, it is recommended that as a matter of logic, the decision-taker should follow a sequential approach to deciding whether planning permission can be granted. The approach may satisfy the judgement of the case as a whole in terms of its impact on the Green Belt. With this in mind a number of questions need to be considered;

**WHETHER THE PROPOSAL IS INAPPROPRIATE DEVELOPMENT IN THE GREEN BELT:** Paragraph 3.4 of PPG:2 notes that the construction of new buildings inside a Green Belt is inappropriate unless it is for essential facilities for outdoor sport and outdoor recreation. In the preamble to policy GB.1 it states that the role of the countryside within the Green Belt in providing opportunities for outdoor sport and recreation is recognised. Furthermore where it is recognised that facilities are essential for these and other uses of land that preserve the openness of the Green Belt, development may be acceptable.

In addition paragraph 3.5 of PPG:2 on Green Belts states that essential facilities should be genuinely required for uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it. Possible examples of such facilities include small changing room or unobtrusive spectator accommodation.

The preamble to Local Plan policy GB.3 notes that PPG2 recognises that Green Belts contain some major existing developed sites (MEDS) which may be in continuing use. The preamble to policy GB.3 recognises Oldfield School as a recognised MEDS within the Local Plan where limited infilling for educational purposes will be permitted unless;

- (i) It has a greater impact on the purposes of including land in the Green Belt than the existing development; or
- (ii) It exceeds the height of the existing buildings; or
- (iii) It leads to a major increase in the developed proportion of the site.

For it to fulfil the requirements of the policy it would be necessary for the siting of the proposed sports hall and associated facilities to be contained within the existing pattern of development to reduce its impact on the Green Belt. It would also have to be limited infilling or redevelopment. The proposal is considered to be an extension of the school buildings and is neither limited infilling nor redevelopment of the site. Notwithstanding this point the proposal would by reason of its position and size fails to comply with part (i) of Local Plan policy GB.3. Accordingly, your Officers conclude that the proposed sports hall element of the proposal is considered to represent inappropriate development in the Green Belt, and can therefore only be permitted in the event that there are very special circumstances which outweigh the harm to the Green Belt.

The proposed multi-use games area (MUGA) however would be situated to the east of the sports hall building, connected by an internal footpath between the buildings. The facility is well screened within an existing playing field and is reasonably necessary to support the sports facilities at the school. The MUGA is therefore considered to form an essential facility for outdoor sport and recreation, and so is not in its own right inappropriate in this Green Belt location.

**VISUAL AMENITY OF THE GREEN BELT/CHARACTER AND APPEARANCE OF THE AREA:** "Harm" in this context relates to harm to the purposes of including land in the Green Belt. In this respect the proposal is considered to fail in the safeguarding of the countryside from encroachment. The location and siting of the sports hall would be forward of the main school buildings, forming a prominent building along the school's frontage facing onto Kelston Road. As such it projects approximately 10m beyond the forward most part of the principal elevation of the school on a piece of open space which currently provides some relief between the school buildings and the highway. This is coupled with the size of the sports hall which is needed to comply with standards set by Sport England for the type of facilities proposed, however is a substantial building. The proposed sports hall is considered to be harmful due to its size and position which would increase the developed area of the site and would adversely impact upon the openness and rural character in this part of the Green Belt.

The proposed MUGA includes a mesh perimeter fence that provides enclosure to the facility. Its position would be within the grounds of the Listed Building which is bordered by mature trees and planting, it currently affords a high degree of screening to this part of

the site from the public highway. Nevertheless the mesh fence is not a solid screen and would retain views into and across the site. It is considered that the MUGA would preserve the openness of the Green Belt and would maintain the visual amenity in this part of the Green Belt in accordance with GB.2. Furthermore it would be viewed against the backdrop of the school site.

Reasonably, the impact on the openness of the Green Belt, or on the character of the countryside, can be impacted upon by associated equipment such as floodlighting towers or pylons that would typically be a key factor in determining whether planning permission should be granted. The proposal under consideration does not include any external lighting, if the application was deemed acceptable a condition would be recommended to advise that any external lighting would require separate permission.

**OTHER MATERIAL FACTORS IN SUPPORT OF THE APPLICATION:** The proposed facility is to support the co-educational status of the school which has diversified its pupilage to include boys following local support from the community and a Council commitment to invest £1.85 million into the school. This would allow the intake of boys from the local area removing the need to bus pupils in from outside of Bath & North East Somerset supported locally by parents from Weston and Newbridge. This is supported by a Department of Education (DfE) survey of the existing school's facilities which identified that the school site is lacking a number of key facilities that would be needed to support the co-educational status and a school of this size. This included the need to provide a Sports Hall and multi-use games area. In addition Oldfield School is recognised as having a specialism in sports with a key focus on further attainment and achievement in a range of extra curricular activities. It does however currently have limited suitable enclosed sports facilities to offer a diverse range of sports. In addressing the shortfall in existing facilities on site and within the wider area it will assist the school in meeting the DfE requirements. These factors are significant material considerations in the assessment of the proposal.

In this regard the decision-maker must determine whether any individual factor taken by itself outweighs the harm or whether some or all of the factors, in combination, outweigh the harm.

**IMPACT ON THE WIDER SETTING:** A detailed landscape and visual assessment has been submitted to justify the choice of position within the site which is also used in order to support the very special circumstances case. The school grounds are severely constrained by its topography, which rises steeply to the rear towards Penn Hill and Lansdown Ridge. An option here was considered but would rise well above existing school buildings that would have a significant visual impact. The proposed position within the site forms part of a gently sloping plateau within the grounds of the school's frontage. The site is visible to the south and would be in an intrusive position within the street scene with open views from the Kelston Road and in lower parts of the city from the A4 and other public footpaths. To the east the site is constrained by the setting of the listed asset, Penn Hill House a grade II listed building which is of special architectural and historic interest. With all these factors in mind and that it forms part of a compact site which has a reduced number of options available for development opportunities such as these, it is considered that within the wider setting of the World Heritage site the proposal whilst it would be prominent it would reflect the character of the existing modern school setting. To that end,

having considered the opportunities available to site the sports hall it is accepted by your officers' to be the most appropriate siting within the wider setting.

**DESIGN:** The design and dimensions of the sports hall has been largely determined by the standards set by Sport England in their guidance document "Sports Halls: Design & Layouts". Its massing is derived from the functional requirements needed for the operation of the sports hall. This is supported by the need to provide adequate sports facility for the ongoing needs of the school. The applicant has made attempts to reduce the dominance of the buildings facades with horizontal breaks served by the use of different cladding materials and curved edges. In this sense the functional design of the sports hall reflects the character of a modern school building and would be viewed within this wider context. In terms of materials the external blockwork has been amended, following comments from our Urban Designer and relevant conditions are recommended.

**HISTORIC ENVIRONMENT:** The site is one of two halves with the area to the east, accessed from Penn Hill Road serving the listed asset. The siting of the building has been severely constrained by the need to limit its impact on the protected building, Penn Hill House. As noted by the Heritage officer with many such educational listed buildings they often form part of modern education facilities, as this does, it remains the case that the historic setting of the building has been compromised by previous development within the school grounds. In this respect the number of large educational buildings from Kelston Road set the character and appearance of the site and in this respect an additional building in this position will not be harmful to the historic environment. Furthermore the MUGA would be positioned approximately 90m from the listed asset on an existing recreational area. By nature of its proximity to the listed asset and the design of the fencing it is not considered to be harmful to the setting of the listed building.

**TREES AND LANDSCAPE:** A number of concerns have been raised in respect of the impact of the proposed building and MUGA on existing trees within the site. Trees have been inspected within the site and detailed information collected on species, height, spread, diameter, crown clearance, maturity (age class), physiological condition, structural condition, work recommendations, estimated remaining contribution (life expectancy), category grading and root protection area. This forms part of a portfolio of documents including the Landscape and Visual Assessment, Tree Constraints Plan, Arboricultural Method Statement and Amended Arboricultural statement that has been submitted as part of the application. Revised drawings have been submitted which seek to mitigate the impact on trees during construction and any proposed and replacement planting as a result of the removal of trees. Whilst no trees on site are protected by virtue of a preservation order there are a number of trees of particular quality within the site. The existing landscaped areas have been further enhanced by the removal of parking to the front of the building following your officers' advice. On balance, whilst the landscape comments are noted measures have been taken to ensure appropriate landscaping is retained and replanting is sympathetic to the setting. This is not considered to warrant a refusal of the scheme subject to a number of appropriate conditions. It would therefore be necessary to protect trees to be retained with appropriate conditions.

**ECOLOGY:** The applicant has submitted a revised ecological walkover assessment. Nevertheless concerns have been raised in respect of the enhancement of landscaping measures in line with the Environment Team's comments. Suitable conditions are

recommended to ensure that fencing is erected during construction to protect wildlife within the existing pond and badger setts on site in other parts of the site.

**OFFICER ASSESSMENT OF HIGHWAY ISSUES:** The highways recommendations have been made on the basis that there is no intention to increase the capacity of the school, but would provide improved sporting facilities for the school to satisfy their status as a specialist in sports. Consideration has been given to the existing parking arrangements at the site which has generated a number of objections from local neighbours. Whilst no changes are proposed in the level of parking within the site it is necessary to ensure that the building's use is restricted as outlined by the Agent, to be for school purposes only. On the basis that there is no increase in capacity proposed for the school, as a result of the proposals, and no changes are proposed to the access and parking, the impact on the highway would remain unchanged and a highways reason for refusal is not considered to be justified in this respect. Conditions are however recommended in respect of an Operational Statement for the access and parking and to ensure that the facility is not operated independently of the School as a sports centre during school hours and is only available for community use outside of School times. The sports hall and associated multi-use games area should therefore be for the use of the school and local community uses, with all bookings being managed by the school, in accordance with the applicant's submitted statement. Furthermore an updated Travel Plan is required that surveys travel by both staff and pupils, with initiatives to encourage a shift in modes of travel.

**RESIDENTIAL AMENITY:** The nearest residential property's are situated opposite on the Kelston Road with further residential buildings along Penn Hill Road to the east. Comments received from neighbours have referred to the security of the site during out of school hours and how this would be promoted. Whilst Planning Policy Statement 1 states that crime prevention is capable of being a material consideration in determining planning applications and in relevant cases the Council will seek the views of the Police Architectural Liaison Officer (who specifically advises on design issues). The on-site security of the site is a school related matter and to ensure the attractiveness of the facilities it would be within their interest to ensure this is maintained. However, the proposed hiring of the facility outside of school hours could lead to increased levels of noise and activity within the site and a full detailed operational statement should be requested by condition for community uses outside of school hours.

**ARCHAEOLOGY:** A desk based archaeological assessment has been submitted which concluded that an earthwork enclosure exists to the north of the school, but otherwise there is no specific archaeological evidence for this site nor its immediate environs. Notwithstanding this point archaeological remains are present across the city and it is pertinent to reflect this in any recommendation. A watching brief condition during construction works could therefore be attached to any permission.

**ENVIRONMENT PROTECTION:** An acoustic statement has been submitted with the application that states the cumulative noise level of all plant associated with the proposed sports hall is designed not to exceed 52LAeq(1 hour) decibels and that any noise generated from the plant should not contain any impulsive or tonal sounds. The nearest residential property is approximately 35m away (measured off plan). The proposed acoustic level has raised no objection from our Environment Protection department however the applicant would be required to comply with this level of sound attenuation, if minded to offer support to the proposal this could be applied as a condition.

SPORT ENGLAND: No objection is raised to the loss of playing fields for the MUGA pitch and support is offered for the sports hall facility provided it is made available to the wider community which is reflected also in the Council's Sports & Leisure department's comment. Further information has been sought and this is a key aspiration of the school outside of school operating times only. This issue is considered in the officer assessment of highway matters which raises other material considerations. In this respect the use of the sports facility can be controlled appropriately with relevant conditions as recommended.

OFFICER ASSESSMENT OF THE VERY SPECIAL CIRCUMSTANCES CASE: Paragraph 3.2 of PPG:2 emphasises that where a proposal is considered to be inappropriate development within the Green Belt it is the responsibility of the applicant to show why permission should be granted through the demonstration of very special circumstances. It states that very special circumstances to justify inappropriate development will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. In this regard the circumstances must not merely be unusual, but must be highly unlikely to be repeated elsewhere and when viewed objectively, must be reasonably capable of being described as "very special".

A very special circumstances case has been presented by the applicant that includes a set of circumstances that has led to the need for the sports hall, the benefits of providing the sports hall and the lack of an acceptable alternative location within the defined MEDS or elsewhere.

The circumstances of the school as an established and important educational facility within the city and its ongoing commitment to developing the school's offer as a co-educational facility, together with the absence of an acceptable alternative, represents a set of very special circumstances that are considered to overcome the harm by reason of inappropriateness to the green belt. Furthermore, the proposal has taken into consideration landscaping and a revised parking arrangement that would utilise an existing parking area within the school site. The proposed revised siting of the sports hall would be viewed against the backdrop of the existing modern school buildings in this location, and the impact of the building upon the open countryside is therefore reduced.

Overall, it is considered that the combination of the factors set out above amount to significant benefits that would be realised were the scheme to go ahead. The harm that has been identified is harm by reason of inappropriateness, which is by definition harmful to the Green Belt and its impact on the openness by reason of its size and position. Against this harm needs to be set the benefits that the proposal will bring about, as set out above, and the fact that without this permission the school would fail to achieve the requirements set out by the Department for Education. It is considered that these benefits clearly outweigh the harm to the Green Belt by reason of inappropriateness and any other harm, such as to amount to very special circumstances. The proposal therefore accords with Policy GB.1 of the Local Plan and PPG 2.

## **OTHER MATTERS:**

**ENERGY EFFICIENCY:** The revised design and access statement states that a thermal model has been constructed and the building form analyzed. The conclusion from their analysis is that Photovoltaics with a high efficiency condensing boiler is the most appropriate solution. This has raised comment from the Urban Designer as the proposal has not pursued a strong commitment to viable renewable energy solutions to deliver exemplar environmental performance on a publicly funded scheme. Whilst this is unfortunate this in itself it is not considered to be grounds for refusal.

**REFERRAL TO THE SECRETARY OF STATE:** The application has been advertised as a departure from the Development Plan. In respect of this application, it is not considered to fall into the criteria for referral as set out in Town and Country Planning (Consultation) England) Directions 2009.

## **CONCLUSION**

Your officers have carefully assessed the submitted information and consider that the applicant has demonstrated that very special circumstances exist to outweigh the harm identified in terms of Green Belt policy. The revised siting of the building has reduced the dominance of parking to the front of the building in order to mitigate the impact upon the Kelston Road, and this, with the enhancement of landscaping areas, is considered to outweigh the harm to openness and the rural character of the Green Belt. Furthermore the pursuance of the co-educational status has led to the need to enhance the school's existing facilities. It has been demonstrated that the proposal would not cause a significant increase in risk to highway users (with appropriate conditions) and there is no detrimental impact upon the residential amenities of neighbouring occupiers.

It is accepted that the school needs the facilities as sought and, whilst the sports hall and associated facilities would form a large building within a prominent part of the site, taking account of all the other constraints (not least of which are the school's own operational requirements) and the Green Belt and other Policy restrictions, it is considered that on balance that the building as proposed is acceptable (again subject to the imposition of appropriate conditions).

When taken together your Officers are satisfied that the merits of the case clearly outweigh the harm identified, which means that planning permission can be supported. It would therefore accord with advice provided in PPG2 and Local Plan policies BH.1, GB.1, GB.2, D.2 and D.4.

## **RECOMMENDATION**

PERMIT with condition(s)

## **CONDITIONS**

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

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

2 Prior to the application of render to external walls as shown on the submitted drawings details of the colour and texture to be used shall be submitted to and approved in writing by the Local Planning Authority.

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

3 Prior to the occupation of the development, an Operational Statement shall be submitted to and approved in writing by the Local Planning Authority and shall include details of the management of the access and parking areas by both the School and any community groups and hours of opening. The development shall thereafter be operated in accordance with the approved Operational Statement.

Reason: To ensure the safe operation of the highway.

4 Prior to the occupation of the development a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan.

Reason: In the interests of sustainable development.

5 No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works within the previously undeveloped areas of the site, with provision for excavation of any significant deposits or features encountered.

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

6 The development hereby approved shall not be used by anyone other than Oldfield School unless a Community Use Scheme showing details of the community use for the new sports hall and multi use games area (MUGA) has first been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of a pricing policy, hours of community use, access by non school-users/non-members, management responsibilities and include a mechanism for review. The development shall thereafter be operated in accordance with the approved Community Use Scheme (or any replacement authorised in writing by the local planning authority).

Reason: In the interest of highway safety and to manage the community use of the sports facility

7 No development shall commence until details of the protective fencing of the pond and badger sett exclusion area have been submitted to and approved in writing by the Local Planning Authority. Protective fencing shall be retained on site during the course of construction works.

Reason: To protect the ecology of the site.

8 There shall be no external lighting erected in connection with the approved building or the multi-use games area unless details have first been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenities of adjoining residents.

9 No site works or clearance shall be commenced until protective fences which conform to British Standard 5837:2005 have been erected around any existing trees and other existing or proposed landscape areas in positions indicated on the approved plans. Until the development has been completed these fences shall not be removed and the protected areas are to be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for approved arboricultural or landscape works.

Reason: To safeguard the areas to be landscaped and the existing trees and planting to be retained within the site.

10 Prior to the commencement of works on site protective fencing around the pond as shown in the Ecological Method Statement shall be installed on site and shall be retained thereafter during the course of construction works.

Reason: To protect the natural ecology of the site.

11 The internal noise levels within the school hall shall be implemented in accordance with the acoustic statement that has been submitted with the application. The cumulative noise level of all plant associated with the proposed sports hall shall not exceed 52LAeq(1 hour) decibels and that any noise generated from the plant should not contain any impulsive or tonal sounds unless details have first been submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity.

12 Prior to the erection of external walls a detailed specification of the external walling and roofing materials to be used shall be submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the development and site.

13 No development shall take place until a detailed arboricultural method statement with tree protection plan has been submitted to and approved in writing by the Local Planning Authority. The statement shall identify measures to protect the trees to be retained and the new planting areas beside Kelston Road and include tree protection measures during site preparation (including clearance and level changes, during construction and landscaping operations. The statement should also include the control of potentially harmful operations such as the position of service runs, storage, handling and mixing of materials on site, burning, location of site office and movement of people and machinery.

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

14 No development shall commence until the protective measures as stated in the approved Arboricultural Method Statement are implemented. The local planning authority is to be advised two weeks prior to development commencing of the fact that the tree protection measures as required are in place and available for inspection.

Reason: To ensure that the trees are protected from potentially damaging activities.

15 No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement unless agreed in writing by the local planning authority. A signed certificate of compliance shall be provided to the local planning authority on completion.

Reason: To ensure that the approved method statement is complied with for the duration of the development.

16 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:** The development shall be carried out strictly in accordance with the details shown on the following drawings/documents:

Plans:

Existing site plan PL AL (90) 001 - Existing site sections 002 date received 14/06/11  
Site Plan 4656SL01 REV A date received 23/06/11  
PL-AL/99/111 Proposed MUGA elevations date received 04/08/11  
PL AL (90) 003A Existing Kelston Road Elevation date received 05/08/11  
4656 PL-AL (90) 108 Extended site section BB date received 08/08/11  
PL-AL(90) 004A Tree Constraints plan date received 24/08/11  
PL-AL(90) 101 B Proposed site plan date received 24/08/11  
PL-AL(90) 102 A Tree protection plan date received 24/08/11  
PL-AL(99) 101A Proposed ground floor plan date received 24/08/11  
PL-AL(99) 102A Proposed roof plan date received 24/08/11  
PL-AL(99) 103A Proposed section date received 24/08/11  
PL-AL(99) 104A Proposed north and east elevations date received 24/08/11  
PL-AL(99) 105A Proposed south and west elevations date received 24/08/11  
PL-AL(99) 107A Proposed site sections date received 24/08/11  
PL-AL(99) 108A Extended site sections date received 24/08/11

Documents

Archaeological desk study date received 14/06/11, Revised design & access statement date received 24/08/11, Landscape and Visual Assessment dated 24/08/11, Very Special Circumstance Case dated 24/08/11, Tree survey and AIA Method Statement date received 24/08/11, Construction Management Plan Rev A date received 24/08/11, Tree

Constraints Plan date received 24/08/11, Ecological Walkover Assessment Issue 2, August 2011, Email correspondence dated 03/08/11, Travel Plan date received 14/06/11, Heritage statement date received 14/06/11, Planning Statement date received 24/08/11, Sustainable Construction checklist, Ecological Method Statement date received 16/06/11, Amended tree assessment date received 23/06/11, Traffic Operation statement date received 04/08/11, Tree report date received 04/08/11

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

The proposed development is in accordance with Policies GB1, GB2, BH1, T24 of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

There exist very special circumstances to support this application which outweigh the harm that would be caused to the green belt by reason of inappropriateness. The development would not harm the setting of the Grade II listed building and would preserve the character of the World Heritage site subject to the above conditions permission may be granted.

Informatives: Possible public right of way CQ24 shown on the plan by an orange dashed line runs through the development site. The full width of the path should not be affected during or after construction. No gates or barriers may be erected across the path.

The proposed development lies within a coal mining area which may contain unrecorded mining related hazards. If any coal mining feature is encountered during development, this should be reported to the Coal Authority.

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of the Coal Authority.

Property specific summary information on coal mining can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at [www.groundstability.com](http://www.groundstability.com)

The applicant is advised to contact Wessex Water with regard to the proposal to agree points of connection and ensure existing apparatus is adequately protected.

#### ADVICE NOTE:

Where a request is made to a Local Planning Authority for written confirmation of compliance with a condition or conditions attached to a planning permission or where a request to discharge conditions is submitted a fee shall be paid to that authority. Details of the fee can be found on the "what happens after permission" pages of the Council's Website. Please send your requests to the Registration Team, Planning Services, PO Box 5006, Bath, BA1 1JG. Requests can be made using the 1APP standard form which is available from the Planning Portal at [www.planningportal.gov.uk](http://www.planningportal.gov.uk).

**Item No:** 02  
**Application No:** 11/03051/FUL  
**Site Location:** T/a Filers Coaches, Wick Lane, Stanton Drew, Bristol



<b>Ward:</b> Clutton	<b>Parish:</b> Stanton Drew	<b>LB Grade:</b> N/A
<b>Ward Members:</b>	Councillor Jeremy Sparks	
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Extend area of coach/bus stationing for an additional 10 vehicles (resubmission).	
<b>Constraints:</b>	Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Forest of Avon, Greenbelt,	
<b>Applicant:</b>	Filers Coaches	
<b>Expiry Date:</b>	7th September 2011	
<b>Case Officer:</b>	Mike Muston	

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE

This application is reported to Committee because of the history of Committee's decisions on a previous application relating to the same proposal.

### DESCRIPTION OF SITE AND APPLICATION

The application site is located in the countryside to the south of Pensford village on land forming part of the designated Green Belt. The site forms part of an area which was formerly used for coal mining and a number of buildings from this period remain close to the application site. To the north of the site are two former colliery buildings now converted into dwellings. 'The Winding House' and 'The Bath House'.

The application site fronts onto the east side of Wick Lane and measures 68m frontage by 70m depth. It is relatively flat but is in an elevated position. It forms part of the larger area presently used by Filers coaches (part of which is unauthorised) and is surfaced with hard core and includes a large workshop building and a number of smaller buildings used by the coach business. The site has a vehicle access onto Wick Lane, the remainder of the frontage being marked by a metal fence and a hedgerow, the side boundaries of the site also being marked with fences and hedgerows.

Filers Coaches presently have planning permission dating from 1984 for the use of an area measuring 40m by 68m adjacent to Wick Lane for the parking of coaches and buses, with a maximum of 12 such vehicles permitted to be parked at the site. An additional area to the east of the approved site has also been taken into use for the parking of buses without planning permission, and this has been the subject of enforcement action by this authority. This action was suspended following the initial granting of the November 2009 permission.

The present application is for permission to extend the area permitted to be used for coach parking. The proposal seeks to use the present permitted area plus an additional area measuring 68m by 30m on the east side. This would give a total area of 0.48ha for this use compared to 0.27ha as presently permitted. The number of coaches which would

be permitted to be parked at the site is also intended to be increased to 22, from 12 permitted at present.

As part of the scheme the east boundary of the permitted site would be marked by a new barrier and screen planting would be established against this barrier outside the site, to be of native tree species. The hedgerow on the Wick Lane frontage would also be strengthened by additional planting.

#### RELEVANT PLANNING HISTORY:

Planning permission for the use of the site for the parking of coaches was first granted in 1979. This was a temporary permission and limited the number of coaches at the site to 12. Another temporary permission was granted in 1981, and then in 1984 planning permission ref WC6174/E was granted for the continued use of the land for parking of coaches. This gave a permanent rather than temporary permission and is the permission on which the present use of the site relies.

During 1990 it came to the Council's attention that land additional to that included in WC6174/E was being used for the parking of coaches. On 6th December 1991 two Enforcement Notices were served requiring cessation of the use of the land outside the permitted area for parking vehicles. Appeals were lodged against these Notices, but were dismissed in February 1993. The notices were then complied with to the satisfaction of the then Wansdyke Council.

In July 2007 an application was submitted for a Certificate of Lawful Existing Use for both the permitted and the unauthorised land for coach parking for 24 coaches and also the parking of two lorries at the site (07/02130/CLEU). The result of this was a split decision, with the parking of two lorries at the site accepted as lawful, but the parking of coaches over the whole site not being considered demonstrated to an acceptable level.

In June 2008 an Enforcement Report was taken to the Development Control Committee, relating to the siting of more than the permitted 12 coaches on the land approved for coach parking, and the use of additional land to the west for the parking of vehicles. It was resolved that Enforcement Action be taken and two Enforcement Notices were served on 23rd February 2009, one requiring the cessation of parking of more than 12 vehicles on the approved site, and the cessation of parking altogether on the remaining land to the east. The time for compliance of both these notices has expired and Enforcement action is currently being held in abeyance pending the re-determination of this application.

In November 2009, an application (09/02418/FUL) was considered by Committee for a similar proposal to that before you now. It was recommended for refusal but permitted by Members. The reasons given for granting permission were:-

"The Council considers that the proposed use of this previously developed site, with appropriate planning conditions would support valuable local transport services and also provide local employment. It is considered that the location of the application is very well placed to serve the surrounding rural communities which amounted to a sustainable approach to transport and represents very special circumstances to outweigh any harm to the openness of the Green Belt or Green Belt Policy. Furthermore it is considered that the proposal will maintain the amenity of any nearby residents, the character and appearance of the area and highway safety."

This permission was legally challenged by an objector. At the 20 January 2010 meeting of the DC Committee, Members were advised on the merits of this challenge in Exempt Session and the Committee "RESOLVED to consent to the quashing of the decision to grant the planning permissions issued under Ref No 09/02418/FUL". The permission was duly quashed by the High Court on 14 June 2010. The application was reported back to the Committee for its reconsideration and determination in September 2010, when it was refused for the following reasons:-

"1 The proposed expansion of the area to be used for coach parking would amount to inappropriate development in the Green Belt. It would harm the openness of the Green Belt and encroach into the countryside. All of this would be contrary to Policy GB.1 of the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007.

2 The proposed expansion of the area used for coach parking and the increase in the number of vehicles parked at the site would detract from the openness and rural character of this area within the designated Green Belt, contrary to Policy GB2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

3 The proposal would be likely to increase vehicle movements, including those of large vehicles, on the local road system, which is unsuitable to accept additional traffic by reason of its inadequate width, alignment and junctions. The proposal would therefore be likely to result in congestion and inconvenience to other road users, contrary to Policy T24 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

4 The proposal is in a location remote from services and public transport facilities to enable staff to access the site, and would be likely to increase the vehicle journeys to and from the site both by coaches and other vehicles. This is contrary to Government Guidance in Planning Policy Guidance Note 13 and the objectives in respect of reducing the adverse impact of travel on the environment, set out in Policy T1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

5 The benefits of the proposal put forward by the applicant would not clearly outweigh the harm by reason of inappropriateness, and other identified harm, contrary to Policy GB.1 of the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007."

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

STANTON DREW PARISH COUNCIL: Support the application. Do not believe that the visual impact of the site is detrimental to the Green Belt. Agree with the points made by the applicants relating to public transport facilities. Consider that the coach companies provide an important service to the community in terms of school transport, public transport and employment provision. State that the case for scarcity of alternative sites is well made and the site has not been pristine open countryside in living memory.

HIGHWAYS: Notes that the proposal is essentially the same as that refused before. However, notes the following:-

Notwithstanding the fact that the local highway network is not to the standard that might be expected to serve a facility which, by definition, attracts a significant proportion of larger vehicles - narrow carriageways, lack of forward visibility, no street-lighting etc, there is no evidence to-date that a highway safety issue has resulted. There have been no casualty accidents in the area, or any record of highway safety concerns raised with the Area Traffic Engineer. This must be considered in the context that a coach business has been in operation here for approx. 25 years. Verge and hedge clearance have significantly improved the situation, however the areas in question are not shown to be in the control of the applicant and ongoing upkeep cannot be guaranteed.

The issue of the sustainability of the proposed development, in the context of the PPG13 guidance, is not straightforward. Any employment usage in such a location could not be considered to be accessible, in terms of the potential to travel by an alternative to the private car, and this is clearly contrary to the guidance of PPG13. However, the use of the site allows bus services to be delivered from a location which is close to its 'catchment'. These services include local public services and school buses. The facility therefore provides important sustainable travel alternatives for the community, even though the development (considered in isolation) may not be considered sustainable.

There is a fine balance therefore to be considered, and this has been reflected in previous highway recommendations which in the balance have fallen in favour of refusal. In addition, this authority's Public Transport Team Leader has reported that since the last application, the Competition Commission has published results of an investigation into the local bus market. It found that a shortage of suitable depot sites, particularly in rural areas, was a barrier to entry in the market, and that access to depot facilities was a major factor in limiting the ability of some small operators to expand their operations. The evidence within the application would suggest that Filers Coaches have experienced these difficulties.

For consistency therefore, as there has been no change in policy of guidance since the previous application, reiterates previous highways recommendation, that of refusal for the following reasons:

1. The traffic generated from this proposal would use a road which, by virtue of its function in the highway network and its inadequate width, alignment and junctions, is considered unsuitable to accommodate the increase in traffic from this development, contrary to policy T.24 of the Bath and North East Somerset Local Plan.
2. The proposal, located remote from services, employment opportunities and being unlikely to be well served by public transport, is contrary to the key aims of Planning Policy Guidance Note 13 which seeks to reduce growth in the length and number of motorised journeys.

HIGHWAYS DRAINAGE: No objections raised.

THIRD PARTY REPRESENTATIONS: One letter of representation received on behalf of the adjoining landowner, objecting to the application on the following grounds:

- Points out the history of the site and refers to previous objections, objecting on grounds of inappropriate development in the Green Belt, that nothing put forward

by the applicants amounts to “very special circumstances”, that screening does not mitigate this harm, and the impact of the development on the future occupiers of an adjoining house.

- The only reason the extra coaches have been parked on the site since 1990 is that the Council has failed to prosecute for failure to comply with an enforcement notice, despite an Ombudsman finding against the Council in 2008.
- The Council entered into a contract with Somerbus to provide bus services after the enforcement notice was served and which therefore involved breaching an enforcement notice – using this as a reason to grant permission now would prompt another judicial review.
- Encloses photographs showing that parking the coaches at right angles to the road will not preserve the openness of the Green Belt, as claimed by the applicants.
- Has attached details of two alternative coach depot sites that are available now – one in Chilcompton and one in Winford, and between them they could provide accommodation for the surplus coaches from this site.
- The Council has suitable premises at Peasedown St John and using the high cost of these to justify inappropriate development in the Green Belt would allow the Council to benefit from lower rent – if this was used as a reason to grant permission now it would prompt another judicial review.

## **POLICIES/LEGISLATION**

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

GB.1, GB.2, ET.5, D.2, D.4, T.1, T.24

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes. The following policy should be considered:

CP8 - Green Belt

CP13 - Infrastructure Provision

The following pieces of Government Guidance are material considerations:-

PPS1 Delivering Sustainable Development

PPG2 Green Belt

PPS4 Planning for Sustainable Economic Growth

PPS7 Sustainable Development in Rural Areas

PPG13 Transport

The Government's draft National Planning Policy Framework is also a material consideration, although one that can only be afforded limited weight at this stage. Relevant paragraphs to this application are 144 and 145 in relation to the Green Belt.

## **OFFICER ASSESSMENT**

The main issues in this case are considered to be:-

- Whether the proposal amounts to inappropriate development in the Green Belt,
- Whether there would be any impact on the openness of the Green Belt and the effect of the proposal on the character and appearance of the area

- The effect of the proposal on the highway network
- Whether the proposal would be sustainable development
- The effect of the proposal on the living conditions of nearby residential properties
- Any benefits of the proposal and, if it amounts to inappropriate development in the Green Belt, whether these benefits would clearly outweigh any harm to the Green Belt and any other harm, so as to amount to very special circumstances.

**WHETHER INAPPROPRIATE DEVELOPMENT IN THE GREEN BELT:** The application site lies within the designated Green Belt, to which Policy GB1 of the Local Plan applies. This policy advises that within the Green Belt permission will not be given for development, other than for certain types of development not related to this proposal, except in very special circumstances. The proposed change of use is therefore not permitted by Policy GB1, and the proposal would thus represent 'inappropriate development' in the Green Belt as defined by Local Plan policy.

Paragraph 3.12 of PPG2 deals with material changes of use in the Green Belt. It says that these are inappropriate development unless they maintain openness and do not conflict with the purposes of including land in the Green Belt. It is considered that the proposal to use additional land for coach parking would impact on the openness of the Green Belt and would involve encroachment of the countryside (one of the purposes of including land in the Green Belt). It is considered that the proposal is inappropriate development as defined by PPG2.

**VISUAL AMENITY OF THE GREEN BELT/CHARACTER AND APPEARANCE OF THE AREA:** In terms of impact on the Green Belt and rural character, the proposal has to be considered in relation to the already permitted use of land at this site for vehicle parking. The application site is in an elevated location at the top of a hill, and is visible from surrounding land including land to the west and north-west. Although the site is screened to some extent by the hedges and trees surrounding the site, it is considered that large and relatively high vehicles such as coaches would be visible on the site and detract from the openness of the landscape and the rural character of the area.

The increase in numbers of vehicles which would result from the proposal, and in particular the expanded area over which this proposal would enable them to be spread, would increase the impact of the use above that which is generated by the permitted siting of twelve vehicles on the permitted site. It is considered that the proposal would detract from the openness of this part of the Green Belt, and the rural character of the area, contrary to Policy GB2 of the Local Plan.

**HIGHWAY ASPECTS:** The application site is in a relatively remote rural location which is accessed by Wick Lane, a narrow and winding rural highway which has poor visibility and steep gradients in some places. Coaches are large vehicles and the local road system is inadequate to accommodate vehicles of this kind. The proposal however would increase the permitted capacity of this site and thus the number of vehicle movements to and from the site along Wick Lane. This would be likely to detract from the free flow of traffic in Wick Lane, resulting in congestion and a potential road safety hazard. This would be contrary to Policy T24 of the Local Plan, which requires that all developments provide a high standard of highway safety and avoids the introduction of traffic of excessive volume, size or weight onto an unsuitable road system.

The comments from the Highways Officer to this application suggest that the use has caused no recorded highway problems. However, on balance a highways reason for refusal is still included.

**SUSTAINABILITY:** The application site is located in a rural location remote from any services or transport links, the nearest settlement being Pensford village to the north. A result of this is that staff attending the site are likely to travel to the site by car, as will any vehicles servicing the site. In addition this location means that coaches based at the site are likely to have to travel a significant distance to and from the site to collect their passengers, and to return to the site on completion of their journeys.

The proposal therefore does not represent a 'sustainable location' for this coach depot, and the proposed increase in the permitted level of numbers of vehicles using the site would be contrary to Government advice in PPG13, and to the Council's objectives in respect of reducing the impact of all forms of travel on the environment.

It is acknowledged that the site is in a good location to serve need for coaches from surrounding villages. However, this narrow benefit is not considered to outweigh the generally unsustainable location of the site in relation to the wider area.

**LIVING CONDITIONS OF NEARBY OCCUPIERS:** The nearest residential property to the application site is 'The Winding House' which is approximately 90m north of the site boundary. Due to the distance, the occupiers of this house would not be significantly affected by the proposed extension of use of the application site. Planning Permission has also been granted for the conversion of a former colliery building to a dwelling, also to the north of the application site (05/02227/FUL permitted in August 2005 refers). The house formed would be 47m from the application site, although a residential annexe would extend to 7m from the application site. However, the distance of the main house from the application site would be such that the likely increase in use of the site would not have a material effect on these occupiers. It is not considered that the proposal would result in any material harm to the living conditions of occupiers of nearby residential properties.

**BENEFITS AND FACTORS IN FAVOUR:** The Planning Statement that accompanied the application includes a section entitled "The Case for Granting Planning Permission". It goes further than any of the previous applications in setting these out and sets out the following:-

- The use of the site has been established with the benefit of planning permission since 1979 - 32 years.
- The area of coach/bus parking extends only to land which has previously been used as part of the Old Pensford Colliery and prior to the applicant's use of the site in 1979 had been used for the storage of manufactured concrete products. The land required for the application therefore involves previously developed land.
- Both Filers coaches and Glenvic coaches provide a school bus and local private hire coach business.

- In recent years, a number of other of coach operators have ceased trading, mainly through redevelopment of their sites. This has heightened the scarcity of coach depots in the district and the locational advantages of the application site.
- Somerbus use the site outside the terms of earlier permissions and operate as a public transport operator, and have done for the past 13 years. They are the only company to provide a bus service to the new hospital in Peasedown St John and have purchased a new bus to operate the 175 service between Midsomer Norton and Peasedown St John. They also provide the only alternative to First bus travelling between Bath and Midsomer Norton.
- The site provides an important community function in transporting 147,700 school children per academic year but also an important role in reducing the need to travel by car, as many of the trips would otherwise have been undertaken by car.
- Public transport operators are at their most sustainable when dead mileage is reduced to a minimum and in this case the site is efficiently located to serve the school and bus routes.
- A lack of alternative sites is cited. Somerbus have contacted 12 commercial property agents and 4 other coach depots in an attempt to find alternative premises, but without success. (Although note that the lack of availability of alternative sites is disputed by the objector, as noted above.) The implications of not granting permission would directly threaten the public bus and school bus services operated by both Somerbus and Glenvic.
- The coaches can be parked behind existing buildings, thereby increasing the openness of the area.
- There is an opportunity for further planting, included in the application, to further improve the appearance of the site.

## CONCLUSIONS

The factors now set out by the applicant are fuller than those previously put forward. The information relating to the lack of alternative sites is also completely new. In addition, the publication of the draft National Planning Policy Framework is capable of being a material consideration.

Paragraph 144 suggests adding to the list of situations where new buildings in the Green Belt are not inappropriate with "limited infilling or complete redevelopment of previously developed sites (excluding temporary buildings) whether redundant or in continuing use, which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development."

Paragraph 145 proposes that other forms of development may not be inappropriate in Green Belt provided they preserve the openness of the purposes of including land in the Green Belt. These include "local transport infrastructure which can demonstrate a requirement for a Green Belt location."

The proposal is for local transport infrastructure on previously developed land. However, it is not for new buildings, so arguably para 144 does not apply. Even if it does, the parking of coaches does have a greater impact on the openness of the Green Belt than merely maintaining the hardstanding on the land. In respect of para 145, it is not considered that the applicants have demonstrated a need for a Green Belt location. Many of the coach and bus services involved serve the southern part of the district, which are neither Green Belt nor Area of Outstanding Natural Beauty. It could be argued that the coach parking should be located in that area, outside the Green Belt. A need for a Green Belt location is not considered to have been demonstrated.

When considering applications in the Green Belt, the test relates to the factual position on the land, rather than whether something can be seen or is screened from view. As a matter of fact, the site would be expanded into the Green Belt, albeit onto previously developed land, and would impact on the openness of the Green Belt as a result. Limited harm to highway safety and sustainability are also put forward by highways officers. In the circumstances, it is not considered that the various factors put forward in support of the application are other considerations that would clearly outweigh the harm to the Green Belt by reason of inappropriateness and harm to openness, as well as other harm to the rural character of the area, the highway network and sustainability. Very special circumstances do not therefore exist and permission should be refused.

## **RECOMMENDATION**

REFUSE

## **REASON(S) FOR REFUSAL**

1 The proposed expansion of the area to be used for coach parking would represent 'inappropriate development' in the Green Belt, and without any very special circumstances applying, and the proposal is contrary to Policy GB1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

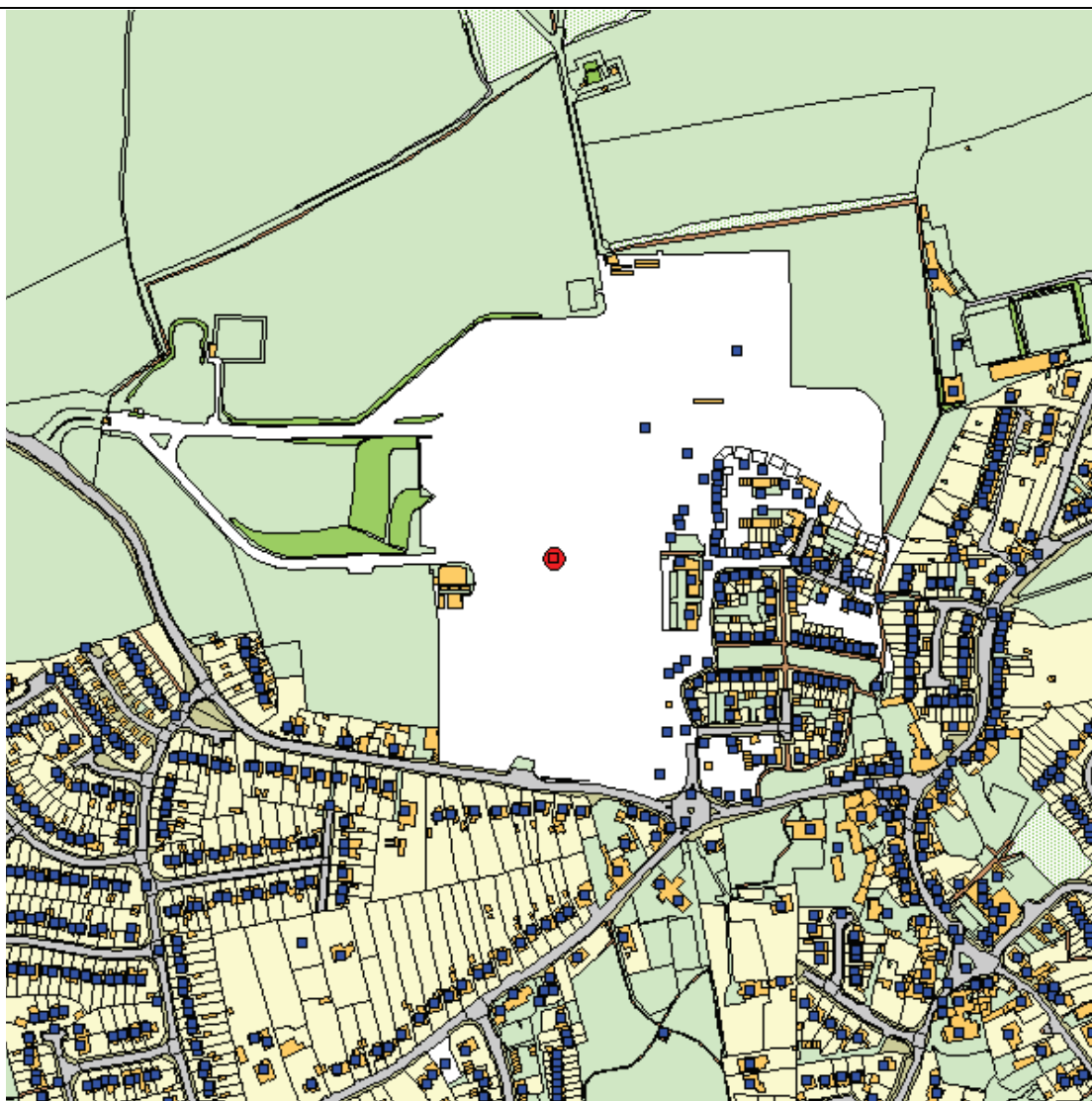
2 The proposed expansion of the area used for coach parking and the increase in the number of vehicles parked at the site would detract from the openness and rural character of this area within the designated Green Belt, contrary to Policy GB2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

3 The proposal would be likely to increase vehicle movements, including those of large vehicles, on the local road system which is unsuitable to accept additional traffic by reason of its inadequate width, alignment and junctions. The proposal would therefore be likely to result in congestion and inconvenience to other road users, contrary to Policy T24 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

4 The proposal is in a location remote from services and public transport facilities to enable staff to access the site, and would be likely to increase the vehicle journeys to and from the site both by coaches and other vehicles. This is contrary to Government Guidance in Planning Policy Guidance Note No 13 and the objectives in respect of reducing the adverse impact of travel on the environment, set out in Policy T1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

**PLANS LIST:** Drawings PL 2678/1, 2A and 3 and Planning Statement and related information, all received 13 July 2011.

<b>Item No:</b>	03
<b>Application No:</b>	07/02424/EOUT
<b>Site Location:</b>	Closed Polestar Purnell Factory Site, Access Road To Works, Paulton, Bath And North East Somerset



**Ward:** Paulton

**Parish:** Paulton

**LB Grade:** N/A

**Ward Members:** Councillor J A Bull Councillor Liz Hardman

**Application Type:** Outline Application with an EIA attached

**Proposal:** Mixed use redevelopment of former printworks comprising offices, industrial, residential, continuing care retirement community, pub/restaurant, community building, open space, associated infrastructure, landscaping and access roads

**Constraints:** Forest of Avon, General Development Site,

**Applicant:** Purnell Property Partnership

**Expiry Date:** 2nd November 2007

**Case Officer:** Mike Muston

## REPORT

### DETAILS OF PROPOSAL

This application relates to a variation to the Section 106 agreement entered into prior to the granting of permission 07/02424/OUT. The application relates to a request to vary the

agreement because the delivery of the permission, with the existing Section 106 agreement in place, is argued by the applicants not to be viable in the current economic climate. Full details setting out the case for the variation have been submitted.

#### **RELEVANT HISTORY**

07/02424/OUT – Mixed use redevelopment of former printworks comprising offices, industrial, residential, continuing care retirement community, pub/restaurant, community building, open space, associated infrastructure, landscaping and access roads – Permission in 2010.

Application 07/02424/OUT was considered by Committee in May 2008, when it was resolved to grant permission subject to conditions and the entering into of a Section 106 agreement. This agreement was duly concluded in 2010 and the permission issued. The S106 agreement included contributions towards highway improvements, a bus stop and shelter, highway safety, public rights of way and footpaths, traffic management, local bus services, a controlled crossing, improvements to Church Street, education, pre-school nursery provision, allotments, management and maintenance of a wildlife area, play areas, a youth centre, management and maintenance of a fitness trail, public art and an Old Mills feasibility study. It also included the provision of 35% of the housing as affordable housing.

#### **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

**VIABILITY CONSULTANTS:** An independent firm of viability consultants were instructed to advise the Council on the merits of the request for a variation and to assist in negotiations with the applicants. Their conclusion was that it would be reasonable to accept a reduction in affordable housing to 15% and the deletion of the pre-school nursery, with the remainder of the obligation remaining intact.

In the event, at a meeting with the applicants, their viability consultants and the Council's viability consultants, the applicants offered a reduction in affordable housing to 20% and the deletion of the pre-school nursery, with the remainder of the obligation remaining intact, apart from minor consequential amendments. The Council's viability consultants have advised that this is a good deal in the circumstances.

**HOUSING:** Accept the conclusions of the viability consultants and are continuing to negotiate with the applicants on the details of the provision of affordable housing throughout the site.

#### **POLICIES/LEGISLATION**

IMP.1, HG.1, HG.8, GDS.1 Bath & North East Somerset Local Plan including waste and minerals as adopted October 2007.

#### **OFFICER ASSESSMENT**

The development of the Pole Star site is seen as important in the regeneration of Paulton and in continuing to provide housing within the Council's area. It is considered that it is better to accept the offer made by the applicants and to secure the development of the

site in the near future, than to refuse this and see the site remain idle until such time as the market improves to support the full provisions of the Section 106 agreement.

An alternative children's centre (pre-school nursery) has now been constructed elsewhere in Paulton, so that it would not be reasonable to continue to seek the provision of this as part of the Section 106 agreement on this site. All the other agreed contributions would remain at their agreed levels. The only other alteration would be the reduction in the percentage of affordable housing and consequential amendments that flow from that.

As a result, the recommendation is to agree to the requested variation in the Section 106 agreement.

### **RECOMMENDATION**

Agree to vary the Section 106 Agreement, so as to reduce the overall requirement for affordable housing to 20%, and any other necessary consequential amendments, and to remove the requirement for the pre-school nursery (children's centre) with the remainder of the Section 106 agreement remaining intact.

<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	<b>28<sup>th</sup> September 2011</b>
<b>RESPONSIBLE OFFICER:</b>	Lisa Bartlett, Development Control Manager, Planning and Transport Development (Telephone: 01225 477281)
<b>TITLE:</b>	<b>NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES</b>
<b>WARD:</b>	ALL
<b>BACKGROUND PAPERS:</b>	None
<b>AN OPEN PUBLIC ITEM</b>	

#### APPEALS LODGED

**App. Ref:** 11/00491/FUL  
**Location:** The Pelican Inn 10 South Parade Chew Magna Bristol  
**Proposal:** Erection of new dwelling and associated amendments to adjoining car park layout  
**Decision:** REFUSE  
**Decision Date:** 15 April 2011  
**Decision Level:** Chair Referral  
**Appeal Lodged:** 23 August 2011

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**App. Ref:** 11/00768/FUL  
**Location:** 4 James Street West City Centre Bath BA1 2BT  
**Proposal:** Construction of new hotel of 108 bedrooms with ancillary bar, restaurant, guest drop-off area, disabled parking, cycle storage, enclosed service bay and plant area following demolition of all existing buildings at 4 James Street West/1(a) and 2 Kingsmead North  
**Decision:** REFUSE  
**Decision Date:** 15 July 2011  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 23 August 2011

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**App. Ref:** 11/01732/AR  
**Location:** Prop Cosy Club 20 Southgate Place Bath BA1 1AP  
**Proposal:** Display of 2no. internally illuminated projecting signs.  
**Decision:** REFUSE  
**Decision Date:** 7 July 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 24 August 2011

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**App. Ref:** 11/02210/AR  
**Location:** Land Between Mill Road And Frome Road Mill Road Radstock  
**Proposal:** Display of 1no non-illuminated sign at the junction of Frome Road and Mill Road  
**Decision:** REFUSE  
**Decision Date:** 21 July 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 25 August 2011

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## APPEAL DECISIONS

**App. Ref:** 10/03878/LBA & 10/03876/FUL  
**Location:** Miles House, Dunsford Place, Bathwick Hill, Bath BA2  
**Proposal:** External alterations to boundary wall to provide widened vehicular access and provision of new timber gates.  
**Decision:** Refused  
**Decision Date:** 3 November 2010 & 26 October 2010 respectively  
**Decision Level:** Delegated  
**Appeal Decision:** Dismissed

### Summary:

The proposal is to remove part of the wall between the pedestrian gate and the left hand carriageway pier and relocate the pier in order to widen the access way. New timber boarded gates to match the existing ones to be installed with longer strap hinges on the existing gudgeon pins. This particular section of wall appears to be finished with render and tooled to resemble the ashlar walling on each side. No historical analysis has been submitted to explain the change in materials at this point. Thus there is little on which to base an assessment of the significance of the proposed loss of fabric of this part of the wall. However, the render is in good condition and has weathered to the same colouring and texture as the limestone such that it appears well integrated with it. Furthermore it is reasonable to suppose that this part was in place at the time of listing and is also protected by its listed status. Whether or not the fabric in this particular section of wall is historically significant, the pedestrian gate is centred between two almost identical lengths of wall, one of which includes a quadrant curve. The proposed alteration would shorten the right hand section and result in the re-located pier looking too close to the pedestrian gateway; the heavy detail of each would be crowded together. The existing carefully designed visual balance would be disturbed and this would harm the architectural significance of the listed wall and gateways at a key point. This would also harm the setting of the listed building and the character and appearance of the conservation area. The proposal omits details

of the slightly dropped paving and quadrant shaped kerb stones at the footway edge to the highway; these currently correspond to the existing gate position. They are integral to the fine stone pavement at this point and the proposed alteration would be incomplete without appropriate adjustments. This deficiency adds to the concern with respect to the impact of the proposal on the historic environment. The 2.8m clear width that exists at the gateway is a standard garage door width for private cars. It is reduced at the foot by the stone kickers, now missing, and this serves to ensure a centred approach to protect the caps above from damage by taller vehicles. This results in cars turning in from the uphill carriageway needing to take a wide approach.

National policy recognises that the alteration of listed buildings is sometimes necessary to adapt them for continuing use. The appellant wishes to improve vehicular access to his property, which is in use as a day nursery, to accommodate larger modern vehicles (particularly emergency vehicles) and facilitate the authorised use of the building as a non-residential institution. However, whilst some vehicle widths have been provided, little information on the frequency with which these larger vehicles visit or of the type of vehicles that regularly use the gateway, no records of highway safety incidents caused by the current width of the gate or comment from the emergency services in support of a need for the alteration have been submitted. The government's Planning Policy Statement 5 *Planning for the Historic Environment* (PPS5), at policy HE9, sets out a presumption in favour of the conservation of designated heritage assets. It clarifies that loss affecting any designated heritage asset should require clear and convincing justification. The need for the proposal in relation to the future viable use of the building has not been demonstrated and it is not clear that the benefits of a widened access are sufficient to outweigh the harm to the architectural interest of the designated heritage asset that would result. It was noted that the coping at this section of wall is damaged and the caps to the carriageway are both recently chipped with one dislodged at an angle to the pier shaft. The stone quadrant kickers shown on the drawing at the foot of each gate pier are missing. Overall the wall, coping and piers appear to be in need of maintenance and repair. No doubt the proposed works would improve the appearance of the wall in this respect and help to safeguard the historic fabric, but good maintenance could be achieved without widening the gateway.

In conclusion it is regarded that the proposal would harm the special architectural and historic interest of the listed wall and the setting of the listed building. It would also fail to preserve the character or appearance of the Bath Conservation Area, contrary to local and national policy. In reaching this decision due regard has been given to the recently published consultation draft National Planning Policy Framework but it carries little weight in this case as it proposes little change to the aspects of national policy that have a direct bearing on it.

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<b>Enf. Ref:</b>	09/00524/UNDEV
<b>Location:</b>	Site Of Former Newnham Nurseries Stockwood Vale Keynsham BS31 2AL
<b>Breach:</b>	Without planning permission, a change of use of the Land to use for the storage, repair, and refurbishment of caravans together with the erection of steel fence and gate around the "Land"
<b>Notice Issued:</b>	31.01.2011
<b>Appeal Decision:</b>	<b>Dismissed</b>

## Summary

The appeal was against the service of an Enforcement Notice which required the cessation of the unauthorised use of the land for the maintenance and repair of caravans, and the removal of fencing associated with that use. As the appellant subsequently complied with the requirement to cease the use, the Inspector was left to consider only the fencing which bounded the land.

The Inspector did not accept the appellant's argument that the fence was associated with a previous use of the land and was not, therefore subject to the enforcement notice. He concurred with the Council's view that the fence was intended to facilitate the unauthorised use of the land, providing enclosure and security. He considered that no lesser steps than the complete removal of the fence would be appropriate. The fence should be removed by the 21<sup>st</sup> September.

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<b>App. Ref:</b>	08/00887/CLPU
<b>Location:</b>	41 Elliston Drive, Southdown, Bath, BA2 1LU
<b>Proposal:</b>	Provision of loft with rear dormer
<b>Decision:</b>	REFUSED
<b>Decision Date:</b>	01.05.2008
<b>Decision Level:</b>	Delegated
<b>Appeal Decision:</b>	<b>Dismissed</b>
<b>Enf. Ref:</b>	10/00222/UNDEV
<b>Breach:</b>	Without the benefit of Planning Permission, the unauthorised development comprising of the raising of the roof ridge of the dwelling and the installation of a rear dormer roof extension
<b>Location:</b>	41 Elliston Drive, Southdown, Bath, BA2 1LU
<b>Notice Issued:</b>	11.05.2010
<b>Appeal Decision:</b>	<b>Dismissed</b>

## Summary

These appeals were firstly, against the service of an Enforcement Notice which required the removal an unauthorised dormer roof extension; and secondly, against the refusal of a Certificate of Lawful Proposed Development.

With regard to the first appeal, at the Inquiry the appellant withdrew two of the four initial grounds of appeal; the Inspector was left to consider ground a): that planning permission should be granted, and ground f): that lesser steps could be required.

The Inspector determined that the dormer was particularly incongruous, dominating the roof slope and finished in inappropriate materials. Suggested alternative materials would not, he felt, mitigate the identified harm to the character of the surrounding area. He further determined that the dormer created a perception of overlooking, and was overbearing of neighbouring properties. The lesser steps suggested by the appellant were the re-cladding of the dormer, and the introduction of obscure glazing and fixed windows. The Inspector considered that these measures would not overcome the harm caused by the development.

With regard to the second appeal, the Inspector confirmed that the burden of proof is firmly on the applicant. He agreed that the submitted details were confusing and ambiguous. The

inaccurately drawn or misleading plans demonstrated, on the balance of probability, that the dwellinghouse would, as a result of the works proposed, exceed the height of the original roof and would not therefore benefit from the provisions of the General Permitted Development Order in force at the date of the application. In the circumstances, the Inspector concluded that the Council's refusal to grant a Certificate of Lawful Proposed Development was well-founded.

The Inspector allowed a partial award of costs to the Council, on the basis of the unreasonable behaviour of the appellant; and refused an application by the appellant for an award of costs against the Council.

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<b>App. Ref:</b>	09/03166/CLPU
<b>Location:</b>	Redhill House, Red Hill, Camerton, BA2 0NY
<b>Proposal:</b>	Use of dwelling to teach yoga classes (Certificate of Lawfulness for a Proposed Use)
<b>Decision:</b>	Refused
<b>Decision Date:</b>	11.06.2010
<b>Decision Level:</b>	Delegated
<b>Appeal Decision:</b>	<b>Dismissed</b>

### Summary

This appeal was against the refusal of a Certificate of Lawful Proposed Use in respect of the (part) use of the dwelling for yoga classes; and (part) use for weekend retreats.

The Inspector determined that the level of activity associated with the weekday classes would be quite unlike the more scattered activity resulting from purely domestic occupation, resulting in a material change in the character of the use of the dwelling. He considered however that the weekend retreats would not result in a material change in the character of the use, having regard to the size of the dwelling.

The Inspector's findings in respect of the weekend retreats did not however outweigh the conclusion reached in respect of the weekday classes. He therefore found, overall, that the decision of the Council was well-founded.

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<b>App. Ref:</b>	10/01076/VAR
<b>Location:</b>	Spaces Personal Storage Bellotts House, Bellotts Road, Twerton, Bath, BA2 3RT
<b>Proposal:</b>	Variation of condition 2 of application 05/02402/VAR granted on 30th September 2005 regarding opening hours
<b>Decision:</b>	Refused
<b>Decision Date:</b>	28.05.2010
<b>Decision Level:</b>	Delegated
<b>Appeal Decision:</b>	<b>Dismissed</b>

## **Summary**

This appeal was against the refusal of planning permission for the variation of a condition relating to hours of operation. It was proposed to extend the hours by 30mins on weekday and Saturday mornings, and to operate on Sundays between 10.00 and 16.00 hrs.

The Inspector agreed with the Council's view that the restricted hours conditioned in the original planning permission afforded neighbouring residents a degree of respite from commercial activity and that, if allowed, the proposal would result in noise and disturbance which would be harmful to residential amenity.

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**Access to Information Arrangements**

**Exclusion of access by the public to Council meetings**

Information Compliance Ref: LGA-11-013

Meeting:  
DEVELOPMENT CONTROL COMMITTEE

Date: 28 September 2011

Author:  
Maggie Horrill

Report : PROPOSED CLAIM FOR JUDICIAL REVIEW

Appendix : Pre-Action Protocol letter dated

*Indicate which of the following categories the report / appendix falls in to.*

1. The report and appendix constitute confidential information, and the meeting must therefore resolve to exclude the public.

Confidential information is defined as:

- I. Information furnished to the council by a Government department upon terms which forbid the disclosure of the information to the public;
- II. Information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court.

2. The report and appendix constitutes exempt information, according to the categories set out in the Local Government Act 1972 (amended Schedule 12A). The relevant exemption is set out below.

2. Information relating to any individual
3. Information which is likely to reveal the identity of an individual
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

The public interest test has been applied, and it is concluded that the public interest in maintaining the exemption outweighs the public interest in disclosure at this time. It is therefore recommended that the meeting resolve to exclude the public. The paragraphs below sets out the relevant public interest issues in this case.

Factors for withholding:

- Personal information relating to an individual
- Information which is likely to reveal the identity of an individual proposing to take action against the Council
- Legal advice as to the merits of the potential claim against the Council and the course of action open to the Council. It is important that public authorities are allowed to conduct a free exchange of views as to their legal rights and obligations with those advising them without fear of intrusion. Without such confidence there are risks of lack of openness between client and lawyer and threats to the administration of justice. This thereby enables a public body to have confidence in that legal issues are being discussed fully. There is an important public interest in such confidence.
- Information as to potential action that could be taken by the Council.

Factors for disclosure:

- Further public understanding of the issues concerned.
- Promote transparency by the Council for the decisions it takes

Reasons why the public interest favours non-disclosure:

- Personal information would be released, which would be a breach of the first principle of the Data protection Act 1998.
- Until the Council decides how it wishes to proceed, it is not considered in the public interest to disclose the identity of the individual concerned.
- It is important for public authorities to be able to obtain unfettered legal advice in respect of proposed legal proceedings against its decisions and to be able to ask questions of Officers to enable the Elected Members, tasked with representing the local community, to reach a decision after having taken such advice into account.
- It is important for public authorities to have some measure of 'private thinking space' and that they are able to share important information with Elected Members tasked with representing the local community.

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By virtue of paragraph(s) 2, 3, 5 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

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