

**Democratic Services**

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**Your ref:**

**Our ref:** DT

**Date:** 15 November 2011

**E-mail:** [Democratic\\_Services@bathnes.gov.uk](mailto:Democratic_Services@bathnes.gov.uk)

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

**Councillors:** Lisa Brett, Neil Butters, Gerry Curran (Chair), Liz Hardman, Eleanor Jackson, Les Kew, David Martin, Douglas Nicol, Bryan Organ, Martin Veal, David Veale and Brian Webber

**Permanent Substitutes:-** Councillors: Rob Appleyard, Sharon Ball, John Bull, Nicholas Coombes, Sally Davis, Malcolm Lees, Dine Romero and Jeremy Sparks

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Development Control Committee: Wednesday, 23rd November, 2011**

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 23rd November, 2011 at 2.00pm** in the **Brunswick Room - Guildhall, Bath.**

The Chairman's Briefing Meeting will be held at 10.00am on Tuesday 22<sup>nd</sup> November in the Meeting Room, Trimbridge House, Bath.

The rooms will be available for meetings of political groups. Coffee etc. will be provided in the Group Rooms before the meeting.

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.**

## 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.

**The List of Planning Applications and Enforcement Cases Determined under Delegated Powers are available using the following link:**

<http://www.bathnes.gov.uk/ENVIRONMENTANDPLANNING/PLANNING/PLANNINGAPPLICATIONS/Pages/Delegated%20Report.aspx>

**Development Control Committee - Wednesday, 23rd November, 2011**

**at 2.00pm in the Brunswick Room - Guildhall, Bath**

**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**

**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 26TH OCTOBER 2011 (Pages 9 - 36)**

To approve as a correct record the Minutes of the previous meeting held on Wednesday 26<sup>th</sup> October 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 37 - 108)
11. ENFORCEMENT REPORT - THE OLD ORCHARD, 1 THE SHRUBBERY, LANSDOWN, BATH (Pages 109 - 120)

Referring to the Site Visit held on 14<sup>th</sup> November, to consider a recommendation to take enforcement action relating to a) materials used to clad the boundary wall to the garden and parking areas and parts of the new dwelling which do not match the approved sample; b) the boundary to the property which has not been constructed in accordance with the details approved under planning permission 09/00367/FUL; c) the boundary to the parking area which has not been constructed in accordance with approved plan S2B in breach of Condition 10 of planning permission 09/00367/FUL; d) the surface of the parking area which has not been constructed in accordance with approved plan S2B in breach of Condition 10 of planning permission 09/00367/FUL; and e) gates to the parking area which have been erected on the western boundary without planning permission

12. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 121 - 124)

To note the report

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

## **Member and Officer Conduct/Roles Protocol\***

### **Development Control Committee**

*(\*NB This is a brief supplementary guidance note not intended to replace or otherwise in any way contradict Standing Orders or any provision of the Local Authorities (Model Code of Conduct) Order 2001 adopted by the Council on 21<sup>st</sup> February 2002 to which full reference should be made as appropriate).*

#### **1. Declarations of Interest (Personal and Prejudicial)**

- These are to take place when the agenda item relating to declarations of interest is reached. It is best for Officer advice (which can only be informal) to be sought and given prior to or outside the Meeting. In all cases the final decision is that of the individual Member.

#### **2. Local Planning Code of Conduct**

- This document as approved by Full Council and previously noted by the Committee, supplements the above. Should any Member wish to state declare that further to the provisions of the Code (although not a personal or prejudicial interest) they will not vote on any particular issue(s), they should do so after (1) above.

#### **3. Site Visits**

- Under the Council's own Local Code, such visits should only take place when the expected benefit is substantial eg where difficult to visualize from the plans, or from written or oral submissions or the proposal is particularly contentious. Reasons for a site visit should be given and recorded. The attached note sets out the procedure.

#### **4. Voting & Chair's Casting Vote**

- By law the Chair has a second or "casting" vote. It is recognised and confirmed by Convention within the Authority that Chair's casting vote will not normally be exercised. A positive decision on all agenda items is, however, highly desirable in the planning context although exercise of the Chair's casting vote to achieve this remains at the Chair's discretion.

Chairs and Members of the Committee should be mindful of the fact that the Authority has a statutory duty to determine planning applications. A tied vote leaves a planning decision undecided. This leaves the Authority at risk of appeal against non determination and/or leaving the matter in abeyance with no clearly recorded decision on a matter of public concern/interest.

The consequences of this could include (in an appeal against "non determination" case) the need for a report to be brought back before the Committee for an indication of what decision the Committee would have come to if it had been empowered to determine the application.

## **5. Officer Advice**

- Officers will advise the meeting as a whole (either of their own initiative or when called upon to do so) where appropriate to clarify issues of fact, law or policy. It is accepted practice that all comments will be addressed through the Chair and any subsequent Member queries addressed likewise.

## **6. Decisions Contrary to Policy and Officer Advice**

- There is a power (not a duty) for Officers to refer any such decision to a subsequent meeting of the Committee. This renders a decision of no effect until it is reconsidered by the Committee at a subsequent meeting when it can make such decision as it sees fit.

## **7. Officer Contact/Advice**

- If Members have any conduct or legal queries prior to the Meeting then they can contact the following Legal Officers for guidance/assistance as appropriate (bearing in mind that informal Officer advice is best sought or given prior to or outside the Meeting) namely:-
  1. Maggie Horrill, Planning and Environmental Law Manager  
Tel. No. 01225 39 5174
  2. Simon Barnes, Senior Legal Adviser  
Tel. No. 01225 39 5176

General Member queries relating to the Agenda (including Public Speaking arrangements for example) should continue to be addressed to David Taylor, Committee Administrator Tel No. 01225 39 4414

**Planning and Environmental Law Manager, Planning Services Manager,  
Democratic Services Manager, Solicitor to the Council  
April 2002**

### Site Visit Procedure

- (1) Any Member of the Development Control or local Member(s) may request at a meeting the deferral of any application (reported to Committee) for the purpose of holding a site visit.
- (2) The attendance at the site inspection is confined to Members of the Development Control Committee and the relevant affected local Member(s).
- (3) The purpose of the site visit is to view the proposal and enhance Members' knowledge of the site and its surroundings. Members will be professionally advised by Officers on site but no debate shall take place.
- (4) There are no formal votes or recommendations made.
- (5) There is no allowance for representation from the applicants or third parties on the site.
- (6) The application is reported back for decision at the next meeting of the Development Control Committee.
- (7) In relation to applications of a controversial nature, a site visit could take place before the application comes to Committee, if Officers feel this is necessary.

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

**BATH AND NORTH EAST SOMERSET**

**MINUTES OF DEVELOPMENT CONTROL COMMITTEE**

Wednesday, 26th October, 2011

Present:- Councillor Gerry Curran in the Chair  
Councillors Liz Hardman, Eleanor Jackson, Les Kew, David Martin, Douglas Nicol, Bryan Organ, Martin Veal, David Veale, Brian Webber, Dine Romero (In place of Lisa Brett) and Jeremy Sparks (In place of Neil Butters)

Also in attendance: Councillors Patrick Anketell-Jones, Andy Furse and Malcolm Lees

**60 EMERGENCY EVACUATION PROCEDURE**

The Senior Democratic Services Officer read out the procedure

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

A Vice Chair was not required

**62 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillors Lisa Brett and Neil Butters and their respective Substitutes were Councillors Dine Romero and Jeremy Sparks.

**63 DECLARATIONS OF INTEREST**

Councillor Liz Hardman informed the meeting that she was present when Paulton Parish Council had considered the planning application at the Closed Polestar Purnell site, Paulton (Item 3, Report 10 of this Agenda) but that she did not participate. She therefore had no interest to declare on this Item and would speak and vote when it was considered.

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

There were no items of Urgent Business

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

The Senior Democratic Services Officer informed the meeting that there were speakers wishing to make a statement on the Enforcement Item on The Old Orchard, The Shrubby, Lansdown, Bath (Report 11) and that they would be able to do so for up to 3 minutes each when reaching that Item. There were also members of the public wishing to make statements on planning applications in Report 10 and they would be able to do so when reaching their respective Items in that Report.

## 66 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There were no items from Councillors

## 67 MINUTES: WEDNESDAY 28TH SEPTEMBER 2011

The Minutes of the previous meeting held on Wednesday 28<sup>th</sup> September 2011 were approved as a correct record and signed by the Chair.

## 68 MAJOR DEVELOPMENTS

The Development Manager informed the Members that, if they had any queries on major developments, they should contact the Senior Professional – Major Developments direct.

## 69 MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered

- A report by the Development Manager on various planning applications
- An Update Report by the Development Manager on Items Nos. 2, 3, 5 and 6, a copy of which is attached to these Minutes as *Appendix 1*
- Oral statements by members of the public etc. on Item Nos. 1 – 4 and 6, the Public Speakers List being attached to these Minutes as *Appendix 2*

**RESOLVED** that, in accordance with their delegated powers, the applications be determined as set out in the Decisions List attached to these Minutes as *Appendix 3*.

**Items 1&2 Kingsmead House, James Street West, Bath – 1) Demolition of Kingsmead House (Ref 10/04868/CA); and 2) Erection of a 177 bed hotel incorporating conference facilities, restaurant, café/bar and associated facilities, servicing and works following demolition of Kingsmead House (Ref 10/04867/FUL)** – The Historic Environment Team Leader reported on the application for consent to demolish Kingsmead House. He stated that the wording of Condition 2 of the Recommendation to permit would need to be amended as more precise wording was required.

The Senior Planning Officer reported on the application to erect a 177 bed hotel etc. on the site of Kingsmead House. He referred to the Update Report which contained the Officer's comments on further representations received from the Council's Development and Regeneration Team and the Bath Preservation Trust.

The public speakers made their statements on these applications. The Ward Councillor Andy Furse then made a statement commenting on various aspects of the proposals.

Members asked questions for clarification purposes on the **application for consent to demolish (Ref 10/04868/CA)** to which Officers responded. Councillor Bryan

Organ moved that **consent be granted** for demolition which was seconded by Councillor Martin Veal. During the debate on the motion, it was considered that a timescale should be included in Condition 2, namely, that a landscaping scheme be implemented if work for redevelopment of the site had not commenced within 6 months. Also, the applicant be required to recycle materials from the demolition of the building. The mover and seconder agreed to these amendments. The motion was put to the vote and was **carried unanimously**.

The **application for the hotel (Ref 10/04867/FUL)** was then considered. Members asked questions about access to the upper floors of the proposed hotel, the arrangements for patrons arriving by car and coach, whether solar panels had been included etc. Some Members made reference to the tourism aspect of the proposal with too many hotels in the area and car parking being at full capacity. There was no Master Plan for Kingsmead or a Supplementary Planning Document. A Visitor Accommodation Study had been adopted which should have some impact. The Officers responded to these queries. Councillor Eleanor Jackson considered that provision for conferences was a useful benefit to the scheme. She had some concern about the design which didn't look like a hotel although it did link in with the style of some of the adjoining buildings. She moved the **Officer recommendation** – which was seconded by Councillor Liz Hardman - to (A) Authorise the Planning and Environmental Law Manager to secure an Agreement under Section 106 of the Town and Country Planning Act 1990 for (a) a financial contribution to fund the following: an amended Traffic Regulation Order in respect of the layby at the front of the site onto James Street West to restrict parking for the use of taxis and coaches only for limited time periods; an amended Traffic Regulation Order to allow coaches and taxis accessing the site from Green Park Road to turn right into the western end of James Street West; (b) the resurfacing of footways along site frontages to include widened James Street West frontage and dedication as public highway; and (B) upon completion of the Agreement, authorise the Development Manager to Permit the application subject to the conditions set out in the Report.

Members debated the motion and various issues were discussed. The use of the site as offices for employment was mentioned but it was pointed out that the existing office building had been empty for some time and that tourism was important to the City's economy. A Member stated that market forces were encouraging use as a hotel and this would probably be a mainstream hotel rather than a budget or luxury establishment. The Council, however, should take responsibility for traffic and parking. The design was modern and fitted the context of the street scene and the Conservation Area. The Traffic Regulation Order should be amended at the developers' expense to include Zone 6 New King Street which was mentioned by the Ward Councillor in his statement. Some Members agreed with these sentiments and made similar comments. However, other Members felt that there were already a number of hotels in the area for which planning permission had recently been granted. More cars would be attracted to the City adding to traffic congestion. The dropping off point for coaches and cars was not adequate. The issue of use of the bar/restaurant by non-residents and the lack of sustainable energy proposals were also concerns raised by some Members. The Chair commented on the proposals and summed up the debate.

The Development Manager commented on some of the points raised. She informed Members that the type of hotel was not a factor for consideration and the demand for a hotel did not need to be proved. There was no Master Plan for the area or a

Supplementary Planning Document but the draft Core Strategy supported the proposal. There were concerns regarding traffic and loss of offices but the site was at the centre of public transport provision and the building was outmoded for continued office use. The issues raised by Members relating to solar panels, use of the bar/restaurant by non-residents and amending the Traffic Regulation Order by extending parking restrictions to Zone 6, would be the subject of discussion with the applicants. A restriction on the hours of use of the bar could be dealt with by the imposition of a planning condition.

The motion was then put to the vote: 7 Members voted in favour and 4 against with 1 abstention. **Motion carried.**

(Note: There followed an adjournment for 5 minutes and the meeting resumed at 4.15pm)

**Item 3 Closed Polestar Purnell Factory Site, Access Road to Works, Paulton – Variation of Section 106 Agreement to permission granted for mixed use redevelopment of former print works comprising offices, industrial, residential, continuing care retirement community, pub/restaurant, community building, open space, associated infrastructure, landscaping and access roads (Ref 07/02424/EOUT)** – The Case Officer reported on this application for a Variation to the S106 Agreement. His Recommendation was to agree to the requested variation of the planning obligations entered into in respect of the development and that, if the Committee was minded to accept this recommendation, then it resolve that the Council enter into a supplemental S106 Agreement with the current owners of the land to vary the terms of the S106 Agreement dated 17<sup>th</sup> June 2010 made between the Council, Purnell Property Group and Investec Ltd in respect of land on the north side of Hallatrow Road, Paulton (“the Original Section 106 Agreement”) to provide that the Affordable Housing provision for the development is reduced from 35% to 20% and that the requirement to provide land which shall be of sufficient size to facilitate the provision of a 52 place pre-school nursery, together with ancillary play space and parking space, be removed but the obligation to construct and fit out a building capable of accommodating a 26 place pre-school nursery, together with ancillary play space, be retained. He referred to the Update Report which contained comments from the Parish Council. The Report also updated Members on the proposal as regards discussions held by the Council’s Housing Team with the applicants who have agreed to provide a minimum of 20% affordable housing without subsidy but with the developers using reasonable endeavours, in conjunction with the Council, to secure funding to increase the percentage of affordable housing up to a maximum of 35%. The Officer recommendation was that Members should accept this improved proposal.

Members asked questions for clarification purposes to which the Case Officer replied. The applicants’ Agent made a statement in favour of the application for the Variation.

Councillor Liz Hardman supported the Officer’s Recommendation but considered that the affordable housing should be “pepper potted” through the site rather than be in one area. She accordingly moved the Recommendation which was seconded by Councillor Les Kew. The Case Officer advised that the distribution of affordable housing could be dealt with under applications for the approval of Reserved Matters.

After a short discussion, the motion was put to the vote which was carried unanimously.

**Item 4 No 80 Brookfield Park, Weston, Bath – Erection of a two storey side and rear extension and conversion to 4 flats (Ref 10/02486/FUL)** – The Case Officer reported on this application and her Recommendation to Permit with conditions.

The applicants' Architect made a statement in favour of the proposal which was followed by a statement by the Ward Councillor Malcolm Lees against the proposal.

Members asked questions about the proposal to which the Case Officer responded. Councillor Les Kew could not see that there were good planning reasons to refuse the proposal and therefore moved the Officer Recommendation to Permit with conditions. This was seconded by Councillor David Martin. Members debated the motion and various concerns were raised such as loss of symmetry, impact on the street scene and parking.

The motion was then put to the vote. Voting: 6 in favour; 5 against; and 1 abstention. Motion carried.

**Item 5 Folly Farm, Folly Lane, Stowey – Change of use from Class C2 to Mixed Use Classes C2/D2 for residential/education, wedding ceremonies and receptions with ancillary café, teaching and workshop facilities (Retrospective) (Ref 10/04399/FUL)** – This application was withdrawn from the Agenda to allow further discussions with the applicant.

**Item 6 No 11 Old Newbridge Hill, Newbridge, Bath – Provision of loft conversion with 1 side and 1 rear dormer (Resubmission) (Ref 11/03877/FUL)** – The Chair informed the meeting that the applicants' Agent had not registered to make a statement and had fallen sick. One of the applicants had therefore requested to speak at the meeting instead. Members considered that this was an exceptional circumstance which warranted the applicant making a statement at this meeting.

The Case Officer reported on this application and his Recommendation to refuse permission. The Update Report contained an objection to the proposal. The applicant then made her statement in favour of the proposal.

Councillor Martin Veal considered that it would be useful to have a policy on the installation of dormers. However, he considered that this proposal should be supported and moved that the Recommendation be overturned and Officers be authorised to grant permission subject to appropriate conditions. This was seconded by Councillor Liz Hardman who considered that the reasons for overturning the Recommendation were that there were no other properties affected, the character of the street had already been affected by dormers in the street, there was no clear harm to the character and appearance of the street scene, and it had no detrimental impact on local residents. Members debated the motion. It was felt that a Dormer Policy was required and that the property would benefit from the proposal. The Development Manager commented that it would be difficult to provide a policy on dormers and that the Council had been successful in resisting the installation of side dormers when there had been appeals against refusals of permission.

The motion was put to the vote. Voting: 11 in favour and 1 abstention. Motion carried.

**70      ENFORCEMENT REPORT - THE OLD ORCHARD, THE SHRUBBERY, LANSDOWN**

The Committee considered (1) a report by the Development Manager requesting Members to authorise enforcement action regarding (i) the unauthorised orange coloured stone used in cladding the new dwelling; and (ii) gates to the parking area onto the footpath and surface treatment not built according to approved plans; and (2) oral statements by a representative of St James' Park Residents Association speaking in favour of enforcement action and from the owner of the property speaking against enforcement action.

The Team Leader – Development Management reported on the issues by means of a power point presentation. He informed the Members that he was unable to find any drawing to indicate that the gates on the parking space adjacent to St James' Park had been approved.

Councillor Eleanor Jackson considered that the photographs shown by the Officer and the sample materials used by the applicant as visual aids in her statement were confusing and clarification was required before enforcement action could be considered. She therefore moved that the matter be deferred for a Site Visit which was seconded by Councillor Martin Veal.

**RESOLVED** (1) to defer consideration for a Site Visit; and (2) a report be submitted to the next meeting when the public speakers would have a further opportunity to make statements on the matter.

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

The report was noted

The meeting ended at 5.35 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### **Development Control Committee**

**26 October 2011**

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

##### **ITEM 10**

##### **ITEMS FOR PLANNING PERMISSION**

<b>Item No</b>	<b>Application No</b>	<b>Address</b>	<b>Page No</b>
02	10/04867/FUL	Kingsmead House, James Street West, Bath	37

An additional comment has been received from the Council's Development and Regeneration Team. They note that the emerging Core Strategy seeks significant provision of office space within central Bath.

They advise that they have undertaken an assessment of likely office space provision within Bath which shows at the current rate that there will be an undersupply of office floorspace compared to Core Strategy targets. The loss of a further 4,822sqm at Kingsmead House would significantly add to this undersupply and run contrary to the provisions in Core Strategy policies potentially make it more difficult to defend further losses of space in central Bath. The Development and Regeneration Team therefore advise that they would prioritise the retention of office accommodation over new hotel accommodation.

OFFICER COMMENTS: Policy B2 of the emerging Core Strategy does seek a large increase in office accommodation within the central area to 2026. The same policy also makes allowances for the release of sites comprising in total up to 15,000-30,000sqm within the central area which are least suitable for continued occupation. The Officer's report highlights the inadequacies of Kingsmead House for continued occupation. Appraisal evidence has also been assessed which demonstrates that it would be unviable to refurbish or redevelop the site for office accommodation. The emerging Core Strategy may only be attributed limited weight at this point and the employment policies in the Local Plan should be given primacy. In this case it has been demonstrated that the site is no longer capable of offering office accommodation or an adequate standard and the development is considered to comply with Policy ET.2.

It is also worth reiterating that the emerging Core Strategy seeks the provision of 500-750 additional hotel rooms within the city. The provision of such accommodation therefore likewise represents an aspiration of the Core Strategy.

An additional letter has been received from the Bath Preservation Trust in respect of the revised drawings. They comment that they regret that there has not been a more pro-active approach towards pre-application consultation and that a redevelopment brief for the wider area is not in place.

Advise that the Trust is supportive in principle of proposals to redevelop the site. They are concerned though that the building is overscaled and that the glazed penthouse floors would be visually intrusive and incongruous both in the immediate and wider context, especially at night.

The trust welcomes the idea of a colonnade. The step down of the upper storey to the east also reduces the monolithic effect of the building. The return of the building to the original, larger footprint of the site whilst reducing the height, to maximise available accommodation within the roof line, is also sensible. However, the number of storeys crammed in to this height is unacceptable since it neither conforms to the Georgian proportions to which the eye is so accustomed in Bath, nor produces a new set of harmonising proportions.

They advise that they have serious concerns about the use of Bath stone cladding and question its durability as a thin veneer. The Trust advise that the development will have a detrimental impact on the character, appearance and setting of the Conservation Area and adjacent listed buildings, and would compromise the authenticity and integrity and Outstanding Universal Value of the World Heritage Site.

OFFICER COMMENTS: These design points have been addressed within the Officer report. In summary the scale of the building is considered to be appropriate and whilst the upper glazed storey may not be characteristic of Georgian Bath it serves to give the upper storey/s a more lightweight treatment. In respect of the point regarding the visibility of the glazed floors at night this is not considered to be too problematical because lighting in hotel rooms is typically limited, blinds or curtains would also be used within the rooms.

The concerns regarding the use of Bath stone cladding is noted however this is an approach which is commonly being employed around Bath and samples of the materials will be secured prior to development commencing should the application be permitted.

<b>Item No</b>	<b>Application No</b>	<b>Address</b>	<b>Page No</b>
03	07/02424/EOUT	Closed Polestar Purnell Factory Site, Access Road to Works, Paulton	73

#### PARISH COUNCIL

A response has been received from Paulton Parish Council in relation to the revisions to the proposed variation. This states:-



- i) supports the reduction in the total percentage of affordable housing on the site from 35% to 20% on condition that the affordable housing is “pepperpotted” throughout the site
- ii) supports the variation in the Section 106 Agreement to retain the requirement for the 26 place pre-school nursery but remove the requirement to provide land for a further 26 places.

#### UPDATE ON THE PROPOSAL

The applicants have been in discussion with the Council’s Housing Team and have agreed that the proposal is to provide a minimum of 20% affordable housing without subsidy, but with the developers using reasonable endeavours, in conjunction with the Council, to secure funding to increase the percentage of affordable housing, up to a maximum of 35%.

Item No	Application No	Address	Page No
05	10/04399/FUL	Folley Farm, Folley Lane, Stowey	84

This application has been withdrawn from the Agenda.

Item No	Application No	Address	Page No
06	11/03877/FUL	11 Old Newbridge Hill, Newbridge, Bath	89

#### BATH PRESERVATION TRUST

The attached representation has been received from the Bath Preservation Trust since the application was referred to the Development Control Committee. This representation raises concern in relation to the visual impact of the development.

#### OBJECT

The Trust objects to this proposal which is considered to be of an insufficient design quality and would therefore detract from the appearance of the street-scene. While the dormer proposed to the rear will have only a limited impact upon the building and will not be widely visible from the Old Newbridge Hill, the proposed eastern side-dormer will appear as an unsympathetic addition to the existing dwelling and our objection applies principally to this addition to the property.

The appearance, form and design of the window fails to respond sufficiently to the appearance of the existing dwelling. The materials chosen, principally concrete pantiles cladding the walls, are unsympathetic and do not reflect the walling material to the rest of the property and does not engender a sense of cohesiveness to the building. The elevations presented imply that this dormer will be uncomfortably large, giving the dwelling an unbalanced appearance, particularly since it is a semi-detached property with an established sense of symmetry.

We are concerned that this roof extension may have a detrimental impact upon the street-scene and visual amenity of Old Newbridge Hill. Though there have been dormer additions to buildings along this route they have been confined to the rear of the properties, and have not been imposed upon the primary or side facades. As such the integrity of the original street scene, roof profile, and group value remains relatively intact. Permitting this development will threaten this integrity, and though

the aesthetic of the route is only of local significance or interest it is important to maintain and respect this.

This application in our view is therefore contrary to policies D2, D4, BH1 and BH6 of the B&NES Local Plan and should therefore be refused.

**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 AT ITS MEETING ON  
WEDNESDAY 26<sup>TH</sup> OCTOBER 2011**

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

<b>PLANS LIST REPORT 10</b>		
Kingsmead House, Bath (Items 1&2, Pages 26-72)	Lesley Redwood, Bath Independent Guest House Association <u>AND</u> Rupert Nandi <u>AND</u> Robin Kerr (Bath Federation of Residents Associations)	Against – To share up to 6 minutes
	Martin Stutchbury, Scott Brownrigg (Applicants' Architects)	For – Up to 6 minutes
Closed Polestar Purnell Factory Site, Access Road to Works, Paulton (Item 3, Pages 73-76)	Neil Rowley, Savills (Applicants' Agents)	For
80 Brookfield Park, Weston, Bath (Item 4, Pages 77-83)	David Hadfield (Applicants' Architect)	For
11 Old Newbridge Hill, Bath (Item 6, Pages 89-92)	Caroline Roberts (Applicant)	For
<b>ENFORCEMENT ITEM REPORT 11</b>		
The Old Orchard, The Shrubbery, Lansdown, Bath	Edward Lambah-Stoate, St James' Park Residents Association	Statement in favour of enforcement
	Janet Wilson (Owner)	Statement against enforcement

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**BATH AND NORTH EAST SOMERSET COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**26th October 2011**

**DECISIONS**

<b>Item No:</b>	01	
<b>Application No:</b>	10/04868/CA	
<b>Site Location:</b>	Kingsmead House, James Street West, City Centre, Bath	
<b>Ward:</b> Kingsmead	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Conservation Area Consent	
<b>Proposal:</b>	Demolition of Kingsmead House.	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Article 4, Conservation Area, Flood Zone 2, Forest of Avon, Hotspring Protection, World Heritage Site,	
<b>Applicant:</b>	Telereal Trillium	
<b>Expiry Date:</b>	16th February 2011	
<b>Case Officer:</b>	Ian Lund	

**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 permission.

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

2 No demolition shall take place until either:

(a) a contract for the carrying out of works of redevelopment of the site has been made and planning permission has been granted for the redevelopment for which that contract provides;

or alternatively

(b) a landscaping scheme for the site, including a programme of maintenance, has been submitted to and approved in writing by the local planning authority.

Reason: To safeguard the character and appearance of this part of the Conservation Area.

3 Following substantial completion of the demolition work, either:

a) within six months redevelopment of the site shall be commenced in accordance with the scheme of redevelopment referred to in condition 2 (a) above; or

b) within six months the approved landscaping scheme referred to in condition 2 (b) above shall be implemented and maintained on the site to the written satisfaction of the Local Planning Authority until such time as the site is redeveloped.

Reason: To safeguard the character and appearance of this part of the Conservation Area.

4 No works for the demolition of part or all of the building shall commence until a Materials Recycling Audit, which shall include how the existing construction materials, with particular reference to any natural Bath stone, are to be dismantled and recycled, has first been submitted to and agreed in writing by the Local Planning Authority. The works for clearance of this site shall subsequently be in accordance with the agreed Materials Recycling Audit.

Reason: In the interests of the preserving the character of the conservation area and ensuring sustainable development.

5 No works for the demolition of part or all of the building shall take place within the site until the applicant, or their agents or successors in title, has submitted to and had approved by the Local Planning Authority a written method statement providing for a careful manner of demolition that prevents damage to potential below ground archaeological deposits. The method statement shall include the location, extent and depth of all excavations and these works shall be carried out and completed in accordance with details as approved.

Reason: The site is within an area of significant archaeological interest and the Council wishes to prevent unnecessary damage to features beneath the standing building.

6 Prior to the commencement of demolition at the site details of a Construction Management Plan for all works of demolition shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall comply with the guidance contained in the BRE Code of Practice on the control of dust from construction and demolition activities and shall also include, but not exclusively, details of the location of the site compound and on-site parking provision for vehicles associated with the demolition works and hours of working. The details so approved shall be fully complied with during the construction of the development.

Reason: To protect the amenities of the users of adjacent commercial properties.

7 The demolition hereby granted consent shall only be implemented in accordance with the documents as set out in the plans list below.

Reason: To define the terms and extent of the conservation area consent.

## **PLANS LIST:**

This decision notice relates to the following documents:

### **Existing drawings:**

14126.TP-202-OB1B, -001B, -002B, -003B, -004B, -005B, -006B, -007B, -008B, -203-001B, -002B, -003B, -204-001B, and -204-002B, all date stamped 24 November 2010, and

14126.TP-201-001C, -002D, -003C, -004C, and -202-000C all date stamped 8 December 2010

### **Proposed drawings:**

14126.TP-411-006, -412-301 B, -414-002B, -003B, -201 B, -202B, -204B, -418-001B, -002B, -003B, -101B, -102B, -201B, and -202B all date stamped 24th November 2010, and

14126.TP-41 -003C, and -004C date stamped 8th December 2010, and

14126.TP-414-203B date stamped 16th December 2010.

### **Amended proposal drawings:**

14126.TP-411-002D, -005D, -412-001C, -002C, -003C, -004C, -005C, -006C, -0B1D, -1B1D, -000E, -100E, -101 E, -102 E, 103E, -104E, -105E, -106D, -201D, -202D, -203C, -413-001D, -002D, -003D, -004D, -005D, -006C, -101C, -102C, -414-001D, -101C, -102C, -103C, and -104C all date stamped 24th May 2011.

### **Additional proposal drawings:**

14126.TP-412-401A, -402A, -418-301 and -302 all date stamped 24th May 2011.

Application Summary, Photograph Statement, Design and Access Statement Part 01, Archaeological Desk Based Assessment, Planning Statement, Bat Survey, Site Waste Management Plan, Noise Impact Statement, Statement of Community Involvement all dated stamped 24th November 2010.

NOTE: Additional papers submitted including King Sturge report, Energy Strategy Assessment, Transport Assessment, Draft Travel Plan, Flood Risk Assessment, Preliminary Operational Management Plan, Ventilation Strategy, PPS2 Sequential Test Report, Utilities Statement, and Preliminary Risk Assessment are not considered directly relevant to this application and have not been taken into consideration.

## **REASONS FOR GRANTING CONSENT**

The decision to grant consent subject to conditions has been made in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area. 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. Provided an acceptable redevelopment or landscaping of the site follows on immediately, the Council considers the proposals will preserve or enhance the character of the Conservation Area and World Heritage Site.

<b>Item No:</b>	02	
<b>Application No:</b>	10/04867/FUL	
<b>Site Location:</b>	Kingsmead House, James Street West, City Centre, Bath	
<b>Ward:</b> Kingsmead	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of a 177-bed hotel incorporating conference facilities, restaurant, café/bar and associated facilities, servicing and works following demolition of Kingsmead House.	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Article 4, Conservation Area, Flood Zone 2, Forest of Avon, Hotspring Protection, World Heritage Site,	
<b>Applicant:</b>	Telereal Trillium	
<b>Expiry Date:</b>	8th April 2011	
<b>Case Officer:</b>	Mark Reynolds	

## **DECISION** Delegate to PERMIT

(A) Authorise the Planning and Environmental Law Manager to secure an Agreement under Section 106 of the Town and Country Planning Act 1990 to secure:-

(a) A financial contribution to fund the following; An amended traffic Regulation Order in respect of the layby at the front of the site onto James Street West to restrict parking for the use of taxis and coaches only for limited time periods; An amended traffic Regulation Order to allow coaches and taxis accessing the site from Green Park Road to turn right into the western end of James Street West.

(b) The resurfacing of footways along site frontages to include widened James Street West frontage and dedication as public highway.

(B) Upon completion of the Agreement authorise the Development Manager to PERMIT the application subject to the following conditions:-

## **CONDITIONS**

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

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

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

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



3 No development shall commence, save for demolition works, until a sample panel of all external walling materials to be used has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed.

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

4 Notwithstanding the submitted plans no development shall commence until full detailed drawings and particulars have been submitted to and approved in writing by the Local Planning Authority of the following; the method of construction of the building with particular reference to the stone cladding; and full details of the form, design and appearance of the ground floor openings

Reason: In order to allow proper consideration of this element of the scheme in the interests of the appearance of the development and the character and appearance of the Conservation Area and setting of neighbouring listed buildings.

5 The development hereby permitted shall not be occupied until the hard landscaping works as detailed on plan ref: 14126 TP-411-005 D have been undertaken in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the character and appearance of this part of the site and the Conservation Area and in the interests of highway safety.

6 The development hereby permitted shall not be commenced until such time that a Construction Management Plan, including details of the management of the site, together with the routing and parking of vehicles, has been submitted to and approved in writing by the Local Planning Authority. The said plan shall include, but not exclusively, details of the location of the site compound and on-site parking provision for vehicles associated with the construction and demolition works and hours of working. The details so approved shall be fully complied with during the construction of the development.

Reason: In the interests of highway operation, amenity and safety.

7 The proposed development hereby permitted shall not be occupied until the existing layby fronting the site has been increased to a minimum width of 2.5 metres and the footway fronting the site and James Street West has been increased in width to a minimum of 3.0 metres in width between the front face of the proposed building/covered walkway and the near edge of the proposed layby.

Reason: In the interests of highway operation, amenity and safety.

8 The development hereby permitted shall not be occupied until a Travel Plan, including but not exclusively, detailed measures to minimise arrival by guests in private cars, has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be occupied only in accordance with the provisions of the approved travel plan.

Reason: In the interests of highway operation, amenity, sustainability and safety.

9 The development hereby permitted shall not be occupied until an Operational Management Statement for the hotel to include, but not exclusively; details of the methods, frequencies and times of delivering and despatching to and from the hotel and ancillary uses; and details of the management arrangements of the proposed lay-by at the frontage have been submitted to and approved in writing by the Local Planning Authority. Development shall then take place strictly in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect the amenities of the occupants of adjacent residential properties and in the interests of highway safety.

10 No vehicular deliveries shall arrive, be received or despatched from the rear of the site outside the hours of 08:00 to 18:00 Monday-Friday, 08:00 to 13:00 on Saturdays and at no time during Sundays and Public Holidays.

Reason: To safeguard the amenity of nearby residents.

11 The development hereby permitted shall not be occupied until the on-site car parking and servicing facilities have been provided and are available for use. Thereafter they shall be maintained free from obstruction and available for use solely by authorised/permitted vehicles at all times.

Reason: In the interests of highway operation, amenity and safety.

12 Notwithstanding the submitted plans, no external plant, machinery, ventilation ducting or other similar apparatus shall be installed other than in accordance with details, which may include screening measures, that shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and the appearance of the development.

13 No development shall commence until a noise assessment of the development hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The assessment shall inter alia determine the rating levels of noise arising from plant and equipment to be mounted on the buildings and background noise levels at the boundaries with the nearest noise sensitive properties, and include details of noise mitigation measures for the development taking into account the proposed uses of the building and hours of use. The development shall be carried out in accordance with the approved details and the building shall not be occupied until the noise mitigation measures have been implemented. The said noise mitigation measures shall be retained in perpetuity.

Reason. To protect the amenities of the occupants of nearby residential properties.

14 No external lighting shall be installed on any part of the building or within any other part of the site other than in accordance with details (including details of illumination times and luminance levels) that shall first have been submitted to and approved in writing by the

Local Planning Authority, and any lighting shall thereafter be operated in accordance with the approved details.

Reason: To protect the amenities of the occupants of nearby residential properties and to safeguard the character and appearance of this part of the Conservation Area and the World Heritage Site.

15 No materials arising from the demolition of any existing structure(s), the construction of the new development nor any material from incidental works shall be burnt on the site.

Reason: In order to protect residential amenity.

16 The finished floors levels of the proposed development shall be set as shown on plan TP-412-000 D, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To reduce the risk of flooding to the proposed development.

17 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

Reason: To prevent the increased risk of flooding and ensure future maintenance of the surface water drainage system.

18 No development shall commence until a scheme for flood resilient/resistant construction has been submitted to and approved in writing with the Local Planning Authority. Development shall then take place in accordance with the approved details.

Reason: To reduce the risk and impact of flooding to the proposed development.

19 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(a) a survey of the extent, scale and nature of contamination;

(b) an assessment of the potential risks to:

(c) human health,

(d) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

- (e) adjoining land,
- (f) groundwaters and surface waters,
- (g) ecological systems,
- (h) archaeological sites and ancient monuments;
- (i) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11".

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

20 Pursuant to condition 19 if remediation is required a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be submitted to and approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

21 Pursuant to condition 20 the approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

22 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken

in accordance with the requirements of condition 19, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 20, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 21.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

23 Where a remediation scheme is identified as being required, a monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

24 Notwithstanding the submitted drawings details of the final proposed conference facilities shall be submitted to and approved in writing by the Local Planning Authority. The said conference facilities shall thereafter be provided in accordance with the approved details prior to the first occupation of the development and retained thereafter, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that conference facilities are provided to help to meet the identified lack of such facilities within Bath as outlined in the Visitor Accommodation Study.

25 No development shall commence 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 first been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a field evaluation of the site to determine date, extent, and significance of any archaeological deposits or features, and shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of potential archaeological interest and the Council will wish to evaluate the significance and extent of any archaeological remains.

26 No development shall commence until the applicant, or their agents or successors in title, has presented the results of the archaeological field evaluation to the Local Planning Authority, and has secured the implementation of a subsequent programme of archaeological work in accordance with a written scheme of investigation which has first been agreed and approved in writing by the Local Planning Authority. The agreed programme of archaeological work shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of potential archaeological interest and the Council will wish record and protect any archaeological remains.

27 The development shall not be brought into use or occupied until the applicant, or their agents or successors in title, has secured the implementation of a programme of post-excavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site may produce significant archaeological findings and the Council will wish to publish or otherwise disseminate the results.

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

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

**PLANS LIST:** This decision relates to the following drawing numbers; 14126 - TP-112-205 A, TP-112-301 B, TP-202-000 C, TP-202-0B1 B, TP-201-001 B, TP-201-001 C, TP-201-003 C, TP-201-004 C, TP-202-000 C, TP-202-001 B, TP-202-001 B, TP-202-002 B, TP-202-003 C, TP-202-004 B, TP-202-005 B, TP-202-007 B, TP-202-008 B, TP-201-002 D, TP-202-006 B, TP-202-003 B, TP-203-001 B, TP-203-002 B, TP-203-003 B, TP-204-001 B, TP-204-002 B, TP-411-002 D, TP-411-002 D, TP-411-003 D, TP-411-005 D, TP-412-OB1 D, TP-412-1B1 D, TP-412-000 D, TP-412-000 F, TP-412-001 C, TP-412-002 C, TP-412-003 C, TP-412-004 C, TP-412-005 C, TP-412-006 C, TP-412-100 E, TP-411-101 E, TP-412-102 E, TP-412-103 E, TP-412-104 E, TP-412-105 E, TP-412-106 D, TP-412-201 D, TP-412-202 D, TP-412-203 C, TP-412-401 A, TP-412-402 A, TP-413-001 D, TP-413-002 D, TP-413-003 D, TP-413-004 D, TP-413-005 D, TP-413-006 C, TP-413-101 C, TP-413-102 C, TP-414-001 D, TP-414-101 D, TP-414-102 C, TP-414-103 C, TP-414-104 C, TP-418-002 B, TP-418-301, TP-418-302, SK 314

#### REASONS FOR GRANTING PERMISSION:

The decision to recommend approval has taken account of the Development Plan and any approved Supplementary Planning Documents. The development would accord with guidance within PPS 1, PPS 4, PPS 5 and PPG13. The loss of the existing office accommodation has been justified in the context of Local plan employment policies. The use of this city centre site as a hotel is an appropriate use which accords with policy guidance. The removal of the existing building and the erection of this replacement

building would enhance the character and appearance of the Conservation Area and would not harm the setting of listed buildings or the World Heritage Site. The proposal to not provide on-site car parking is consistent with Local Plan and National Policy and the objectives of sustainability. Highway safety would not be jeopardised by this proposal.

The development is capable of being adequately serviced and operated without resulting in any significant harm to neighbouring amenity. The building has been designed to minimise any impact in terms of overshadowing or overlooking of neighbouring properties. The development would not significantly increase the risk of flooding at the site. A bat assessment has been undertaken at the site which indicates that no evidence of bats within or surrounding the buildings was discovered. The development would not therefore require a license from Natural England. Officers are satisfied that the requirements of the Habitats Directive have been met. The development is not considered to be EIA development.

The proposed development is in accordance with Policies IMP.1, D.2, D.4, ET.1, ET.2, SR.3, S.6, S.7, ES.2, ES.5, ES.15, WM.3, NE.14, BH.1, BH.2, BH.6, BH.7, BH.13, T.3, T.5, T.6, T.18, T.19, T.24, T.25 and T.26 of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

The applicant is requested to comply with the BRE Code of Practice to control dust from construction and demolition activities (ISBN No. 1860816126). The requirements of the Code shall apply to all work on the site, access roads and adjacent roads.

The applicant should strongly consider putting in place a flood evacuation plan. Particular attention should be given to evacuation from the basement levels if a flood event were to occur in this area.

The applicant is advised to put in place safeguards during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover the use machinery, oils/chemicals and materials, the routing of heavy vehicles, the location of work and storage areas, and the control and removal of spoil and wastes.

The applicant is referred to the Environment Agency's Pollution Prevention Guidelines, which can be found at:

<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>

The applicant is advised to supply flow rates for foul and surface water discharge for further appraisal to Wessex Water. The FRA accompanying the application states a surface water discharge rate of 5l/s will be passed to the foul sewer if previous connection proved. Wessex Water advise that the discharge rate should be limited to 5 l/s per hectare.

The applicant is advised to provide Wessex Water with details of water supply demand figures for further appraisal. There should be no gravity connections from basement areas to the public sewers.

The applicant is advised to submit a prior approval application under Section 61 of the Control of Pollution Act 1974. This application should contain the detailed reasonably practicable measures which the applicant/developer will take to control and minimise construction site noise.

<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	
<b>Ward:</b> Paulton	<b>Parish:</b> Paulton	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Outline Application with an EIA attached	
<b>Proposal:</b>	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	
<b>Constraints:</b>	Forest of Avon, General Development Site,	
<b>Applicant:</b>	Purnell Property Partnership	
<b>Expiry Date:</b>	2nd November 2007	
<b>Case Officer:</b>	Mike Muston	

## DECISION

Authorise the Council to enter into a supplemental Section 106 Agreement with the current owners of the land to vary the terms of the Section 106 Agreement dated 17 June 2010 made between the Council, Purnell Property Group and Investec Ltd in respect of land on the north side of Hallatrow Road, Paulton ("the Original Section 106 Agreement") to provide that the Affordable Housing provision for the Development is reduced from 35% to 20% and that the requirement to provide land which shall be of sufficient size to facilitate the provision of a 52 place pre-school nursery together with ancillary play space and parking space be removed but the obligation to construct and fit out a building capable of accommodating a 26 place pre-school nursery together with ancillary play space and parking space be retained.



<b>Item No:</b>	04	
<b>Application No:</b>	11/02486/FUL	
<b>Site Location:</b>	80 Brookfield Park, Upper Weston, Bath	
<b>Ward:</b> Weston	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of a two storey side and rear extension and conversion to 4no. flats.	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, World Heritage Site,	
<b>Applicant:</b>	Mr & Mrs E Benham	
<b>Expiry Date:</b>	24th August 2011	
<b>Case Officer:</b>	Alice Barnes	

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

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

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

Reason: In the interests of amenity and highway safety.

4 Plans showing a secure and sheltered cycle parking area (providing for a minimum of 4 cycles) shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced. This area shall be available prior to occupation of the development and shall not be used other than for the parking of cycles in connection with the development hereby permitted.

Reason: In the interests of sustainable development.

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

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

## PLANS LIST:

Site survey 630:S:001  
Survey: ground 630:S:002  
Survey: first 630:S:003  
Elevation: north 630:S:004  
Elevation: south 630:S:005  
Elevation: west 630:S:006  
Elevation: east 630:S:007  
Site location plan 630:1:000  
Plan: site 630:2:001.  
Plan: ground 630:2:002  
Plan: first 630:2:003  
Elevation: north 630:2:004  
Elevation: south 630:2:005  
Elevation: west 630:2:006  
Elevation: east 630:2:007

## REASONS FOR GRANTING APPROVAL

1. The proposed development would not have an adverse impact upon the streetscene or the amenity of the surrounding residential occupiers. Due to the siting of the extension to the rear and side of the property and the use of an appropriate design the proposed extension will not cause undue harm to the character of the World Heritage Site. The proposed development will not cause harm to highway safety.

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.

D2, D4, Bh.1 and T.24 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

### Informative

1. The applicant should be advised to contact the Highway Maintenance Team on 01225 394337 with regard to securing a Licence under Section 184 of the Highways Act 1980 for the construction of a vehicular crossing. The access shall not be brought into use until the details of the access have been approved and constructed in accordance with the current Specification.

2. The development is located within a foul sewerage area. It will be necessary for the developer to agree a point of connection onto the system for the satisfactory disposal of foul flows generated by the property. There is a foul sewer crossing the site and Wessex Water requires a 3m easement width on either side of the apparatus. Diversion or protection of the sewer may need to be agreed.

The developer is required to protect the integrity of Wessex Water systems and agree protection of the infrastructure prior to the commencement of the development.

<b>Item No:</b>	05		
<b>Application No:</b>	10/04399/FUL		
<b>Site Location:</b>	Folly Farm, Folly Lane, Stowey, Bristol		
<b>Ward:</b> Chew Valley South	<b>Parish:</b> Stowey Sutton	<b>LB Grade:</b> N/A	
<b>Application Type:</b>	Full Application		
<b>Proposal:</b>	Change of use from Class C2 to Mixed Use combining Classes C2/D2 for residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities (Retrospective)		
<b>Constraints:</b>	Agric Land Class 1,2,3a, Agric Land Class 1,2,3a, Coal fields, Forest of Avon, Greenbelt, Sites of Nature Conservation Imp (SN), Water Source Areas,		
<b>Applicant:</b>	Avon Wildlife Trust		
<b>Expiry Date:</b>	16th February 2011		
<b>Case Officer:</b>	Andy Pegler		

**DECISION** This application was withdrawn from the Agenda.

<b>Item No:</b>	06	
<b>Application No:</b>	11/03877/FUL	
<b>Site Location:</b>	11 Old Newbridge Hill, Newbridge, Bath, BA1 3LX	
<b>Ward:</b> Newbridge	<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 1no side and 1no rear dormer (Resubmission)	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, World Heritage Site,	
<b>Applicant:</b>	Mr And Mrs N Roberts	
<b>Expiry Date:</b>	31st October 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 vertical planes of the dormer windows hereby approved shall be finished with tile hanging to match the colour of the tiles to the roof of the host building.

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

3 All external roofing materials to be used for the side dormer window hereby approved shall match those of the host building.

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

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

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

**PLANS LIST:**

1, 2, 3 and 10 received 05 September 2011.

**REASONS FOR GRANTING APPROVAL**

1. The design of the proposed dormer windows would preserve the character and appearance of the host building and the surrounding area. There are other examples of side dormer windows in the 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>Bath &amp; North East Somerset Council</b>	
MEETING:	<b>Development Control Committee</b>
MEETING DATE:	<b>23rd November 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.

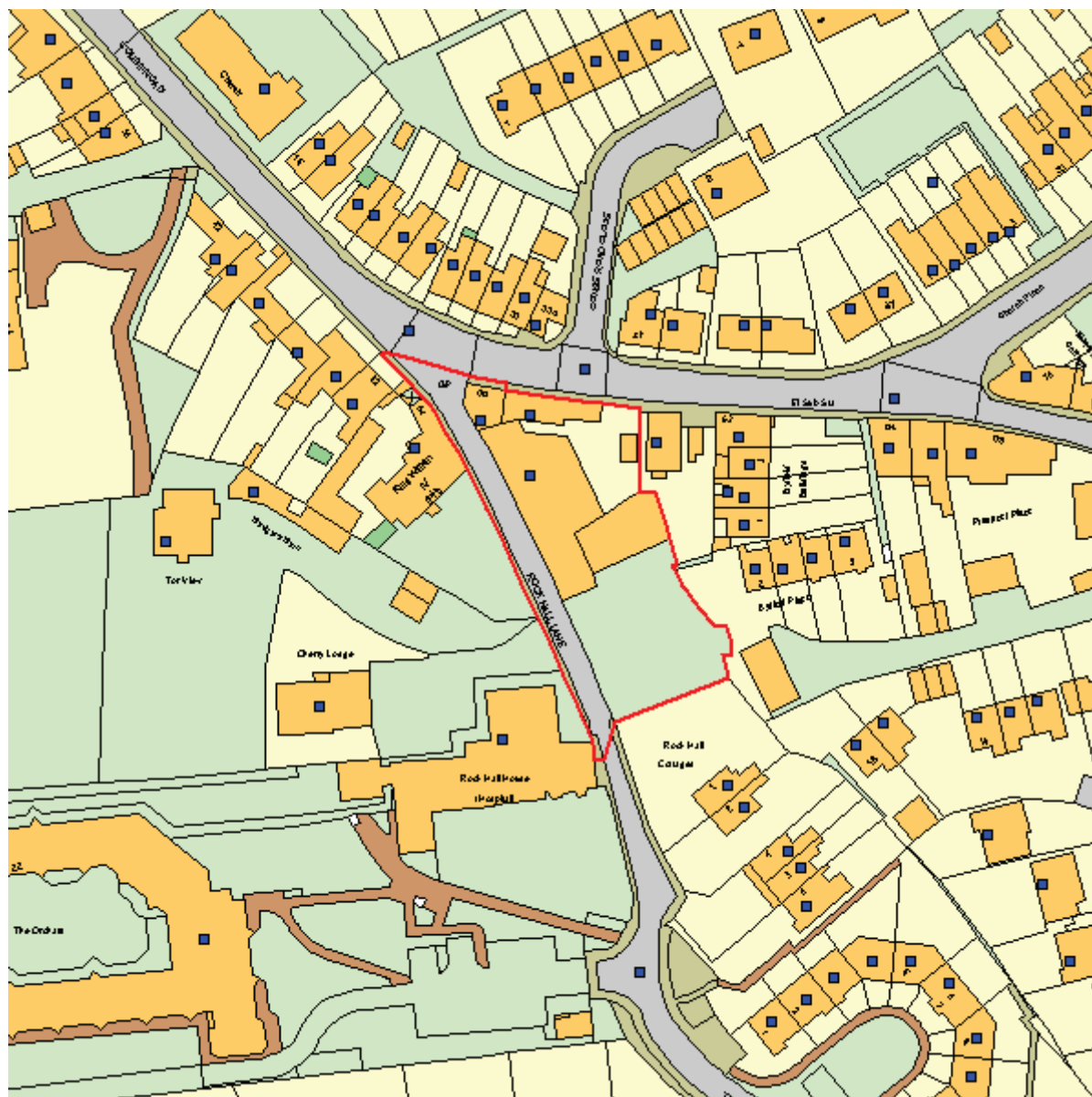
## INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	11/04166/FUL 22 November 2011	Ian Cox Development Partners Ltd Gammon Plant Hire, Rock Hall Lane, Combe Down, Bath, Bath And North East Somerset Erection of 1no. Mining Interpretation Centre (rated BREEAM Excellent), 8no. Eco-Homes (rated Code 5 zero carbon), 1no. Apartment (rated Code 5 zero carbon) and all associated hard and soft landscaping following demolition of all existing properties, with the exception of a portion of historic stone wall to Rock Hall Lane (resubmission).	Combe Down	Tessa Hampden	REFUSE
02	11/04167/CA 22 November 2011	Ian Cox Development Partners Ltd Gammon Plant Hire, Rock Hall Lane, Combe Down, Bath, Bath And North East Somerset Demolition of all existing properties with the exception of a portion of historic stone wall to Rock Hall Lane.	Combe Down	Ian Lund	REFUSE
03	11/02432/OUT 14 September 2011	Blue Cedar Homes Land Rear Of Holly Farm, Brookside Drive, Farmborough, Bath, BA2 0AY Residential development comprising 38 dwellings with associated access, car parking and landscaping	Farmboroug h	Tessa Hampden	Delegate to PERMIT
04	11/03393/FUL 11 October 2011	Ms Amy Fry 153 Newbridge Hill, Newbridge, Bath, BA1 3PX, Erection of new single family dwelling on land at the rear of 153/155 Newbridge Hill	Newbridge	Tessa Hampden	REFUSE

05	11/03987/OUT 8 November 2011	Mr & Mrs David and Elizabeth Bates 69 Haycombe Drive, Southdown, Bath, Bath And North East Somerset, BA2 1PG Erection of a detached 2 storey dwelling on land to the rear of 69 Haycombe Drive	Southdown	Richard Stott	PERMIT
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**REPORT OF THE DEVELOPMENT MANAGER OF PLANNING AND TRANSPORT**  
**DEVELOPMENT ON APPLICATIONS FOR DEVELOPMENT**

**Item No:** 01  
**Application No:** 11/04166/FUL  
**Site Location:** Gammon Plant Hire, Rock Hall Lane, Combe Down, Bath



**Ward:** Combe Down      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Cherry Beath      Councillor R A Symonds  
**Application Type:** Full Application  
**Proposal:** Erection of 1no. Mining Interpretation Centre (rated BREEAM Excellent), 8no. Eco-Homes (rated Code 5 zero carbon), 1no. Apartment (rated Code 5 zero carbon) and all associated hard and soft landscaping following demolition of all existing properties, with



	the exception of a portion of historic stone wall to Rock Hall Lane (resubmission).
<b>Constraints:</b>	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Local Shops, Water Source Areas, World Heritage Site,
<b>Applicant:</b>	Ian Cox Development Partners Ltd
<b>Expiry Date:</b>	22nd November 2011
<b>Case Officer:</b>	Tessa Hampden

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE

This application has been referred to Committee the Development Manager due to the sensitive nature of the development.

### SITE DESCRIPTION AND PROPOSAL

The application site is located on corner of Rock Hall Lane and Combe Road in the village of Combe Down. The site comprises a former 19th century maltings, and a large open yard to the east and the south of the buildings. A modest vacant retail unit is located on the north west corner of the site, adjoining Malthouse Cottage to the east, with a further open yard, all at a higher level to the main yard and buildings. A significant stone wall forms the boundary of the site with Rockhall Lane.

A number of listed buildings surround the site including Rockhall House on the west side of Rockhall Lane. Higher up on the same side is the King William IV public house, then the range of dwellings 42 through to 50 Combe Road. To the east of the site lies 62 Combe Road, and then set back are Nos. 1 - 3 Byfield Buildings, and No.s 1-5 Byfield Place.

The site is within the City of Bath Conservation Area and set within the wider World Heritage Site. Number 56 Combe Road is designated as a Local Shop in the adopted Local Plan.

The application seeks planning permission for the erection of a Mining Interpretation Centre (rated BREEAM Excellent), eight eco-homes (rated Code 5 zero carbon), one apartment (rated Code 5 zero carbon) and all associated hard and soft landscaping following the demolition of all of the existing properties, with the exception of a portion of historic stone wall to Rock Hall Lane. The development also includes the widening of the footpath to Rockhall Lane and further highway improvements. There is a parallel Conservation Area Consent which covers the demolition of the buildings.

The application is a resubmission of a recently withdrawn application. The most significant changes from this previous scheme include: reduction of the lower terrace from 3 stories to 2 stories; use of Bath stone on all of the build rather than render in parts; changes to the roof of the upper terrace to include a mansard roof design feature; alterations to the detailing of the upper terrace so it takes on a more traditional approach including changes to the fenestration and introduction of a stone string course. A further Historic Report has also been submitted with this application in order to justify the loss of the buildings.

The eight town houses are arranged in two terraces of four, orientated east west along the north and south ends of the site. The upper terrace faces onto Combe Road, and although

three stories, will appear as a two storey building from the road. The upper houses are set back from the pavement allowing a lightwell to the lower ground floor level. The lower terrace is formed of two storey dwellings, which comprises living accommodation on the first floor and bedrooms at ground floor level. The houses have incorporated a number of environmental measures as a result of the sustainable brief. The dwellings will be constructed from coarse rubble stone on the upper/lower ground floor and gable ends and smooth sawn ashlar on the first floor, under a single grey ply membrane roof.

The two bedroom apartment is sited at right angles to the terraces, and is elevated above the site entrance. This part of the development will be clad with a light weight timber under a sedum roof.

The development also includes the erection of the Combe Down Stone Mines Interpretation Centre which will be located on the corner of Rockhall Lane and Combe Road. The submission explains that in order to secure the long-term future of the centre, the building will be held by The Ecos Trust which is a Somerset based educational charity. They will lease it to the Community Trust and support them with set up and management. A Trust is being formed to represent the community and run the Centre with locally elected trustees. The Centre will present the story of Combe Down, and the influence of stone in its development from prehistory to the present day. It will also provide a resource centre for the use of Combe Down residents for meetings, lectures and leisure activities.

The Interpretation Centre proposes a variety of material treatments. The existing rubble stone wall is retained to Rock Hall Lane and a new glazed facade created to Combe Road with elements of timber/stone. A series of mono-pitch roofs are proposed above the existing historic wall. These are designed to let in light on the north (glazed) side, whilst offering an array of solar PV panels on the south side. The roofs are made from Cross Laminated Timber and support is offered in the form of Glu-laminated Timber columns, which are inclined at the top to follow the line of the roof. A lightwell is created between the Mining Interpretation Centre and the pavement.

A combined disabled parking space / bus drop-off point will be provided to Combe Road in order to serve the Mining Interpretation Centre. A car park for residential properties will be provided in the centre of the site, accessed from Rock Hall Lane, providing 14 on-site car parking spaces for the occupiers of the development.

#### PLANNING HISTORY:

DC - 11/02810/FUL - withdrawn - 22 September 2011 - Erection of 1no. Mining Interpretation Centre (rated BREEAM Excellent), 8no. Eco-Homes (rated Code 5 zero carbon), 1no. Apartment (rated Code 5 zero carbon) and all associated hard and soft landscaping following demolition of all existing properties, with the exception of a portion of historic stone wall to Rock Hall Lane.

DC - 11/02811/CA - withdrawn - 22 September 2011 - Demolition of all existing properties with the exception of a portion of historic stone wall to Rock Hall Lane.

DC - 11/04167/CA - pending consideration - Demolition of all existing properties with the exception of a portion of historic stone wall to Rock Hall Lane.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

**HIGHWAY DEVELOPMENT:** No highway objection is raised subject to the prior completion of a legal agreement to secure the highway works, comprising the footway widening, vehicle passing bay and any associated Traffic Regulation Orders. Conditions are also recommended to be attached to any planning permission granted.

**ECOLOGY:** No objection subject to a plan for a Wildlife Protection and Enhancement Plan being produced. This can be secured through a condition on any permission.

**ARBORICULTURE:** No objection subject to the protection of a Silver Birch during construction

**ARCHAEOLOGICAL OFFICER:** Welcomes the proposed Combe Down history centre, removal the below ground mine experience, which formed part of earlier designs, will deny residents and futures visitors what was planned as a lasting legacy and physical connection with the village's mining heritage; Demolition of the main historic building on the site (the former maltings) to make way for a history centre seems to be defy logic, and should to be reconsidered; Retention and reuse of the maltings as the history centre with other community uses would be better approach, allowing the historic building to form part of the narrative told about the village and its industrial heritage.

**CHILDREN'S SERVICES:** Total contribution sought for £33,005.28

**ENGLISH HERITAGE:** Do not consider that they represent a significant enough improvement or provide sufficient additional meaningful information or evidence necessary to prompt a review of their previous position. The previous advice should therefore be considered as the formal position on the application. This can be summarised as follows; the existing buildings have a sufficient degree of significance to make a positive contribution to the Conservation Area and the replacement development will generate harm to designated heritage assets. A case for the proposals has not been made in accordance with the statutory provisions of PPS 5 on the Historic Environment.

**WESSEX WATER:** general advice offered but no specific concerns raised.

**BATH PRESERVATION TRUST:** Do not support the revised designs out-right but consider that the scheme is broadly of a sufficient quality to warrant the demolition of the yard buildings as proposed as to provide much needed local housing on the site. The retention of the historic stonewall to Rock Hall Lane is of local importance and must be retained in the interest of local character and distinctiveness and serves a reminder of the former use of the site. The amendments make a considerable difference whilst not compromising the overall design concept and philosophy. The balcony features and conservatories are considered more appropriate to the character and setting of Combe Down and will not have the abrupt and conspicuous impact upon the streetscene and wider views across Combe Down that the previous passive-glazing proposals did. The height reduction of the lower housing-block reduces visibility of the block in the local townscape, its impact upon Byfield Terrace and responds much better to the local topography and descent downhill.

There are still concerns with some aspects of the design scheme. The choice of red cedar cladding upon the suspended apartment is ill-fitting, given its unsympathetic colour, and

would give the development an incongruous element. An indigenous and untreated timber would be a preferable material choice. Further, the glazed L-shaped projection which is angled north-west is particularly prominent, and potentially excessive.

### THIRD PARTY REPRESENTATIONS:

23 objection comments have been received, and a petition signed by 60 people (It should be noted some of those who have signed the letter have also sent in individual representations). The comments can be summarised as follows:

- Interpretation centre of an inadequate size for its purpose and unsustainable over time
- Overbearing impact upon Byfield Place and subsequent impact upon the residential amenity of this terrace and the setting of these listed buildings
- Inappropriate mass and design of proposed development
- Highway safety issues/inadequate parking for dwellings and centre
- Density of development and overdevelopment of the site
- Loss of existing buildings and the lack of justification for this
- Increase in noise and vehicular pollution
- Loss of light to neighbouring gardens/properties
- Detrimental impact upon the character and appearance of this part of the Conservation Area
- Deflection of wind creating a wind tunnel
- Loss of privacy/overlooking to neighbouring gardens
- Relationship to previous refusals at adjacent sites
- Detrimental impact upon the setting of the listed buildings
- Inappropriate flat roofs
- Inappropriate fenestration/detailing
- Objections to the use of the photovoltaic panels due to their inappropriate appearance
- Inappropriate materials including timber and glazing, textured stone, sedum roofs
- Loss of views
- System and installation issues of the biomass boilers
- Risk of damage to properties
- Inappropriate layout if proposed buildings including lack of storage and access to gardens

4 supporting comments have been received. These comments can be summarised as follows:

- Welcomes the storage area of the Interpretation Centre to allow for a greater use of the building
- Encourages the retention of the maltings tank
- The Centre will enable the story of Combe Down and its stone to be presented in a way that is accessible and understandable by all ages and levels of education
- The Centre will be an excellent facility for the benefit of the village and the wider area which will outweigh the heritage loss of the old malthouse building
- Design of the dwelling will strongly identify the Interpretation Centre with its theme
- Architects have listened and responded sympathetically to what they have heard

## **POLICIES/LEGISLATION**

Bath and North East Somerset Local Plan (including minerals and waste) October 2007

IMP.1: Planning obligations  
D.2: General design and public realm considerations  
D.4: Townscape considerations  
ET.3 Core Employment Areas  
CF.1: Contributions from new development to community facilities  
CF.2 Provisions of new or replacement community facilities  
S8 Retention of shops in district, local and village centres  
HG.1: Meeting the District housing requirement  
HH4 Residential development in the urban areas and R1 settlements  
HG.7: Minimum housing density  
NE.1: Landscape character  
NE.4: Trees and woodland conservation  
NE5 Forest of Avon  
NE9 Locally important wildlife sites  
NE10 Nationally important species and habitats  
BH1 World Heritage Site and its setting  
BH2 Listed Buildings and their setting  
BH5 Locally important buildings  
BH6 Demolition within or affecting Conservation Areas  
BH7 Demolition in Conservation Areas  
BH12 Important archaeological remains  
T.1: Overarching access policy  
T.24: General development control and access policy  
T.25: Transport assessments and travel plans  
T.26: On-site parking and servicing provision

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

Planning Obligations Supplementary Planning Document - adopted July 2009

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: B1, B4, IMP, D.2, D.4, ET.7, CF.1, CF.2, S8, HG.1, HG.7, NE.1, NE.4, NE5, NE9, NE10, BH2 , BH5, BH6 , BH7 , BH12, T.1, T.24, T.25,T.26

## **OFFICER ASSESSMENT**

**PRINCIPLE OF DEVELOPMENT:** The application site is located within the built up area of Bath where in principle new residential development can be considered to be broadly acceptable provided it complies with the relevant policies of the adopted Local Plan. Further, the site is located in a sustainable location, in close proximity to local facilities and public transport provisions. There is therefore no objection in principle to new residential development on this site.

The main part of the site was last used by Gammon Plant Hire. There is no objection to the loss of this use, and a use more compatible with the surrounding residential properties would be welcomed. The lawful use, in close proximity to residential properties is likely to perpetuate unacceptable environmental and traffic problems. Further, the agent cites that the site is very expensive to develop in terms of the constraints and complexity of technical difficulty and it is therefore unlikely to be an attractive opportunity for those seeking a new commercial property.

Although the former shop unit is designated as a local shop, it is detached from the visual core of the local centre of Combe Down Village. Its loss is not considered to harm the vitality and viability of the local centre. It has been empty for some time and it has been cited that when it was operational it was largely used for storage. The new large Sainsbury's Store in Odd Down is likely to have reduced the potential for this store to continue to be in use. The replacement with a community building will ensure that the vitality of the area is maintained. On balance therefore, the proposed loss of the shop unit is considered to be acceptable and there is no objection to the change of use of the site.

The proposed Combe Down Stone Mines Interpretation Centre will provide an educational facility for the wider area and a community facility for Combe Down Village. Given the siting of this unit within an existing settlement, this part of the development is considered to be acceptable. There have been concerns with regards to the limited size of the building and the impact of this on the future viability of the development. It has been confirmed that this building will be taken on by the Eco Trust which is a registered charity. The building will then be leased to the Combe Down Community Trust. It is considered that this building, although smaller than some would have been wished for, will still serve a suitable purpose for the local and wider community.

Given the above, overall the proposed development is considered to be acceptable in principle.

#### CHARACTER AND APPEARANCE:

##### Demolition of the existing buildings

The loss of the existing buildings remains a of significant concern as the standing structures are considered to contribute positively to the character and appearance of this part of the Conservation Area and are considered to represent an undesignated heritage asset. The parallel Conservation Area Consent application has been recommended for refusal, and this recommendation is explained in the corresponding committee report.

A Historic Building Report was submitted with the previously withdrawn planning application and a further revised and expanded report forms part of the current submission. A condition survey report has also been submitted as part of the application to justify the loss of the existing buildings and a further Structural and Engineering Report has also been submitted. The agent cites that the submission comprehensively demonstrates that the retention of the buildings is inappropriate given their unsafe and poor condition, and suggests that their demolition is fully justified in terms of Planning Policy Statement 5.



However, there are concerns that no options have been presented that consider the possibility of retaining these significant buildings. The Historical Building Report provides archival evidence, backed up by English Heritage and by the opinion of local people making representations that the site has considerable local importance and it is considered that their loss has not been fully justified.

The main malting buildings have undergone a number of alterations including the removal of the upper malting floor, the pyramidal kiln roof, and the blocking up of a number of the windows. The interior has been largely stripped out but the external envelope of the buildings and boundary walls remain of considerable heritage significance. They are testament to the history of Combe Down as an important centre for stone mining and brewing. As noted in the Bath City-wide Character Appraisal it is the C18 and C19 buildings that give Combe Down its strong sense of identity.

The maintenance of the Maltings in particular has been poor, rain water goods appear to have been removed and holes in the roof covering have been left unrepaired. However, as PPS5 advises any neglect in the hope of obtaining consent to demolish should be disregarded. Furthermore, it is not considered that the condition of the Cottage and the Maltings are so poor that they could not be restored.

As English Heritage note, although the existing complex of buildings has seen much interior change, the exterior of the buildings retain sufficient of its historic form, fabric and architectural character to allow for a ready recognition of its heritage value and historical role.

The Malthouse Cottage was probably formed from buildings erected originally in the early years of the 19th century but there has been significant reconstruction and alteration during the 20th century. The Cottage itself is therefore of less significance and need not be regarded as a heritage asset.

The proposed scheme retains a section of the historical stone wall fronting Rockhall Lane. This section is characterful and its retention is welcomed, although there are doubts that a section could realistically be retained without substantial amounts of rebuilding. Essentially therefore the scheme would result in almost the total loss of the site's significance. It is acknowledged that much of the site is presently unused and the Maltings are redundant for their original use but demolition is irreversible and should only be considered as a last resort. The fact that the present applicant has not put forward a viable use of the existing buildings does not mean that there is no such use, and alternative options need to be considered.

On balance therefore, notwithstanding some alterations, and poor maintenance, the former maltings and attached corner shop make a positive contribution to the character of Combe Down are considered to be heritage assets as defined by PPS 5: The proposals contain insufficient evidence or justification to warrant extensive demolition.

#### Character and appearance of the new development

Notwithstanding the above issues relating to the loss of the existing buildings, the impact of the proposed development also needs to be assessed. As previously discussed significant alterations have been made to the previously withdrawn scheme in an attempt

to overcome earlier concerns raised by the case officers, English Heritage and various third parties. It is acknowledged that the applicant has made significant compromises to the scheme, which has included reducing the level of accommodation offered by dropping the lower terrace from three stories to two, and replacing the render sections with Bath Stone.

There is no objection to residential development on this site, and the introduction of small terraces is considered to be applicable and reflects the character of the area. The siting of these buildings is also considered to be appropriate and respects the existing loose building grain of Combe Down Village. The concept of a centre focusing on the history of the village is welcomed in the heart of Combe Down Village. The Interpretation Centre will occupy a prominent position on the corner location, but given the use of the building its prominence is intentional.

The development will retain a section of the historic boundary wall to Rockhall Lane. Although there are concerns with how this will be retained without it having to be rebuilt the retention of this is in the interest of local character and distinctiveness of the site and acts as a reminder of the historical use of the site. This section of the wall is considered to contribute positively to the character and appearance of this part of the Conservation Area.

The development is considered to reflect the topography of the site, with the built form being stepped down in line with the slope of the site. This has been improved with the reduction in height of the lower terrace and is considered to reflect the historical character of Combe Down village. This reduction in height of the terrace also reduces the impact of the development when looking north along Rock Hall Lane.

However, although the alterations to the scheme are noted there is still concern with the development, and objections have been raised by the Historic Environment Team, English Heritage and various third parties. There are significant concerns with the overall scale of the development, particularly the width of the housing blocks. The widths are considered to be too great in relation to the established village context of the site. The deep front to back distances represents an inflation of traditional terraced forms found nearby. The block gable ends onto Rockhall lane, are considered to be overly dominant in the street scene and impinges upon the setting of the adjacent Grade II listed Rockhall House and Byfield Place.

The use of flat roofs in order to minimise height and maximise energy efficiency is recognised, but there is concern that that this, coupled with the elongated gable ends results in blocks that appear out of character. It is acknowledged that the roof lanterns have been extended to form the visual perception of a pitched mansard roof behind a parapet which is an attempt to reference other properties in the Combe Down area which have a parapet with a pitched or mansard roof behind it. From direct street level, there are limited views of the pitched roof with the parapet forming the main character of the skyline. The flat roof allows for the housing of photovoltaic panels, with the parapet screening them from view. The provision of the panels is critical if the development is to achieve the zero carbon status. There is no objection to the roof design as such, but when coupled with the inappropriate scale of the development, the dwellings are considered to appear to conflict with the prevailing character of the area.



The finer details of the upper terrace now takes on more traditional approach as a result of the changes which include alterations to the fenestration and introduction of a stone string course. This ensures that the development more closely respects the local vernacular.

Notwithstanding the concerns already raised, the use of appropriate materials is essential to ensure that the development has a satisfactory overall finish. It is recognised that the render elements proposed in the previous application has been replaced by Bath stone, and this change is considered to represent an enhancement to the scheme and more closely reflects the character of the area and the history of the site. The Design and Access Statement explains that Ralph Allen Yard was established in order to produce prefabricated rectangular Bath stones. Up until that point only rubble stone was offered in any quantity. In reference to this, two types of stone are proposed to the terraced houses; coarse rubble stone on the upper/lower ground floor and gable ends (possibly retaining saw marks) and smooth sawn ashlar on the first floor. Further details of this can be secured through a condition on any future planning permission, but in principle is considered to be acceptable.

Timber is proposed for a section of the roof of the Interpretation Centre and as the main cladding for the single flat. Although this material is not common within the local vernacular, it is considered to be acceptable on this contemporary development. The material will ensure the flat element does not appear overly bulky in this location and is considered to contrast successfully with the Bath stone proposed. Again, it is critical to ensure that the timber used is appropriate and a condition should be requested on any future permission.

Solar panels are proposed to the pitched roofs of the Interpretation Centre and to the northern and southern parts of the roofs of the dwelling houses which will cover a large portion of these roofs. A sedum roof will be used for the single flat and part of the Interpretation Centre. A dark grey single ply membrane will be used on the roof of each dwelling beneath the photovoltaic panels. Again, these materials are considered acceptable, and the future maintenance of the sedum roof can be secured through the inclusion of a condition.

Whilst the changes to the scheme are considered to be a significant improvement on the previously withdrawn scheme, they are not considered to outweigh the overall concerns previously identified. On balance, given the concerns with the overall design and scale of the development, the quality of the scheme is not so great as to justify the harm caused by the demolition. The development is considered to result in harm to the setting of the adjacent listed buildings and as result the character and appearance of this part of the City of Bath Conservation Area.

**HIGHWAY SAFETY:** When assessing the previous planning application which was withdrawn, concern was expressed regarding access for refuse collections to the proposed recycling area, and with the servicing of the site in general, due to the restrictive nature of Rock Hall Lane. The construction of the development, and the proposed highway works, was also raised as a concern, with regard to how access could be maintained for vehicular and emergency access at all times, bearing in mind the restrictive nature of the footway and carriageway off Rock Hall Lane. This is particularly critical given the sheltered housing on Rockhall Lane.

Although the application site has been vacant for a number of years, the previous uses on the site would have generated a significant amount of vehicular movements, and particularly in respect of the garage, council depot and tool hire workshop, there would have been HGV movements. The site has historically had the benefit of three access points, one onto Summer Lane and two onto Rock Hall Lane. Rock Hall Lane is a narrow lane with a 1m footway on the west side and no footway on the east side, across the frontage of the site, and therefore access to, and egress from, the site would have been restrictive, and visibility from the access points very poor.

The development scheme proposes a vehicular access off Rock Hall Lane serving parking for 14 cars, and with access to a refuse/recycling area for the dwellings. The footway on the west side of Rock Hall Lane is proposed to be widened over the length of the site from 1.0m to 1.4-1.7m, together with a minimum 0.5m rubbing strip to the east side, which also serves to provide improved visibility for the proposed single point of access into the site. The proposal also includes the widening of the footway at the junction of Rock Hall Lane with Summer Lane and outside of the proposed Mining Interpretation Centre. A vehicle passing place is also proposed in the vicinity of the vehicular access to the site.

The site is well served by public transport for journeys into the City, and having regard to the availability of some local services nearby and options for modes of travel, the site is considered to be in a sustainable location. Whilst there is no specific data for the traffic that was generated by the former uses on the site, it is not considered that the proposed development would generate an increase in the level of traffic. However it is considered that it would reduce the level of HGV traffic that would otherwise have been generated by the former uses, if the site were to be brought back into those uses. The submitted Transport Statement considers the impact of the development on traffic movements and concludes that there would be likely to be a reduction in the level of traffic associated with the development, compared to the former uses on the site. On this basis, the development proposal would not generate a need for an SPD contribution to strategic schemes.

The proposal includes for 14 car parking spaces within the site, including disabled bays, with any additional demand for parking having to take place on the adjoining highways. The dwellings are also to be provided with 2 cycle hangers each to allow for cycle storage, and to encourage alternative modes of travel for residents. Having regard to the location of the site, the level of car and cycle parking is considered to be appropriate.

The construction of the development will require that emergency access is available at all times, and access to properties served off Rock Hall Lane will need to be maintained for pedestrians and vehicles. The applicants Transport Consultants have submitted details of Working Zones which identify how the highway works can be carried out in phases in order to maintain access, and these have been discussed with the Street Works Manager, who is happy with the principles. A Construction Management Plan will be required in order to agree the details of the timings and method of deliveries, storage of materials, contractors parking, emergency access, vehicular and pedestrian access and any traffic management.

The Transport Consultants have also provided swept path analysis to satisfactorily demonstrate the ability for a car to pass a refuse vehicle within Rock Hall Lane, with the provision of the proposed passing bay to the frontage of the development. A road condition survey should also be carried out and agreed between the Developers and the

Local Planning Authority, to establish the existing condition of the surrounding highways. Any damage caused to the highways can be assessed against the pre-start survey, and any defects that are considered to be attributable to the development traffic will then be required to be rectified by the Developers.

It is noted that development works are proposed adjacent to, and below, the highway, including the provision of a light well between the Mining Centre and the footway, and these works could have implications for the structural stability of the highway. Structural drawings and calculations will be required, by condition, to be submitted and approved prior to the commencement of any works.

Having regard to the above no highway objection is raised subject to a number of conditions, and the prior completion of a legal agreement to secure the highway works, comprising the footway widening, vehicle passing bay and any associated Traffic Regulation Orders.

It is proposed to widen the Rock Hall Lane footpath along the full length of the site, significantly improving pedestrian crossing and improving highway safety at the road junction for all residents. The footpath is also to be widened directly outside the Mining Interpretation Centre on Combe Road. A vehicular passing place is to be provided at the entrance to the site, in addition to a larger passing bay just South of the entrance on Rock Hall Lane

**RESIDENTIAL AMENITY:** The application is in close proximity to neighbouring properties and careful consideration therefore needs to be given to the impact of this development on the residential amenity currently enjoyed by the occupiers of these dwellings. The agent has submitted an analysis of the impact of the development on the end terrace of Byfield Place, but the comments within the representations in relation to this drawing are noted. The lower terrace has been reduced to two stories partly in an attempt to mitigate the impact upon these neighbouring occupiers. It is acknowledged that the development will still impact upon the occupiers of the end property in Byfield Terrace in particular, but whether this is to a level as to warrant a refusal needs to be considered.

Number 2 Byfield Place benefits from French windows to its side elevation, and the view from this window will be affected. However although the outlook from this window and other windows of this and neighbouring dwellings will be altered, the development is not considered to dominate the outlook to an unacceptable level as to warrant a refusal. The lower building profile of the lower terrace minimises the amount of building that will be visible from the neighbouring property and the development is no longer considered to have the overbearing impact on the neighbouring occupiers. The loss of view has been cited within representations, but this is not considered to be a planning consideration that can be given considerable weight.

The development however will result in loss of light to the neighbouring occupier and this has been illustrated through the Solar Shading diagram submitted by the applicant. It is noted that this diagram focuses on 2 Byfield Place, as this is again the property that will be most impacted upon, but consideration has also been given to the impact of the development on the other nearby properties including Rockhall House. Byfield Place has a raised terrace area between its side elevation and the proposed gable end of proposed dwellings of the lower terrace. The diagram submitted has shown that the proposed area

will suffer from a shading affect as a result of this development. The property also benefits from a further garden area to the front of the property which appears to be well used. Although it is accepted that this terrace area will suffer from a degree of loss of light, the front garden area is considered to benefit from an acceptable level of sun light, and as such the harm caused by the development is not considered to result in significant harm.

It is also recognised that the development will result in a degree of noise and disturbance in particular from vehicular and pedestrian movements. However given the lawful use of this site which has the potential to generate a higher level of noise, this harm is not considered to be significant enough as to warrant a refusal.

Concern has been raised with regards to the overlooking of neighbouring properties. Blinker screens are proposed to minimise the overlooking of neighbours and their garden areas, and this, and any further screening can be controlled through the inclusion of a condition. Further, given the siting of the proposed balconies and windows, they are at a level and a distance away from the property that would ensure that the loss of privacy is not significant harmed.

The use of the building as an Interpretation Centre is not considered to result in undue levels of noise and disturbance for the neighbouring occupiers given the size of the unit and its location adjacent to the public house. However this building is likely to be used in the evening and the operational hours can be controlled through a condition on any planning permission.

The development is considered to result in satisfactory living conditions for the future occupiers of the development. Whilst the comments of the third parties are noted with regards to the unacceptable layout, in particular the lack of storage, the living conditions, including the level of outdoor amenity space offered is considered to be acceptable.

On balance, although it is recognised that the development will have an impact upon the neighbouring occupiers, in particular No.2 Byfield Place, the impact is not considered to be so significant as to warrant a refusal.

**ARBORICULTURE:** The existing Silver Birch tree is to be retained and protected during the construction process. Further it is proposed to plant six new trees as part of the new development. There are no objections to the development from the Senior Arboricultural Officer subject to the inclusion of a condition on any planning permission. The location of these trees can be fully considered through the inclusion of a landscaping condition.

**ECOLOGY:** This site lies in close proximity to parts of the Bath & Bradford on Avon Bats SAC, the closest of which lies 65m to the west, to the rear of neighbouring buildings. Another component part of the same Bats SAC lies a further 75m beyond. The buildings on site also have potential for use by bats and birds.

Two ecological reports have been submitted; an Ecological Appraisal & Bat Inspection (Engain, June 2008) and a bat survey of the buildings and yard (Bat Pro, June 2011). The 2008 survey found pipistrelle droppings on the west side of the northern wall of a lean-to garage on the site. Further emergence surveys for bats were recommended. The 2011 bat surveys provides summary findings of completed bat surveys for the site, and found no bats roosting within buildings on the site. Pipistrelle bats were recorded flying across

the yard. The 2011 survey concludes that no roosts are currently present and that a licence is not required prior to demolition of buildings.

In line with the recommendations of the June 2008 report and due to the previous survey findings (2008) of pipistrelle bat droppings on a wall on the site, a plan for a Wildlife Protection and Enhancement Plan should be produced. This can be secured through a condition on any planning approval. The plan should provide details of measures to protect wildlife, and details of wildlife enhancements to be provided through the planting scheme and provision of replacement roost features. The plan should include a method statement for precautionary working methods for bats, during demolition works (eg removal of roof tiles by hand; briefing of site workers regarding bat protection & what to do if a bat is found). The plan must be approved prior to the start of demolition or other works.

A licence is not considered necessary and the three tests do not need to be applied for this application. If the buildings are not demolished within 12 months however, bat surveys would need to be repeated / updated. Given the findings of the bat report which did not record any use of the site by the Greater Horseshoe Bat, and given the location of the site beside a lit highway and between buildings to the north, east and west, the LPA can be confident that the proposals will not have a significant effect on the SAC. No further assessment should be required under the Habitats Regulations. This is provided that no new outdoor lighting is proposed that would cause light spill beyond the boundaries of the site.

**SUSTAINABILITY:** A pre assessment report has been submitted with regards to the Interpretation Centre. On the basis of this pre assessment it is anticipated that the overall rating for the proposed development will be an 'Excellent' BREEAM ((Building Research Establishment Environmental Assessment Method) rating. The percentage score achieved in the pre assessment BREEAM Offices analysis is 71.06%. This method analyses the environmental performance against criteria set by BRE, awarding 'credits' based on the buildings individual performance.

The Code for Sustainable Homes (CSH) level 5 'zero carbon' rating is targeted with a minimum of level 4 being stipulated by the HCA. To this end, a number of environmental measures are incorporated into each house. These include:

- South-facing conservatories and glazing - to maximise solar gain. - The sun room also has a balcony on top of it to make the most of distant views.
- Reduced openings to north facade - to minimise heat loss
- Central staircase with partially glazed 'Roof Lantern' - to allow - natural ventilation and light into the middle of the building.
- Pre-fabricated construction - to minimise disruptive on-site - processes.
- High-levels of insulation - to minimise heating / cooling - requirements.
- Integrated Cycle Parking - for 2 cycles per house

A Code for Sustainable homes and Zero Carbon Homes Report has been submitted as part of this planning application. The report summarises that the 8 town houses can achieve CSH level 5 with a small margin of comfort. Further work will need to be done on a number of the design details and on the other aspects of the procurement and construction processes to ensure all criteria are met. They can also achieve Zero Carbon



Home status with the addition of approximately 3.8kw peak of additional on-site micro-generation.

With regards to the single flat, this can easily achieve CSH level 4 but it will be more difficult to get it to meet CSH level 5. It can be achieved but will require the use of even better fabric standards, changes in materials, some PV generation, combined with details that either allow a reduced thermal bridge Y value of 0.06 to be employed in the SAP calculations. Zero Carbon status due to the physical form of the building is also harder to achieve.

**PLANNING OBLIGATIONS:** Financial contributions have been requested by Childrens' services as follows: total for Early Years provision £0 (Sufficient provision in the area), total for school places £31,405.28, total for Youth provision £1,600.00; therefore a total contribution sought of £33,005.28.

The agent has however raised significant concerns about these contributions for the following reasons:

Though the current application is submitted by Cox Development Partners, it is submitted on behalf of The Homes and Communities Agency- a distinctly public sector organisation. The Homes and Communities Agency has invested in the order of £120m in Combe Down, for the benefit of the community, the Stone Mining Interpretation Centre intended to become the visible and sustainable legacy of that significant initiative and very much part of that already and aspirational publicly funded project. The scale of this investment in the Combe Down Community remains huge. Within this current planning application, the viability of the proposal as a whole, with the provision of the Interpretation Centre community resource as an integral part of the application remains dependent on gap funding through the Homes and Communities Agency. Exemplar levels of sustainability are integral with the proposal, being zero-carbon. the current application has taken on board a number of issues as a result of extensive public consultation which have already adversely affected the viability of the proposal, not least of which the removal of an entire floor of accommodation from the four houses on the lower terrace. Significant Highways improvement works are already proposed within the application, aimed at overcoming existing problems particularly experienced by elderly residents.

The agent therefore considers that for the above reasons it would not be necessary in the case of this unique and aspirational project to apply additional conventional levels of community contribution in order to make the proposal acceptable in planning terms.

The HCA have stated that they will also submit information with regards to the viability of this development and Planning Obligations. The Committee will be updated on this through an update report or at the Committee meeting, but it should be noted that if it is not considered that the omission of this contribution is fully justified, this will form a reason for refusal.

## CONCLUSION

No other significant issues have arisen as a result of this planning application but as it is considered that the scheme is not of a high enough quality to outweigh the harm caused by the loss of the existing buildings, this application is recommended for refusal. Further,

the development, due to its unacceptable scale and design, is considered to result in undue harm to the setting of the adjacent listed buildings, and this part of the City of Bath Conservation Area.

## **RECOMMENDATION**

REFUSE for the following reasons

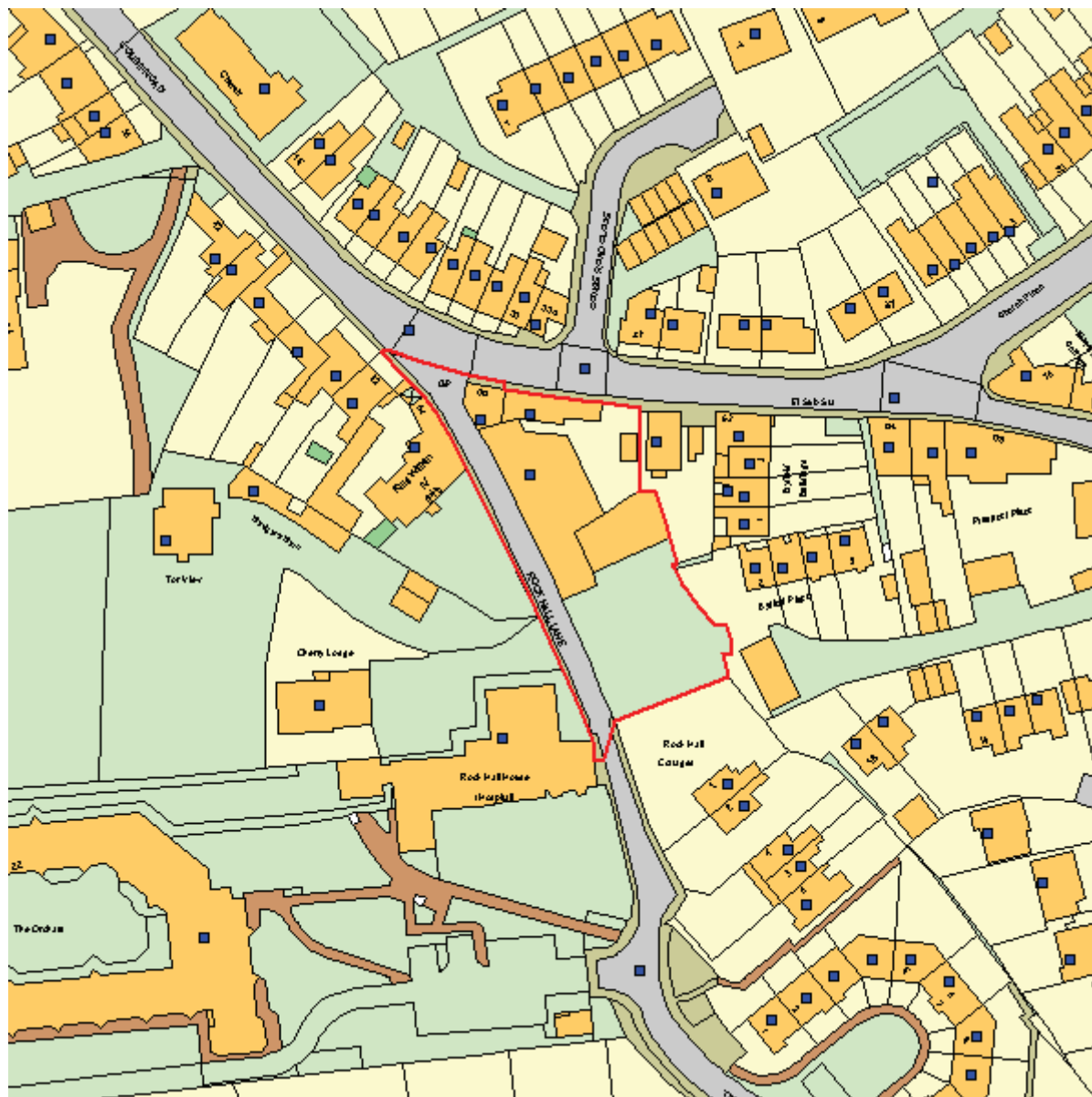
## **REASON(S) FOR REFUSAL**

1 Notwithstanding some alterations, and poor maintenance, the former maltings and attached corner shop make a positive contribution to the character of Combe Down, the designated Conservation Area and the wider World Heritage Site, and are considered to be heritage assets as defined by Planning Policy Statement 5: 'Planning for the Historic Environment'. The demolition of these buildings would not preserve or enhance the character of the conservation area as required by S 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act. The proposals contain insufficient evidence or justification to warrant extensive demolition and are also therefore considered to be contrary to the general intentions of Policies HE6, 7, 9, 10 and 11 of Planning Policy Statement 5 and Policy BH5, BH6, BH. 7 of the Bath & North East Somerset Local Plan including minerals and waste policies adopted October 2007, and the Bath City-wide Character Appraisal Supplementary Planning Document.

2 The proposed development, by reason of its inappropriate scale and design, in particular the excessive widths of the dwellings, is considered to result in undue harm to the setting of the listed buildings at Byfield Place, and Rockhall House, and the character and appearance of this part of the Conservation Area. This development is therefore considered to be contrary to policies D2, D4, BH2 and BH6 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted October 2007.

**PLANS LIST:** This decision relates to plans: HS101/001B, 02 Rev B, 03B, 004B, 005B, 006B 008B, 009B, 010, 011C, 012C, 013B, 014, 015 A, 016E, 017A, 018B, 019A, 021A, 024B, 023A, 027A, 031A, 032B, 033B, 040B, 041A, 042A, 044B, 047B, 049, 050, 051A, 052, 053, 054, 055, 056, Design and Access Statement, Ecological Appraisal, Combe Down Character Assessment, Bat Survey Summary, Sustainable Design Strategy, Pre assessment report and action list, Figure 4-1 Ecological Plan, Geotech indicative services layout plan, CSH and Zero Carbon Report, Condition Survey Report and Transport Statement, all date stamped 27th September 2011, 007C, 027A, date stamped 30th September 2011, 010A, revised structural survey, revised Historic Building Report, date stamped 3rd October 2011.

**Item No:** 02  
**Application No:** 11/04167/CA  
**Site Location:** Gammon Plant Hire, Rock Hall Lane, Combe Down, Bath



<b>Ward:</b> Combe Down	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Ward Members:</b>	Councillor Cherry Beath    Councillor R A Symonds	
<b>Application Type:</b>	Conservation Area Consent	
<b>Proposal:</b>	Demolition of all existing properties with the exception of a portion of historic stone wall to Rock Hall Lane.	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Local Listing, Water Source Areas, World Heritage Site,	
<b>Applicant:</b>	Ian Cox Development Partners Ltd	
<b>Expiry Date:</b>	22nd November 2011	
<b>Case Officer:</b>	Ian Lund	



## **REPORT**

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

The Development Manager has referred this application to Committee as it relates to proposals of a sensitive nature.

### **DESCRIPTION OF SITE AND APPLICATION**

The site lies at the junction of Rockhall Lane and Combe Road within Combe Down. The submitted application documents give the address as Summer Lane but technically this terminates about 100m to the east. Four main parts of the site can be identified: an open yard at the lower, southern end of the site, the former maltings belonging to the Combe Down Brewery, a small shop near the road junction, and a dwelling known as Malthouse Cottage.

A number of listed buildings surround the site. On the west side of Rockhall Lane is Rockhall House. Higher up on the same side is the King William IV public house, then the range of dwellings 42 through to 50 Combe Road. To the east of the site lie 62 Combe Road, and then set back are Nos. 1 - 3 Byfield Buildings, and No.s 1-5 Byfield Place. The most westerly cottage in the Byfield Place terrace has a frontage to the application site.

There is no doubt that the whole site is included within the Bath Conservation Area, and the wider World Heritage Site. It should be noted the implication contained in the submitted Hydrock report that the site lies beyond the designated area is potentially misleading.

In places the application refers to the site as Ralph Allen Yard. The application however is headed up as Gammon Plant Hire which is a reference to the last user of part of the site. The site was within the same ownership as the listed pub at one time, however, ownership had been separated prior to 1975 and therefore a need for listed building consent does not apply. As demolition of the maltings, the shop and Malthouse Cottage are proposed, there is of course a need to obtain conservation area consent.

The proposal is to clear the whole site with the exception of a portion of a stone wall fronting onto Rockhall Lane.

### **RELEVANT PLANNING HISTORY**

Pre-application enquiries have twice been considered by the Council's Development Team, and planning and conservation area applications (11/02810/FUL and 11/02811/CA) for redevelopment of the site with 8 new dwellings, an apartment, and a small interpretation centre were submitted during 2011. However, these were withdrawn before a formal decision was reached.

There is a current parallel planning application for the same development under ref 11/04166/FUL.

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

**ARCHAEOLOGICAL OFFICER:** Whilst broadly welcoming the proposed Combe Down history centre as part of a residential development scheme at Ralph Allen Yard the following concerns are noted:

- The removal of the below ground mine experience, which formed part of earlier designs, will deny residents and future visitors what was planned as a lasting legacy and physical connection with the village's mining heritage.
- Demolition of the main historic building on the site (the former maltings) to make way for a history centre seems to defy logic, and should be reconsidered.
- Retention and reuse of the maltings as the history centre with other community uses would be a better approach, allowing the historic building to form part of the narrative told about the village and its industrial heritage.

ECOLOGY OFFICER: A number of detailed conditions are recommended in order to safeguard protected species in the event that consent is granted.

ENGLISH HERITAGE: Please refer to our earlier objections; The site has connection with the operations of Ralph Allen and is therefore of associative relevance to the World Heritage Site.

The site is a defining feature of Combe Down, and despite internal changes, the complex retains sufficient historic form and fabric and architectural character to allow ready recognition of its heritage value. The buildings are of townscape value and play a positive role in defining the character of the area.

The starting point should be to see how the existing structures could be retained. There is little evidence of substance to justify the proposed demolition. The proposals do not satisfy the provisions of PPS 5, especially Policies HE6, 7, 9, 10 and 11.

REPRESENTATIONS: At the time of drafting this report the statutory period for representations on the current application has not elapsed. Any further comments received before the date of the committee will be provided in an update report.

At the current time the following written representations have been received:

- Loss of historic village brewery buildings which, in my opinion should be Listed, is unacceptable.

- I am writing to object to this application. My objection is concerned solely with the proposed demolition of the former maltings:

The suggestion that a building which is an important part of the area's heritage should be demolished to make way for a 'heritage interpretation centre' would be too risible for comment had it not been submitted as part of a serious planning application.

The importance of the maltings both in its own right and as part of Combe Down's heritage is amply dealt with in the comprehensive historical survey which accompanied the original application. The loss of ancillary equipment after the building ceased to be used for malting, while regrettable, is of little account compared with the preservation of the building's external and internal integrity. It is not only a remarkable survival, but a well-constructed building which would be suited to a wide variety of uses, a heritage centre

being one of them. Other malthouse conversions in Bath and beyond give ample evidence of the uses to which such buildings can be put.

The location of the maltings, which forms part of a group with the King William IV Inn, is a sensitive one, being at the axis of two of Combe Down's oldest thoroughfares, on a main route through the village. It is one of the most visually sensitive sites in the area. I believe that the replacement of the existing building with that proposed would have a negative impact both in terms of architectural context and visual amenity. The character of this corner of Combe Down would be irrevocably altered and the feeling of continuity achieved by the buildings erected in this area over the past two centuries disrupted. The primary object of maintaining built heritage is not to preserve the past in aspic but to respect the contextual environment within which people live and work, and to ensure that any modifications or additions that need to be made enhance rather than diminish it.

The pictures accompanying the historical report suggest the potential of the internal spaces of the building. Externally, too, there would seem to be clear scope for adaptation, not in slavishly copying elements of the original building but by imaginative dialogue with them, so that twenty-first century design and nineteenth-century engineering can combine to create a positive contribution to the character and heritage of the area.

- A wide ranging objection has been submitted on behalf of three residents of Combe Down. In summary, in respect of the proposed demolition, it is stated that it is disturbing that this development, purportedly being undertaken to provide a mines interpretation centre to celebrate the very significant mining heritage of Combe Down, is actually destroying this important historic site and the buildings on it with 90% being taken up by housing and parking. No effort has been made to find a more suitable way to develop this site or to try and bring back at least some of the existing historically significant buildings into use. This site is the most important remaining evidence of the industry that built Bath as we know it today. We are appalled at the way the site is being treated and the cynical manner in which the provision of a tiny mines interpretation centre is being used as an excuse to build expensive housing.

- The demolition of an historic building to make way for a building to commemorate local history is a completely farcical concept and should be rejected without a second thought. If we want to remember our local heritage we should preserve this building and incorporate it into any development on this site.

- Bath Heritage Watchdog: An extensive critique has been submitted. It concludes, we are extremely disappointed that the applicants have chosen to tweak the original proposals rather than take on board previous comments made, especially relating to the retention of the heritage assets. It is clear from the visualisations provided that the proposed development would have a detrimental impact on the adjacent listed buildings and their settings, especially the view from the bottom of Rock Hall Lane, and the Conservation Area. The view from Combe Road clearly illustrates the almost brutal impact on the locality and shows just how incongruous the design is.

We do not believe that there is adequate justification for the demolition of the historic buildings on the site which contribute positively to the Conservation Area. We also do not believe that the proposed residential development is either appropriate or of sufficient quality to outweigh the harm that would be caused by demolition.

The works, by virtue of their design, mass, scale, bulk and materials used are considered to be detrimental to the setting of listed buildings and the conservation area contrary to S16 and S72 of the Planning (Listed Buildings & Conservation Areas) Act 1990, PPS5: Planning for the Historic Environment and Local Plan Policies D2, D4, BH1, BH2 and BH6 and the Citywide Character SPD and should therefore be refused.

- Bath Preservation Trust: We previously objected to the demolition at this location, since we felt that the proposed redevelopment was unsympathetic to the character of Combe Down. Whilst we do not support the revised designs out-right, we consider that the scheme is broadly of a sufficient quality to warrant the demolition of the yard buildings as proposed as to provide much needed local housing on this sustainable brownfield site. Again we welcome the retention of the historic stonewall to Rock Hall Lane which is of local importance and must be retained in the interest of local character and distinctiveness and serves a reminder of the former use of the site.

- The LPA does not appear to have adopted an EIA "Screening opinion" - (Nb. an EIA screening opinion has been issued in connection with the redevelopment scheme, and as the submitted information is adequate to assess the environmental effects of the scheme, including its impact on the WHS, it was concluded that the proposal is not classified as EIA Development).

A number of people have telephoned to express their annoyance at being expected to set out their objections to the previous application a second time. As the previous application was unexpectedly withdrawn before those comments could be taken into account, and because the expiry date for the current application has not elapsed, a summary of the earlier comment (but not mentioned above) is set out below:

-Bristol Industrial Society: The existing buildings are visible evidence of the role industry played in Combe Down. The maltings in particular retain much of their original significance and should be incorporated as a tangible element of the site's history in the village.

-National Association for Industrial Archaeology: The site has significance due to its association with Ralph Allen and his stone mines, and as a surviving part of the Combe Down Brewery. The maltings retain distinctive features - the regularly spaced windows, the semi-basement and tie bar bosses in the kiln, the steep and couch tanks, and the malthouse cottage. The whole site is a heritage asset. The scale of the replacement development is also inappropriate and it is most unfortunate that a heritage centre should be proposed at the expense of existing heritage.

-Amber Patrick: Is a qualified archaeologist with published work on the English maltings, and has submitted a detailed commentary on the Combe Down maltings which puts them in local and national context

-Prof Richard Irving: Is extremely disappointed at the quality of the submitted Historic Building Report which fails to emphasise sufficiently the strength of connection between Ralph Allen's stone quarrying business and the site. Also, insufficient attention is given to quarrying in the 19th century and the distribution of Bath stone around the remainder of the country, and its importance to Combe Down and remainder of the World Heritage Site. Also concern expressed over various aspects of the proposed redevelopment with the

proposed demolition and re-shaping the land surface considered an act of vandalism at such an historic site.

-Property Services: The submitted condition survey was in fact prepared by Property Services but it was never intended as a full survey, and it is now out of date. It was intended simply as a walk over survey and was prepared for internal Council purposes only and should not be used for the purposes of this application.

LOCAL RESIDENTS: Fourteen letters of objection were received. The following main points of concern emerge -

National Policy for the Historic Environment seeks to protect undesignated heritage assets

The importance of the maltings is made clear in the submitted historical survey, they are a remarkable survival

The maltings are well constructed and suitable for a variety of new uses, comparisons need only be made with other malthouse conversions in Bath and beyond

Malthouse Cottage is highly desirable accommodation, the present stewardship is poor but original charm could easily be restored

It is absurd to consider replacing real heritage with a weak alternative, heritage seems to have lost its meaning in this application

No efforts have been made to consider alternative forms of re-use, the developers have not listened to the local community

This is a visually sensitive site on the main route through the village

The replacement of historic Bathstone construction by significant amounts of rendering, timber cladding and glass would be detrimental to the site's historic context

The proposals would disrupt the continuity achieved over the past two hundred years

The redevelopment represents a serious over development

New development should reflect established character, not conflict with it

The amended plans show only trivial and cosmetic changes and do not overcome objections to loss of historic buildings, followed by massive overdevelopment

Additional points have been made in respect of a loss of residential amenity, and the problems of additional traffic but these are best considered in relation to the parallel planning application

## **POLICIES/LEGISLATION**

The main consideration is the duty placed on the Council under S 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area.

There is also a duty placed on the Council under S 16 of the Listed Buildings Act to have special regard to the desirability of preserving the setting of any listed building affected by the proposal.

Planning Policy Statement 5: Planning for the Historic Environment sets out government policy towards heritage assets and new development in conservation areas. A consultative draft of a new National Planning Policy Framework has been issued in respect of new development, although this has limited weight at the present time.

Appendix 2 to the EH Guidance on conservation area appraisals suggests criteria to be used in assessing whether unlisted structures make a positive contribution to a Conservation Area's special interest.

The Bath & North East Somerset Local Plan including minerals and waste policies adopted October 2007 - Policy BH.7 is relevant in cases where buildings are considered to make a positive contribution to the special character or appearance of a conservation area.

Bath City-wide Character Appraisal SPD.

### **OFFICER ASSESSMENT**

Pre-application advice was offered in 2008 and again in 2011. The main point was that on the face of it, the maltings represent an undesignated heritage asset and as the submissions were totally lacking, an assessment of the heritage significance of the standing buildings was needed before redevelopment designs could be contemplated.

The conservation advice stated that the assessment should then be used to inform the design process. Options should include the possibility of retaining the standing buildings with significance. Attention was also drawn to the absence of gutters which appear to have been removed from the maltings.

Advice concluded with the statement that it is not at all clear how demolition of a key historic building would help preserve the character of the Conservation Area. It seemed ironic that a scheme that included provision for interpretation of local history should request the removal of a real part of the area's heritage. The failure to use the existing malting and portal to the mines is a serious lost opportunity. As things stand the grant of Conservation Area Consent for the demolition would be opposed.

The concept of a centre focusing on the history of the village however was considered to be highly commendable. Certainly the site has potential to accommodate it. It was recommended that the large open volume of the former malting should be used for this purpose. This would avoid damaging wholesale demolition.

If residential development is required to support the initiative this might be incorporated elsewhere on the site. In view of the failure to justify demolition the redevelopment sketches were not considered in any detail but it did seem that the proposals may represent over development of a constrained site. Also, that the building blocks, particularly those closest to Rockhall Lane, contrast unacceptably with the established village atmosphere.



In the meantime a Historic Building Report was submitted as part of the first formal application. This was dated May 2010 and it is most unfortunate this was not declared with the last pre-application submission. This would have allowed clearer advice to be tendered. Furthermore, it is not at all clear how the content of the report has been used to inform the design process and no options have been presented that consider the possibility of retaining the standing buildings with significance.

The Historic Building Report submitted with this second application has been revised and expanded. The Report provides archival evidence, backed up by the opinion of local people making representations on the formal application, and national experts, that the site has considerable local importance. Some of the representations received also make the point that the Report could have gone further in drawing attention to the national significance of the site. In particular, it is relevant to note that the history of the open yard can be traced back to Ralph Allen's quarries opened up during the first half of the 18th century, and that the portal to Allen's mine remains although it is blocked.

The Malthouse Cottage was probably formed from buildings erected originally in the early years of the 19th century but there has been significant reconstruction and alteration during the 20th century. I would advise that the Cottage itself is of limited significance and need not be regarded as a heritage asset.

The corner shop was used as a dairy in the first half of the 20th century. By 1941 however it was in use as a fishmongers and poultry shop. Almost certainly however the stone reservoirs in the basement are the tanks for steeping the grain in readiness for the malting process, rather than for the storage of fish as had been suggested by some. The shop became a TV and radio repair premises until its closure in 2010.

The main ranges forming the maltings, kiln and shop building had been built by the middle of the 19th century. The maltings supported the Combe Down brewery which formed part of the King William PH premises opposite. The maltings remained in operation until the 1920s when they were acquired by Georges and Co of Bristol. Eventually they were used by the corporation as a depot at which time the links with the King William PH were severed.

Since the 1920s the main malting buildings have undergone a number of alterations including the removal of the upper malting floor, the pyramidal kiln roof, and the blocking of a number of windows. The interior has been largely stripped out but the external envelope of the buildings and boundary walls are of considerable heritage significance. They are testament to the history of Combe Down as an important centre for stone mining and brewing. As noted in the Bath City-wide Character Appraisal it is the C18 and C19 buildings that give Combe Down its strong sense of identity.

The condition the Malthouse Cottage seems to be fair but the maintenance of the maltings in particular has been unsatisfactory. Rain water goods appear to have been removed and holes in the roof covering have been left unrepaired. However, as Policy HE 7 to PPS 5 makes clear any neglect in the hope of obtaining consent to demolish should be disregarded. Furthermore the condition of the Cottage, and even the maltings themselves, are not so poor that they could not be restored. The brief underlying the proposals seems to be mis-guided when the emphasis should have been on repair and creative re-use.

There are good local examples at Midford, and Lower Bristol Road of malting buildings being brought back into beneficial new uses.

## **CONCLUSION**

The proposal does retain a small section of the stone wall fronting Rockhall Lane. This section is characterful and its retention may be regarded as better than nothing although there must be doubts that a section could realistically be retained without substantial amounts of rebuilding. Essentially therefore the scheme would result in almost the total loss of the site's significance. It is acknowledged that much of the site is presently unused and the maltings are redundant for their original use but demolition is irreversible and should only be considered as a last resort. The fact that the present applicant has not conceived a viable use of the existing buildings does not mean that there is no such use, and alternative options need to be considered. It is recognised that the bringing back of the maltings and corner shop into life requires a degree of creative imagination. Although the applicant has gone through the motions of pre-application discussions, the demolition of the maltings seems to have been pre-ordained. The failure to test alternatives is a major disappointment. The best way forward would be for the site to be marketed at a valuation that reflects its condition and limitations to see if a imaginative and viable re-use can be achieved.

In weighing up the proposals, although the revised redevelopment scheme is slightly more respectful of the amenities of the locality, there has been too much emphasis on maximising the scale of the new development at the expense of the bringing a local heritage asset back into use. There is also concern that the desirable interpretation centre may not be fit for purpose as it would lack space to receive school visits, or have scope for craft demonstrations and the like.

As regards the design of the replacement development the scale, particularly the width, of the housing blocks is too large in relation to the established village context of the site. The deep front to back distances (10 or 11m) represents an inflation of traditional terraced forms found nearby. The use of flat roofs in order to minimise height is understood but it results in blocks that appear out of character. The design of the proposed houses also seems to lack the vertical emphasis typically found in the vicinity. Furthermore, as pointed out by English Heritage, the proximity of the proposed contemporary housing blocks to adjacent traditional cottage dwellings at Byfield Place and Rockhall House will impinge upon their settings. Overall therefore the quality is not so great as to justify the harm caused by the demolition, or the setting aside of the usual requirements of PPS 5.

## **RECOMMENDATION**

REFUSE for the following reasons

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

1 Notwithstanding some alterations, and poor maintenance, the former maltings and attached corner shop make a positive contribution to the character of Combe Down, the designated conservation area and the wider world heritage site, and are considered to be heritage assets as defined by Planning Policy Statement 5: 'Planning for the Historic Environment'. The demolition of these buildings would not preserve or enhance the character of the conservation area as required by S 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act. The proposals contain insufficient



evidence or justification to warrant extensive demolition and are also therefore considered to be contrary to the general intentions of Policies HE6, 7, 9, 10 and 11 of Planning Policy Statement 5 and Policy BH. 7 of the Bath & North East Somerset Local Plan including minerals and waste policies adopted October 2007, and the Bath City-wide Character Appraisal Supplementary Planning Document.

**PLANS LIST:**

Relating to existing structures:

Drawings HS/101/001 B, /002 B, /003 B, /004 B, /005 B, /023 A, 0605s006K issue 001, and Figure 4-1, and

Documents Historic Building Report (September 2011), Condition Survey Report (September 2006), Bat Building Inspection (JUNE 2008), Summary of Bat Survey, and Hydrock Report.

Relating to proposed redevelopment:

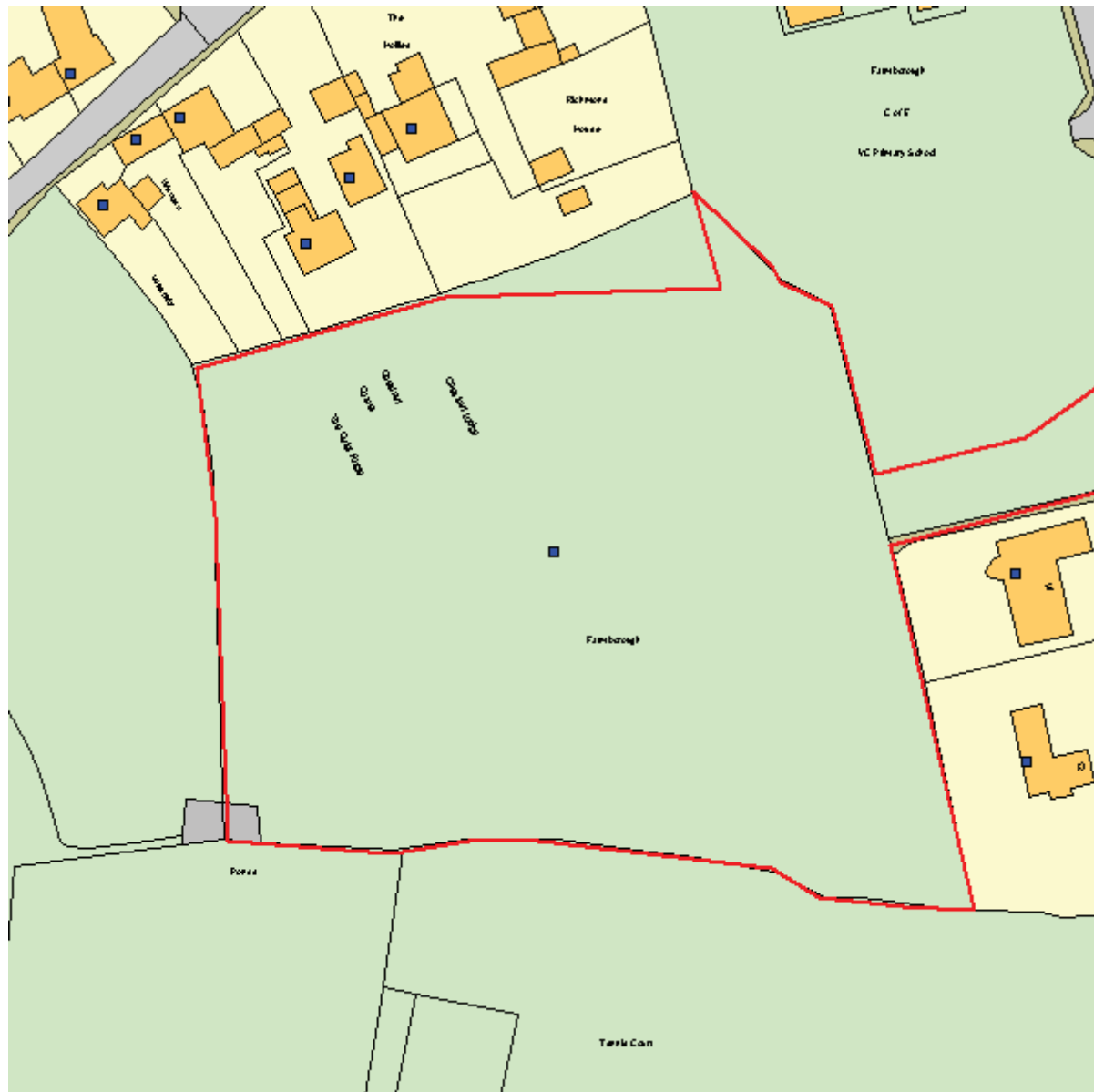
Drawings HS101/006 B, /007 C, /008 B, /009 B, /010 A, /011 C, /102 C, /013 B, /014 D, /015/016 E, /017 A, 018 B, /019 A, 021 A, 024 B, /027 A, /031 A, /032 B, /033 B, /040 B, /041 A, /042 A, /044 B, /047 B, /049, /050, /051 A, /052, /053, /054, /055, and /056 and

Documents Design and Access Statement, Character Assessment, Ralph Allen Yard Interpretation Centre and Sustainability Design Strategy.

The following do not relate closely to the proposal to demolish the historic buildings and have not been considered in depth

Wessex Water map, GI Findings Report, Transport Statement, Brilliant Futures Consulting Report, and Stroma Technology Pre Assessment Report

**Item No:** 03  
**Application No:** 11/02432/OUT  
**Site Location:** Land Rear Of Holly Farm, Brookside Drive, Farmborough, Bath



**Ward:** Farmborough      **Parish:** Farmborough      **LB Grade:** N/A  
**Ward Members:** Councillor S Davis  
**Application Type:** Outline Application  
**Proposal:** Residential development comprising 38 dwellings with associated access, car parking and landscaping  
**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary, Public Right of Way,  
**Applicant:** Blue Cedar Homes  
**Expiry Date:** 14th September 2011  
**Case Officer:** Tessa Hampden

## **REPORT**

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

Cllr Sally Davies requested that this application comes before Committee as it represents an increase of 8% in the housing stock of the village and is controversial. Access issues are causing much comment, the likelihood of a Section 106 and what it might give the village may be seen by some as influencing comments and the total number of houses in this application has caused comment of overdevelopment of the site.

### **DESCRIPTION OF SITE AND APPLICATION**

The application site relates to a parcel of land of approximately 1.3 hectares in size, located to the south west of Farmborough. The land has previously been used for agricultural purposes. The site is bound by residential development to the north and the south east, by Farmborough Primary School and the associated playing field to the north east, open fields to the west and a recreation ground to the south. The buildings to the north include listed buildings including the properties, the Hollies and Richmond House.

The site is relatively level and set within well-defined boundaries comprising hedgerows, trees and fencing. The strip of land which will form the access to the site contains a number of trees. Two public right of ways run through the site, the first runs from Brookside Drive between no. 14 and the school playing fields and crosses the site to the north west corner. It is at this point that it meets the second right of way, this crosses the site to the south, leading to the recreation ground.

The application site is located outside of the Housing Development Boundary of Farmborough but the land is however identified in Local Plan Policy GB.4 as safeguarded land in the context of Planning Policy Guidance 2 - Green Belts. The site is set adjacent to the designated Bristol/Bath Green Belt.

The application seeks outline planning consent for residential development comprising 38 dwellings. The application has been submitted for outline consent, with detailed approval being sought at this stage for the means of access. The proposed access to the site is from Brookside Drive and a land exchange has been agreed with the school to allow for this.

The application illustrates that the dwellings would be a mix of fourteen 2-bed retirement cottages, eleven private dwellings (comprising two 3-bed houses and nine 4-bed houses) and thirteen affordable homes (comprising three 1-bed flats, eight 2-bed houses and two 3-bed houses). The Transport Statement indicates that the layout would incorporate 74 parking spaces, which include 31 garages. The allocation of parking would appear to be generally a minimum of 2 spaces per dwelling, with the exception of the affordable housing units. Indicative plans have been included within the application, including an indicative layout and elevations.

### **RELEVANT PLANNING HISTORY**

There is no planning history directly relevant to this planning application.

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

**HIGHWAY DEVELOPMENT** - Additional information has been submitted in response to the initial concerns raised by the Highway Development Officer. Whilst they object to the scheme as the development is outside of the Housing Development Boundary, they

accept that this is a safeguarded site. There is no objection to the proposed access to the site, and given this is an outline application, the details of the internal road layout and parking can be determined at reserved matters stage. Following discussions with the agents, revised contributions have been agreed.

ARCHAEOLOGY - Following the submission of the additional information, there is no objection to the scheme subject to a condition relating to a watching brief.

URBAN DESIGN - Object to the development in its current form. The proposal requires further concept development in order to ensure that the development integrates successfully with the existing development and the rural character of the area.

PLANNING POLICY - Whilst development at this site is contrary to saved Local Plan policy GB.4 and government policy as set out in PPG2 on safeguarded land, the position of PPS3 on prematurity is noted which states that applications should not be refused solely on the grounds of prematurity. Planning policy therefore has no objection to the proposal if prematurity is to be the sole reason for refusal.

The housing land supply calculation provided by the applicant needs to be updated. In the lead up to the Examination of the Core Strategy the Council considers its 5 year land supply requirement to be 3,011 and identifies 3,346 units to deliver this requirement. The Strategic Housing Land Availability Assessment identifies this site as having the potential for 35 houses.

ARBORICULTURAL OFFICER - No objection subject to the inclusion at full planning stage, of a detailed Tree Protection Plan and Arboricultural Method Statement in accordance with BS5837:2005 'Trees in Relation to Construction'.

ECOLOGY - Following revised information no objection subject to a number of conditions

ENVIRONMENTAL HEALTH - No objection subject to the inclusion of informative/conditions on any permission

ENVIRONMENT AGENCY - No objection subject to the inclusion of a condition to prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

CRIME PREVENTION OFFICER - No objection. There is insufficient detail to determine the security of individual properties but from the layout provided there is no objection on layout grounds. A detailed paragraph within the Design & Access statement addressing security, crime and safety and the mitigation measures. This is likely to require Secured by Design certification.

WESSEX WATER - Provides comments on a number of options submitted with regards to foul drainage options, and surface water drainage option. It is suggested that the developer contacts Wessex Water in relation to these issues.

CHILDREN'S SERVICES - Total contribution of £4, 202.10 is sought for this development

PARKS AND GREEN SPACES - Total contribution of £83, 588.91 is sought for this development

HOUSING - Following additional information Strategic Housing Services maintain the affordable housing contribution is insufficiently detailed and in parts is not policy compliant, in terms of the lack of pepper potting and tenure blindness. The market housing mix needs to be justified.

FARMBOROUGH PARISH COUNCIL - Comments only: Support residential development in principle but major concerns with development as proposed, including density of development - 38 houses too many for this site. Too many of the houses are retirement homes, further clarification needed on affordable housing, highway safety issues, including issues during construction, surface water drainage, foul water drainage, sustainability. The Parish Council also highlight the wish to get involved in any S106 Agreement

CLLR SALLY DAVIS - Requested that this application comes before development control committee as it represents an increase of 8% in the housing stock of the village and is controversial. Access issues are causing much comment, the likelihood of a Section 106 and what it might give the village may be seen by some as influencing comments and the total number of houses in this application has caused comment of overdevelopment of the site.

SPORT ENGLAND - Response will be reported to Committee

THIRD PARTY REPRESENTATIONS: A representation has been submitted by Ashford Solicitors on behalf of 113 residents. A number of these residents have also submitted individual representations.

30 representations have been received objecting to the application and 2 general comments have been received

The comments can be summarised as follows:

- The development is unsustainable
- Overdevelopment of the plot including inappropriate design
- Lack of community support
- Loss of green field
- Detrimental impact upon the rural character
- Detrimental impact upon the landscape
- Limited employment opportunities in the village
- Prematurity of development the context of local and national planning policy
- Reduction in dwellings in the draft Core Strategy compared to the RSS
- Inappropriate scale
- Lack of Parish Support
- Lack of key facilities as outlined in draft policy RA1
- Reliance on public transport
- Narrowness and dangerous nature of nearby roads

- Inappropriate approach with regards to the 5 year land supply argument of the applicant
- Lack of need within the village for the affordable housing and retirement housing as proposed
- Brookside Drive and The Street are seriously substandard in their width and alignment and do not cater adequately for existing levels of traffic; even the smallest increase in traffic would exacerbate existing problems
- Impact upon Brookside Drive in terms of school traffic. Inaccurate Traffic Statement
- Substandard and dangerous junction of the Street with Bath Road
- Construction Issues
- Ecology issues, ecological value of site, including the pond and hedgerows not fully recognised
- Risk of flooding (including from Conygre Brook
- Concerns with the long term retention of hedgerows
- Loss of footpaths
- Drop in property value
- Unsuitable on sociological grounds
- Loss of sunlight and noise
- Risk to safety of school children
- Lack of village facilities, or residents to support them
- Impact upon neighbouring amenity, particularly due to proximity of proposed dwellings
- Loss of views
- Inappropriate design
- Supply of houses in nearby villages such as Paulton
- Loss of trees
- Loss of privacy
- Impact of pumping station
- Impact upon school numbers - could decrease due to problems resulting from the development
- Issues with community consultation process

## **POLICIES/LEGISLATION**

Draft Revised Regional Spatial Strategy for the South West (incorporating the proposed changes) - July 2008

SD1 The Ecological Footprint

SD3: The Environment and Natural Resources

Development Policy C: Development at Small Towns and Villages

Development Policy E: High Quality Design

HMA1: West of England HMA

HD1: Sub-Regional Distribution of Housing 2006-2026

RTS3: Parking

H1: Housing Affordability

H2: Housing Densities

H3: Mix of Housing

ENV1: Protecting and Enhancing the Region's Natural and Historic Environment

ENV5: Historic Environment

Joint Replacement Structure Plan - adopted September 2002

Policy 1

Policy 2

Policy 4

Policy 16

Policy 17

Policy 18

Policy 19

Policy 33

Policy 35

Policy 59

Planning Policy Guidance/Statements

PPS1: Delivering Sustainable Development (2005)

PPG2: Green Belts (1995)

PPS3: Housing (2011)

PPS5: Planning for the Historic Environment (2010)

PPG13: Transport (2011)

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

IMP.1: Planning obligations

D.2: General design and public realm considerations

D.4: Townscape considerations

ET.7 Use of agricultural land

GB.1: Control of development in the Green Belt

GB.2: Visual amenities of the Green Belt

GB.4: Safeguarded land

CF.1: Contributions from new development to community facilities

CF.2 Provisions of new or replacement community facilities

SR.1A Protection of playing fields and recreational open space

SR.3: Provision of recreational facilities to meet the needs of new development

S9 Retention of local needs shops outside of the identified centres and development of new small scale local shops

ES14 Unstable land

HG.1: Meeting the District housing requirement

HG.7: Minimum housing density

HG.8: Affordable Housing on allocated and large windfall sites

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

NE.1: Landscape character

NE.4: Trees and woodland conservation

NE.10: Nationally important species and habitats

NE.11 Locally Important Species and their habitats

NE.12: Natural features: retention, new provision and management

BH12 Important archaeological remains

T.1: Overarching access policy

T.24: General development control and access policy

T.25: Transport assessments and travel plans

T.26: On-site parking and servicing provision



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

Planning Obligations Supplementary Planning Document - adopted July 2009

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:

DW1: District wide spatial strategy  
RA1: Development in the Villages meeting the listed criteria  
CP2: Sustainable construction  
CP6: Environmental quality  
CP8: Green Belt  
CP9: Affordable housing  
CP10: Housing mix

Policies IMP1, D.2, D.4, ET7, GB2, GB4, BH.2, HG.8, HG10, T.24, T.26, NE1, NE4, NE11, NE12, BH12, T1, T24, T26 are Saved Local Plan Policies

## **OFFICER ASSESSMENT**

**PRINCIPLE OF DEVELOPMENT:** Farmborough is identified as an R1 village within Policy SC.1 of the Bath and North East Somerset adopted Local Plan. Policy HG.4 states that proposals for residential development within the Housing Development Boundary in R1 villages will be permitted provided other criteria are met. The proposed development site is however outside of the Housing Development Boundary but it is identified in Local Plan Policy GB.4 as safeguarded land in the context of Planning Policy Guidance 2 (PPG2), to meet demands for development beyond 2011. Policy GB.4 has been saved until its review through the Local Development Framework process.

Policy GB4 states 'Land defined on the Proposals Map between the existing limits of development and the Green Belt at Whitchurch and Farmborough is safeguarded during the period of the Plan to meet the demands for development beyond 2011. In the meantime Policy GB.1 will be applied.' It should be noted however that the site is, in fact, not within the Green Belt.

PPG2 (Annex B) Green Belts provides more detail on safeguarded land. This highlights that permanent development on safeguarded land should only be allowed following local policy review that proposes the development of the land. Of particular relevance is paragraph B6:

'Development plan policies should provide that planning permission for the permanent development of safeguarded land should only be granted following a local plan or UDP review which proposes the development of particular areas of safeguarded land. Making safeguarded land available for permanent development in other circumstances would thus be a departure from the plan'.

The Placemaking Plan (Site Allocations DPD) will be the vehicle for the review of the safeguarded land. Any development of this land ahead of this process would represent a



departure from local planning policy and PPG2. The Bath and North East Somerset Core Strategy was submitted to the Secretary of State for independent examination in May 2011 and the Examination hearings are scheduled to commence in January 2012. This means that the Core Strategy is a material consideration, albeit with limited weight at this stage.

Emerging policy has identified Farmborough as a settlement capable of accommodating additional growth. Farmborough is identified as an RA1 Village within the Draft Core Strategy. Policy RA1 states that residential development of an appropriate scale, character and appearance will be acceptable in and adjoining the Housing Development Boundary provided that the village has at least three key facilities (i.e. post office, school, meeting place and community shop), at least a daily Monday-Saturday public transport service to main centres and local support for the principle of development can be demonstrated.

Farmborough meets the criteria of policy RA1 with the exception of key facilities (having only 2 rather than the minimum 3 out of 4). Small scale development at Farmborough under Policy RA1 would be contingent on this criteria being met through the development, in this case the provision of a sustainable transport link to local shopping facilities or demonstrated financial support for a community shop as outlined in the Infrastructure Delivery Programme. Provided this is fulfilled, small scale development within or adjoining the Housing Development Boundary (subject to other criteria) will therefore be considered appropriate in principle once the Core Strategy is adopted. The detail of this, including identifying and allocating appropriate sites in the qualifying villages, will be considered through the Placemaking Plan.

Following discussion with the agent, in order to meet the above criteria, the agent has confirmed that they would provide a financial contribution to aid in setting up a village community shop. It is apparent that a number of villagers have been actively involved in this, and a detailed letter has been submitted by a member of the committee in support of this. This summarises their actions so far in investigating a future village shop, and the steps required to enable this. Questionnaires have been sent out to each household within the parish to gain an idea of the level of support, and establish potential opening times, and details of what services are required. The letter states that approximately 20 residents have already indicated that they would volunteer to staff the shop and the most popular locality for the facility will be the Memorial Hall, where, with some alterations there is an area within the hall which would provide sufficient area to house a community shop. Funding would be required to undertake the building, fitting out the shop and establishment of stock. This contribution could be secured through the S106 Agreement. It is therefore considered that with the funding secured through a S106 Agreement, and the village shop in place, Farmborough would have 3 out of the 4 key facilities necessary for an RA1 village.

Further to this letter, an additional letter has been submitted from a villager also involved in setting up the village shop, who states that this process has been underway since before the previous shop closed last year. There is concern that the perceived link between the development and the shop has caused people to actively stop supporting the proposed community shop which could have an impact upon its future. These letters provide conflicting information but on the basis of the information provided by the agent

and a committee member, it is considered that the likelihood of a village shop coming forward is high.

The Parish are supportive of the establishment of a village shop. Although it is recognised that they have a number of concerns with the development as proposed, the Parish Council support, in principle, residential development at this site.

Under the emerging Core Strategy a scale of up to and around 30 dwellings is appropriate in those villages that meet the criteria of Policy RA1. The scale of the development at 38 dwellings is greater than that envisaged in the Core Strategy, and this will be fully considered as part of this planning application. It is also recognised that the land is identified in the Strategic Housing Land Availability Assessment (SHLAA) as having the potential for approximately 35 dwelling.

The position on safeguarded land set out in PPG2 is discussed above. A further consideration is PPS3, which at Paragraph 72. states that 'Local Planning Authorities should not refuse applications solely on the grounds of prematurity. Should prematurity be the sole reason for refusal, a pragmatic approach to the application should be considered'.

As the land is identified in the SHLAA as having the potential for approximately 35 dwellings, the Council envisages this land coming forward for development in the next 5 years and whilst there is scope for this to be achieved within the programme for the review of local policy through the Placemaking plan (and provided the criteria of policy RA1 continue to be met), the procedural delay caused by awaiting this review of policy could be avoidable in this instance. This applies to this particular site due to previous consideration of its suitability for housing through the safeguarded land designation and it need not conflict with the aspirations of emerging local policy. Delaying the development of the site pending the outcome of the Placemaking Plan is considered to be imposing an artificial constraint on its delivery.

The draft National Planning Policy Framework does not detract from the existing national policy position and retains the position of PPG2 on safeguarded land as well as the sentiment of PPS3 on prematurity, stating that local authorities should 'approach development management decisions positively looking for solutions rather than problems so that applications can be approved wherever it is practical to do so.

Consideration needs to be given to Policy GB1, as in the current plan period Policy GB4 (which is also saved within the Core Strategy) states that 'in the meantime Policy GB.1 will be applied. '

Policy GB.1 has been drafted with PPG2 in mind and lists the criteria for which development is considered to be not inappropriate in the Green Belt. Point i reflect the provisions of paragraph 3.4 of PPG2 and list the following circumstances for when the construction of new buildings is considered to be not inappropriate;

- a) agriculture or forestry;
- b) essential facilities for outdoor sport and recreation, for cemeteries and for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

- c) limited extensions, alterations or replacement of an existing dwelling provided it is in accordance with Policies HG.14 and HG.15;
- d) infilling in accordance with Policy HG.6 in the villages defined by Policy SC.1 as R3 villages;
- e) affordable housing to meet local needs in accordance with Policy HG.9; or
- f) limited infilling or redevelopment of major existing developed sites identified in Policy GB.3.

The proposed development fails to meet the criteria set out in Local Plan Policy GB.1 and very special circumstances would therefore need to be demonstrated to allow for a departure from the normal policies of constraint.

The above 'prematurity' argument, which takes into account that the site is not within the Green Belt, is considered to contribute to very special circumstances to allow for this departure. The agent has provided further very special circumstances which are outlined below:

- The Council cannot demonstrate a 5 year supply of deliverable housing land (this will be fully discussed below)
- The site is included within the recently published SHLA as forming part of the Housing supply to be delivered over the next 5 years.
- The development would help sustain local facilities - the local primary school is operating under capacity
- The provision of a contribution towards a much needed community shop
- The provision of affordable housing
- The provision of elderly person's accommodation to meet an identified need
- The recommendation by the Local Plan Inspector that the site should be allocated for residential development
- The Planning for Growth ministerial statement and in particular that the Government's 'clear expectation is that the answer to development and growth should wherever possible be yes, except where this would compromise the key sustainable development principles set out in national planning policy

The above, particularly the fact that the development has been identified within the SHLAA and is likely to come forward for development within the next 5 years, and given the fact that PPS 3 advises that development should not be refused solely on prematurity, is considered to represent very special circumstances which outweigh the harm by reason of its inappropriateness. It should be noted that there is only one other safeguarded site within the Local Plan, and this site has specific constraints, so the proposal is not considered to set a precedent for future development.

Whilst it is acknowledged that the site is not within the Green Belt, it is located adjacent to the Green Belt. Following consideration as to whether the development is inappropriate, which is harmful by definition to Green Belt, it must now be considered whether the proposed development is harmful to the openness of the Green Belt and its rural character. The site is currently open fields, bounded with hedgerows and by nature of the scale of the development, the proposal is considered to be harmful to the openness of the Green Belt. However, as recognised by the Local Plan Inspector, the development will have a close visual link to the existing built form, and the harm to the visual amenities of

the Green Belt is not considered to be so significant as to warrant the refusal of this application.

**HOUSING SUPPLY:** The agent has cited that they do not believe the LPA can demonstrate a 5 year land supply. However the LPA do not consider that the methods used by the agent to be the correct approach to calculating the 5 year housing land supply requirement at this time.

The Draft Core Strategy plans for 11,000 dwellings for the period 2006-2026, which results in an average annual rate of 550. During the first 5 years of the period, 1,967 homes have been completed at an annual rate of 393.4. This results in a residual requirement of 9,033 homes to 2026, which is a revised annual rate of 602.2. Using the annual delivery rate of 550 to the period 2006/7 -2010/11, this results in a notional requirement of 2,750 and the delivery of 1,967 homes during this period represents a shortfall against this of 783.

The applicant argues that the five year land supply should be 3,533 ( $783 + 5 \times 550$ ), which implies that the 5,500 should be completed by halfway through the plan period i.e. 2016. The Local Planning Authority is not prohibited from annualising its historical shortfall over the remaining plan period, which is what it has chosen to do and this approach is based on the approach taken by Inspectors at various appeals.

In light of this, the 5 year land supply is calculated as 3,011. The Council's SHLAA (July 2011) shows a deliverable supply of 3,346 homes.

The examination into the Core Strategy will consider whether the Council is planning for enough houses and the weight that should be afforded to the emerging and intended to be abolished RSS.

The applicant appears to argue that, as the housing delivery in the district was 800 units behind schedule, the submission Core Strategy target should increase to 11,800. For the reasons given above, the Local Planning Authority does not consider that this is the correct approach for calculating the 5 year land supply

In the lead up to the Examination of the Core Strategy the Council considers its 5 year land supply requirement to be 3,011 and identifies 3,346 units to deliver this requirement

**LOSS OF PLAYING FIELD:** The access from Brookside Drive will involve the loss of a small section of the school grounds adjacent to the formal playing field. However, in order to facilitate this, a land swap agreement has been made with the school, which will be of equal value and will not compromise the ability of the school to use these facilities. Overall there will be no loss of playing field facilities for the school site and there will be no harm resulting from this arrangement.

**HIGHWAY SAFETY:** With regards to the development of the site the Highway Development Officer has concerns over the location of the site and its resultant accessibility and sustainability, but it is recognised that the site has been allocated as a safeguarded site for residential development. The applicants have submitted a Framework Travel Plan which sets out their objectives and initiatives to reduce the need to travel by residents of the development. It is acknowledged that the applicants have now

demonstrated a commitment towards improving the sustainability of the village with contributions towards a village shop. Improvements to public transport have been also put forward.

The application has been submitted with full permission sought for access but has indicated a detailed layout of the internal access roads and housing layout, however the applicants have advised that this is indicative, and only detailed approval of the means of access from Brookside Drive is sought. If the application for outline permission is approved, the detailed arrangements can be agreed through a reserved matters submission.

The junction of the new access road with Brookside Drive is proposed with visibility splays of 2.4m x 43m to the north and 2.4m x 17m to the south, which are considered appropriate for the form of development. The proposal also includes the provision of a continuous footway from the junction of the new access road, to the north, to link with the footway by the School, at the junction of Brookside Drive with The Street.

The Transport Statement indicates that the layout would incorporate 74 parking spaces, which include 31 garages. The allocation of parking would appear to be generally a minimum of 2 spaces per dwelling, with the exception of the affordable housing units.

The plans submitted with the application do not provide details of the garage sizes, but it seems that they would not conform to minimum dimensions of 3m wide by 6m long, which are considered to be the most appropriate to accommodate car parking, with some element of storage. The driveways in front of the garages should also be a minimum of 6m long, to ensure a car can park on the driveway and also allow for garage doors to be opened. It is clear from the layout plan, at this stage, that this may not be achieved for all driveways. This needs to be addressed at the reserved matters stage.

The access road serving the private and affordable housing is proposed to be constructed to adoptable standards for dedication as public highway, but the access road serving the retirement cottages would be constructed to adoptable standards but maintained privately by a management company. The access road leading off Brookside Drive is shown with a carriageway width of 5.5m and 2m footways to both sides for the first 65m, and then continues with a single footway on the northern side as it leads in to a shared surface road. The carriageway width then appears to vary between 3.5m and 6m, but does not include for separate service margins throughout. There are also unacceptable widths around the turning heads within the site, such that service vehicles could have difficulties manoeuvring with unacceptable conflicts with residential properties and parking areas. Again, these issues need to be addressed at the reserved matters stage.

The Agent has confirmed that during the construction stage, an access has been agreed from Tilly Lane. This is to prevent the need for larger vehicles to travel along Brookside Drive during the construction process to minimise the disruption for the users of Brookside Drive. Details of this can be secured through a construction management plan.

Any application for reserved matters stage would also deal with the need to maintain or divert the Public Rights of Way within the site. The Transport Statement refers to the two public rights of ways which are within the application site, and states that one of the routes (CL9/18) will be generally incorporated within the access road layout, and the other route



(CL9/21) is proposed to be legally diverted to allow for the development on the western side of the site. The Rights of Way Team have highlighted that they do not currently have the resources to process diversion applications. The development would obstruct the current legal line of the rights of way and the Public Rights Of Way Team therefore objects to the application. The Agent has been made aware of this and they have cited that they will deal with this issue at reserved matters stage.

In relation to required contributions further information has been received from the applicants Transport Consultants, in support of their justification for a reduction in the level of highway contributions as initially requested, as a consequence of the development.

The Strategic Highway and Transport Works contribution was initially based on a straight calculation from the formula contained in the Supplementary Planning Document, but the applicants Consultants have provided census information to indicate that the proposed development would only generate 80 trips per day by residents traveling to and from work. Of the census and survey data, it has been demonstrated that of the 40 residents generating these 80 daily work related trips, only 85% travel to and from Bristol or Bath.

The Consultants have also looked at the schemes listed in the SPD and considered their relevance to the residents of the development. Clearly some residents from Farmborough have been shown to travel to Bristol and Bath for work, and therefore the schemes for the Greater Bristol Bus Network and the Bath Package would be of some benefit.

The Consultants have therefore calculated an appropriate cost per trip for this site to be £214.40, which for the 85% of the 80 trips by 40 residents traveling to and from Bristol or Bath for work, results in a contribution of £14,579.20. This is a considerable reduction in the level of contribution originally requested, but the justification put forward by the Transport Consultants is considered to be both robust and fair by the Council's Senior Highway Development Officer. The applicants have also agreed to the local contributions of £26,000 towards improvements to public transport in the vicinity of the site, and £5,000 towards traffic management measures in the vicinity of the site.

The reductions in contributions are therefore agreed and no highway safety objections are raised subject to a legal agreement to secure the following:-

The construction of a footway within the existing highway, from the site access to the junction of Brookside Drive with The Street.

A contribution of £14,579.20 towards Strategic Highway and Transport Works.

A contribution of £26,000 towards improvements to public transport facilities, in the vicinity of the site.

A contribution of £5,000 towards traffic management measures in the vicinity of the site.

On balance, although the proposed development site is outside of the Housing Development Boundary of Farmborough, it is designated as a safeguarded site and given the commitment towards improving the sustainability of the village with contributions towards a village shop and the improvements to public transport which have been put forward, the highway sustainability concerns are considered to be outweighed. Whilst the

comments of the third parties are noted, the development is considered to result in a satisfactory level of highway safety with regards to the access to the site, and is not considered to result in any undue harm to the highway users of the surrounding highway network. Whilst the indicative layout raises concerns with the layout of the streets and parking layout within the site, it is considered that this can be fully addressed at reserved matters stage, and on balance, no highway safety objections are raised.

**CHARACTER AND APPEARANCE OF THE PROPOSED DEVELOPMENT:** Although the application is an outline application, indicative details of the design and layout have been put forward. There are concerns with this indicative layout in that it does not demonstrate fully how the scheme integrates with the wider context and community. It is critical that the new housing on this site will be readily assimilated into the landscape and visual context without detriment to the character of the area. Further work is needed with regards to concept development in relation to a numbers of factors to ensure the successful integration of this development. There is concern that the retirement community appears to be segregated from the proposed development and the wider community although it is recognised that the northern dwellings address the main access route, and this is welcomed. This part of the development should be connected to the street, space and green infrastructure.

A key factor in the success of the development lies with the landscape treatment and the protection of the hedgerows. The current proposals create a more vulnerable arrangement and removes amenity and biodiversity asset from the community and these needs to be given careful consideration in any future planning application. There is scope for landscape enhancement within the scheme and this could include planting a specimen tree within a central focus space or elsewhere in the development. The entrance from Brookside Drive also has the potential for an avenue landscape treatment.

A density of 29 dwellings per hectare is proposed which is considered appropriate for this edge of settlement location. The indicative layout indicates that it is likely that this density can be achieved without compromising the overall character and appearance of the site and the rural character of the wider area. However, it is noted that this may not be in the form of the indicative layout submitted due to the concerns previously raised, including parking and access issues within the development. Any future development is likely to require changes to this indicative layout, which may include the reduction in house sizes, the omission of a number of the garages etc in order to accommodate this number of houses successfully.

An indicative building design has also been put forward. On balance, this would seem to be acceptable, proposing a mixture of individual and grouped buildings to reflect the identified character of the village. It is stated that the materials and styles of the buildings will reflect the local character of the area, and again full consideration will be given to this during any future application. The dwellings propose a mixture of 1.5 and 2 story buildings, which will ensure that the development is in keeping with the surrounding area and does not compromise the rural character of the area.

The development will be set in close proximity to listed buildings and any development needs to be designed to ensure that the development does not impact upon their setting. The concept plan illustrates that the buildings have been positioned to minimize the disruption to the setting of the listed buildings by placing a buffer in the form of open space

between the listed buildings and the proposed development. Careful consideration would need to be given to the scale of the adjacent buildings at the time of any future reserved matters application.

On balance, it is considered that the development proposed could be achieved without harming the rural character of the area, and at the density proposed would have an acceptable overall appearance, subject to the approval of the details at reserved matters stage.

**TREES/LANDSCAPE:** A tree survey has been submitted with the outline planning application and this has been fully assessed by the Arboriculture Officer. The Tree Report correctly identifies that the majority of trees currently within or adjacent to the proposed development site are predominantly of poor/fair form and located within the matrix of the existing hedgerows. Any future full planning application should indicate which trees and hedgerows are to be retained and which are to be removed within the boundaries of the proposed development site.

The Tree Report indicates that trees T10-T21 located within the playing field of the adjacent school will be removed to accommodate the proposed new access road to the development. None of these trees have any individual merit with regard to visual amenity. The removal of these trees could be mitigated for by the planting of new trees elsewhere within the grounds of the school in particular within the area identified for 'land exchange' on the sketch layout. This could be included within a detailed landscaping scheme.

**ARCHAEOLOGY:** The submission included a desk-based archaeological assessment which concluded that the proposed housing development could lie within an area of significant archaeological interest. Given this, in line with PPS5, a pre determination field evaluation was requested in order to fully assess the archaeological impacts of the proposed development. The agent subsequently provided additional information and based on this, the Archaeological Officer has no objection to the development subject to the inclusion of a condition relating to a watching brief.

**RESIDENTIAL AMENITY:** The access road will pass number 14 Brookside Drive, which will result in a significant number of vehicles passing this property and its associated curtilage. It is considered that appropriate screening should be put in place, which may involve the erection of an acoustic fence, to ensure that the occupiers of this property do not suffer from an unacceptable level of noise and disturbance. This can be fully considered at reserved matters stage.

Enhanced planting is proposed along the boundaries with the existing residential boundaries and this is necessary to provide the required screening between these properties and the proposed development. It is considered, that subject to satisfactory details being submitted, in terms of proposed screening and the design of the dwellings, that the privacy of the existing neighbouring occupiers can be safeguarded.

The impact upon the neighbouring occupiers will be fully considered at reserved matters stage. It is essential to carefully consider these details to ensure that the occupiers of these properties are not unduly harmed by this development, with regards to loss of privacy, light, overbearing impact upon any other noise and disturbance.



**LAND CONTAMINATION:** A Ground Investigation has been submitted with the application and has been assessed by the Environmental Health Team. In view of the observations of the contamination investigation standard conditions should be applied in respect of land contamination on any planning permission granted.

**FLOODING:** A Flood Risk Assessment (FRA) and Drainage Strategy has been prepared for the site. The FRA concludes that as the site is located within Flood Zone 1 there is a low risk of it flooding. The Environmental Agency have raised no objection to this development subject to the inclusion of a condition to prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal. It is requested that the surface water drainage scheme for the proposed development must meet a number of set criteria. This can be secured through the inclusion of a condition. Wessex Water has also assessed the information submitted and analysed the options put forward.

**HOUSING:** The development proposes 13 affordable houses

2 x 1 bedroom flats at 45m<sup>2</sup> for affordable rent  
5 x 2 bedroom houses at 75m<sup>2</sup> for affordable rent  
2 x 3 bedroom houses at 85m<sup>2</sup> for affordable rent  
1 x 1 bedroom flat at 45m<sup>2</sup> for shared ownership sale  
3 x 2 bedroom houses at 75m<sup>2</sup> for shared ownership sale

11 Open market family homes

2 x 3 bedroom houses at 83m<sup>2</sup>  
6 x 4 bedroom houses at 115m<sup>2</sup>  
3 x 4 bedroom houses at 130m<sup>2</sup>

14 age restricted cottages for market sale

14 x 2 bed cottages at 105m<sup>2</sup>

The 13 affordable units represent 35% of the total development and this is considered to be acceptable and compliant with policy HG.8 of the Local Plan. Further, the affordable housing unit size and mix meets the identified parish needs. The applicant has confirmed that they have been in discussions with Knightstone, a registered social landlord, regarding development at this address. It should be noted however that the Knightstone are not yet under contract with the developers, and their views may differ from other registered social landlords.

As this is an outline application, there is no detailed design at this stage, but with regards to the Design and Building Standards of the affordable housing, the agent has confirmed that they are willing to comply with the internal sizes contained within the annexes to the SPD. Any application for reserved matters approval in respect of the design & layout of the development will be expected to include details of the proposed affordable housing design standards to be applied in respect of each unit proposed to be designated as affordable housing.

All the affordable housing units must fully comply with the current Homes & Communities Agency (HCA) 'Design and Quality Standards' and that the Code for Sustainable Homes (CSH) level 4 will be achieved to ensure that internal and external storage space provision for all homes exceeds the Housing Quality Index (HQI) unit layout requirement for the designed occupancy. It is the Developers responsibility to take on board future improvements to the HCA and CSH standards and to include certification from a suitably qualified professional that design standards have been met for the designed occupancy levels. The level of design detail to undertake the necessary assessment is not available at this stage and these standards can be met through a S106 Agreement.

The Planning Obligations SPD Affordable Housing Annexes provide further guidance on the implementation of Local Plan Policy HG.8. The SPD requires that affordable housing should not be distinguishable from the market housing in terms of location and appearance. In this instance, the inclusion of smaller market dwellings could help mitigate this. The car parking provision for the affordable housing is primarily communal parking courts with no garages provided, which allows it to be distinguished from the surrounding market housing. This needs to be fully addressed at reserved matter stage to ensure tenure blindness. On sites of more than 30 units, the Local Planning Authority will seek that not more than 8 affordable dwellings are clustered together to aid de-concentration of deprivation and prevention of social and economic segregation. This proposal has 10 units (plots 10-19) clustered together. It is therefore considered that the proposal does not comply with Local Plan Policy HG.8 and the guidance contained within the Planning Obligations SPD. It is noted that Knightstone raise no concern over the scheme design and layout of the affordable units and have commented that they would prefer the units to be located together rather than the affordable units being 'pepper potted' around the scheme. They do however state that it would be preferable to them if the parking spaces are located within the curtilage of the units.

Improved 'pepperpotting' or clustering would be achieved if the overall mix of the development was improved with a supply of smaller and more affordable market housing in lieu of the larger market houses proposed. However it is considered that if the majority of the affordable housing units were given the benefit of on plot parking then this could be a good compromise to offset the lack of pepperpotting on this site.

There are however concerns with the market housing mix and Strategic Housing Services suggest that the application contain fewer 4 bed market dwellings and instead provide a number of 1 and 2 bedroom market dwellings and maintain a local plan allocated site should deliver a market housing mix that is more in tune with local market need, rather than general market demand. This is supported by the Strategic Housing Market Appraisal (SHMA) & national guidance supporting this is contained within PPS1 & PPS3. Within any reserved matters planning application justification should be provided to demonstrate that there is a demand for the market housing mix as proposed.

**ECOLOGY:** An ecological assessment was submitted with the outline planning application. The main features of ecological value of the site are the boundary hedgerows with associated vegetation and scrub; and the use of these by wildlife in particular badgers, bats and birds. There is also a silted up pond in the south west corner of the site.

A significant proportion of the eastern hedgerow will be removed. From the indicative layout and the information submitted, the other hedgerows appear to be proposed for retention as rear garden boundaries. This will impact significantly in the long term on the hedgerows and their ecological value, through their future management as garden hedgerow maintained hedgerows, rather than by management as a wildlife habitat. In the long term there is the potential for them to be removed by householders or replaced with other planting.

The site and its hedgerows, in particular the eastern hedgerow that will be affected and partially removed, are used by badgers. The location that appears to be most heavily used by badger coincides with where the proposed access road would necessitate hedgerow removal, and this access road will cross the existing badger path. Animals are likely to continue trying to use this route, crossing the access road, giving rise to impacts on wildlife in particular potential road casualties.

The proposal does not appear to consider the retention or restoration of the pond in the south west corner of the site. This is a regrettable loss and if unavoidable, should be compensated with replacement habitat.

Following the initial comments from the Council's Ecologist, the Agent has submitted additional information and have confirmed the following:

- Traffic calming will be located to address protection of badgers
- The pond will be fenced and retained
- Covenants will be incorporated into the house deeds to protect native hedgerow from removal
- There will be new native hedgerow planting and reinforcement planting of existing hedges to compensate for hedgerow removal
- New & retained native hedgerow will be appropriately managed in the future
- Bat bricks and bird boxes will be incorporated into the scheme
- The homebuyers welcome pack will contain information about the development
- Precautionary measures & appropriate timing of works will be incorporated into the scheme

It would be difficult to ensure that a covenant is incorporated into the house deeds to protect native hedgerow from removal. It is considered more practical to control this through a landscape condition which will ensure that these hedgerows are retained in perpetuity. The remaining issues can also be controlled through a condition. Details of new planting, bat and bird boxes will need to be incorporated into the landscape and planting proposals and drawings, in accordance with the submitted ecology proposals. These needs to be specified in the landscape condition to ensure landscape drawings are not finalised in isolation from ecological requirements.

Following these comments, the Ecologist has withdrawn her objection subject to the above being adhered to. On balance therefore the proposed development is not considered to have a detrimental impact upon the ecology of the local area.

**SUSTAINABLE DEVELOPMENT:** The Design & Access statement confirms that the affordable elements of the scheme will be designed to the Code for Sustainable Homes

(CSH) level 4 and it is intended that the remainder of the scheme will achieve compliance with the Code for Sustainable Homes Level 3 as a minimum.

**PLANNING OBLIGATIONS:** The agent has agreed to enter into a S106 to secure financial contributions as detailed below:

£4, 202.10 - Children's Services

£83,588.91 - Parks and Open Space

£45,579.20 - Highway Contributions

£10,000 - Contributions to allow for the setting up of the village shop (as discussed above)

Affordable housing provision and details of design etc. as detailed below:

- 1 35% of the overall residential provision is affordable and grant free, with a 75/25 per cent split between Social Rent and Intermediate Market housing. (Affordability, including service charges and size mix as set out in the Housing Development Officers report).
- 2 The affordable housing obligation is secured in perpetuity through a section 106 Agreement as set out in the Development Officers report.
- 3 Lift the stair casing restrictions for New Build Homebuy Lessees and instead ring fence the released equity.
- 4 The Council has full nomination rights as set out in the section 106 Agreement.
- 5 All the affordable housing units must fully comply with the current Homes & Communities Agency (HCA) 'Design and Quality Standards' and that the Code for Sustainable Homes (CSH) level 4 will be achieved. It is the Developers responsibility to take on board future improvements to the HCA and CSH standards.
- 6 All the affordable housing units must fully comply with the B&NES SPD design, layout & construction standards.
- 7 Certification submitted showing that 60% of the affordable housing achieves lifetime home standards and be identified on plan.
- 8 Certification submitted showing that 10% of the affordable housing achieves full wheelchair user standards and be identified on plan.
- 9 To transfer the units to an approved partnering Registered Housing Provider (HP) or other Affordable Housing Provider (AHP) as approved by the Council.
- 10 The affordable housing land is transferred to a HP or AHP at nil cost.

11 Public subsidy (grant) will only be made available in the event that the HPs or AHPs supportable deficit is insufficient to pay for the build costs. Grant will be subject to a comprehensive financial viability assessment.

12 The development is tenure blind.

13 Phasing conditions on affordable housing triggers to be set out in the Section 106 Agreement.

## CONCLUSION

The proposed development is considered to be acceptable in principle, and although the development is considered to be premature, given the advice in PPS 3, it is not considered reasonable to refuse the application on these grounds. The applicant is considered to have provided very special circumstances which allow for a departure from the normal policies of constraint. An acceptable access is to be provided for the development and the scheme is not considered to result in significant harm to highway safety. Although there are concerns with the indicative layout, the concerns can be addressed at reserved matters stage.

## RECOMMENDATION

(A) Application be referred to Secretary of State as a departure from the Development Plan.

(B) Authorise the Planning and Environmental Law Manager to secure an Agreement under Section 106 of the Town and Country Planning Act 1990 as detailed in the report to Committee.

(C) Upon completion of the Agreement authorise the Development Manager to PERMIT the application subject to the following conditions:

## CONDITIONS

1 The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: As required by Section 92 of the Town and Country Planning Act (as amended), and to avoid the accumulation of unimplemented planning permissions.

2 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

3 The proposed estate roads, footways, footpaths, verges, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture shall be constructed and laid out in accordance with details to

be submitted to and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner

4 Before the dwellings hereby permitted are first brought into use the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access onto Brookside Drive and points on the carriageway edge 17m to the south and 43m to the north of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 150mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety.

5 No development shall commence on the site until the Public Rights of Way within the site have been legally diverted.

Reason: In order to protect the users of the Public Rights of Way.

6 Before the access hereby permitted is first brought into use the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access onto Brookside Drive and points on the carriageway edge 17m to the south and 43m to the north of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 150mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety.

7 No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved by the Local Planning Authority. The drainage works shall be completed in accordance with the details and timetable agreed.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

8 Finished floor levels should be set no lower than 300 mm above surrounding ground level.

Reason: To protect the development from flooding.

9 The hedgerows as marked on the 'concept plan' or as otherwise agreed in writing by the Local Planning Authority shall be retained in perpetuity. In the event that they die or become seriously damaged or diseased they shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority.

Reason: To safeguard the rural character of the area



10 No development shall take place until full details of a Wildlife Management and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall be in accordance with submitted proposals including the letter from Malford Environmental Practice dated 27th July 2011, and shall include:

- (i) Wildlife-friendly habitat management practices that shall be implemented for all native hedgerows, pond, and all other wildlife habitat, to include frequency, timing, locations and methods
- (ii) The information that shall to be included within the homebuyers welcome pack about ecology
- (iii) Details of precautionary measures & appropriate timing of works will be incorporated into the scheme for protection of wildlife
- (iv) Details of new planting, bat and bird boxes
- (v) Details of all enhancements

All works within the scheme shall be carried out in accordance with the approved details, unless otherwise approved in writing by the local planning authority. The works shall be carried out prior to the occupation of any part of the development.

Reason: In the interests of safeguarding the local ecology and wildlife.

11 No development shall commence until a construction method statement has been submitted to and approved in writing by the Local Planning Authority and shall include details of the access for construction vehicles. The development shall thereafter be carried out/occupied in accordance with the approved method statement/operational statement.

Reason: To ensure the safe operation of the highway.

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

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

13 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:  
human health,

property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,  
adjoining land,  
groundwaters and surface waters,  
ecological systems,  
archaeological sites and ancient monuments;  
(iii) an appraisal of remedial options, and proposal of the preferred option(s). This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

#### 14 Submission of Remediation Scheme (Where applicable)

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

15 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

16 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 13, and where remediation is necessary



a remediation scheme must be prepared in accordance with the requirements of condition 14, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in any approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 15.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17 No materials arising from the demolition of any existing structure(s), the construction of the new dwelling, nor any material from incidental works shall be burnt on the site.

Reason: In the interests of neighbouring amenity

18 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority to safeguard the amenities of the surrounding area.

19 No development shall be commenced until a hard and soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority, such a scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences and other boundary treatment and finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; details of the surface treatment of the open parts of the site; and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development.

20 All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure that the landscape scheme is implemented and maintained.

21 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 which have previously been approved in writing by the Local Planning Authority. 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.

22 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 developer should comply with the BRE Code of Practice to control dust from construction and demolition activities (ISBN No. 1860816126). The requirements of the Code shall apply to all work on the site, access roads and adjacent roads.

The requirements of the Council's Code of Practice to Control noise from construction sites and should be fully complied with during demolition and construction of the new building. (copy attached.)

In all cases the best practicable means of minimising noise on the site must be adopted. (In this respect guidance is given in British Standard BS 5228:2009 Code of Practice for Noise Control on Construction and Open Sites.)

### **REASONS FOR GRANTING APPROVAL:**

1 The proposed development is considered to be acceptable in principle, and although the development is considered to be premature, given the advice in PPS 3, it is not considered reasonable to refuse the application on these grounds. Although the development is not within the Green Belt, policy GB1 applies. The applicant is considered to have provided very special circumstances which allow for a departure from the normal policies of constraint. An acceptable access is to be provided for the development and the scheme is not considered to result in significant harm to highway safety. Although there are concerns with the indicative layout, the concerns can be addressed at reserved matters stage. The development is not considered to result in an increase in flooding, or significantly harm residential amenity. Subject to a satisfactory design, siting and scale, it is considered that the development will integrate successfully with the surrounding area.

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.

IMP1, D2, D4, ET7, GB1, GB2, CF1, CF2, SR1A, SR3, S9, ES14, HG1, HG7, HG8, HG10, NW1, NE4, NE10, NE11, NE12, BH12, T1, T25, T26, of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

**Item No:** 04  
**Application No:** 11/03393/FUL  
**Site Location:** 153 Newbridge Hill, Newbridge, Bath, BA1 3PX



**Ward:** Newbridge      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor L Morgan-Brinkhurst      Councillor C M L Roberts  
**Application Type:** Full Application  
**Proposal:** Erection of new single family dwelling on land at the rear of 153/155 Newbridge Hill  
**Constraints:** Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,  
**Applicant:** Ms Amy Fry  
**Expiry Date:** 11th October 2011  
**Case Officer:** Tessa Hampden

## **REPORT**

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

The application has been referred to the Committee due to the requests of the Ward Councillors. Cllr Brinkhurst supports the development as the development will enhance the area, will improve the outlook for neighbouring homes, and the privacy of the neighbouring occupiers has been considered. Cllr Roberts objects to the development citing that the development represents the over development of the site and concerns about the proximity to the neighbouring occupiers.

### **DESCRIPTION OF SITE AND APPLICATION**

The application site relates to an area of land located to the rear of numbers 153 and 155 Newbridge Hill within the built up area of Bath. The land formally formed part of the rear gardens of these properties and was separated from these dwellings when they were formed into flats approximately 30 years ago. The access to the site is via the original driveway relating to No 153 Newbridge Hill. Planning permission was granted in 1988 for the construction of a vehicular access and the use of the site as a parking area for 3 cars.

The site is located within the designated City of Bath Conservation Area and the wider World Heritage Site.

The application seeks planning permission for the erection of a single dwelling with a detached garage and tandem parking for two cars.

### **RELEVANT PLANNING HISTORY**

DC - 08/03352/FUL - RF - 10 November 2008 - Erection of new three bedroom bungalow on existing vacant plot of no 153A

13445-2 Construction of vehicular access and provision of 3 hardstanding spaces. Approved 15th June 1988

13445-1 Erection of a bungalow and detached double garage. Refused 22nd 1987

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

CLLR CAROLINE ROBERTS - Requests that this application is heard at Committee if recommendation is to permit- an overdevelopment of the site and concerns about proximity to neighbouring properties.

CLLR LORAIN BRINKHURST - Requests the application is heard at committee if officer is minded to refuse. The development will enhance the area and also improve the outlook for neighbouring homes. A house plan has been created that is sympathetic to the area and the applicant has taken on board the privacy for neighbouring houses

HIGHWAY DEVELOPMENT - Given the fact that the site has lawful use for parking, no objections are raised subject to the inclusion of conditions on any planning permission.

HIGHWAY DRAINAGE - The applicant has indicated that surface water will be disposed of via the mains sewer. Wessex Water should provide confirmation that they are happy to receive surface water discharge from the site to their network.

## ENVIRONMENTAL HEALTH - no objections

10 letters of objection have been received, 8 supporting comments and 3 general comments have also been received. The main comments of those who object relate to the following issues:

- Highway safety
- Residential amenity; loss of privacy; noise and disturbance
- Character and appearance, inappropriate location, design and scale
- Danger of setting a precedent for future development along Newbridge Hill.

The main comments of those who support the application can be summarised as:

- Derelict land will be enhanced
- Dwelling has been sensitively designed

## POLICIES/LEGISLATION

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

BH1 Impact of development on World Heritage Site and its setting

BH6 Conservation Areas and their settings

HG4 Residential development in the R1 settlements

HG12 Residential development including the conversion of non-residential buildings

D.2 General design and public realm considerations

D.4 Townscape considerations

NE5 Forest of Avon

T.24 - General development control and access policy

T.26 - On-site parking and servicing provision

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:

DW1: District wide spatial strategy

B1: Bath spatial strategy

B4: The World Heritage Site and its setting

CP6: Environmental quality

CP10: Housing mix

## OFFICER ASSESSMENT

**PRINCIPLE OF DEVELOPMENT:** The application site is within the built up area of Bath and as such there is no 'in principle' objection to new residential development at this location, subject to the development being compliant with the relevant policies of the Local Plan.

An application for a dwelling on this site was refused in 2009 for the following reasons:

- The proposal by virtue of its size, scale, setting and form and inappropriate design would seriously detract from the appearance and character of the surrounding area which is within the designated Conservation Area and the World Heritage Site of Bath. This

development is therefore contrary to Policies D.2, D.4, BH.1 and BH.6 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2008.

- The proposal by virtue of its scale, design, setting and relationship with adjoining properties together with inadequate associated parking and turning provisions and vehicular movements would have a detrimental impact on the amenities of existing and/or future occupants of the area contrary to Policy D.2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2008.

- The proposed inadequate parking and turning on-site facilities do not enable a vehicle to readily enter and leave the highway in forward gear which is essential to highway safety. Also it is likely to give rise to the on-street parking of additional vehicles attracted to the premises and thereby interrupt the free flow of traffic to the danger of road users in the area which is already congested with on-street parking. This is contrary to Policies T.24 and T.26 of the Bath and North East Somerset Local Plan (including mineral and waste policies) adopted October 2008.

The development therefore needs to demonstrate that these reasons for refusal have been overcome.

**CHARACTER AND APPEARANCE:** Backland development, which involves the development of an area without direct road frontage, can be difficult to achieve successfully.

Although the proposed dwelling will not be readily visible from the main street scene, it will be visible from the neighbouring properties and is within the City of Bath Conservation Area. The surrounding buildings take the form of significant three/ four storey properties together with two storey units behind. The building grain of the area is relatively strong, with the development following a regular building line with the houses on Newbridge Hill generally benefiting from long rear gardens. Although it is noted that the site has not formed the gardens of 153/155 Newbridge Hill for a significant period of time, visually the open space relates closely to these dwellings.

New development should generally respect the form and structure of surroundings areas in terms of patterns of streets, buildings and spaces. In this case, the proposed siting of the new dwelling would result in a secondary line of backland development behind the existing dwellings. This siting is not considered to reflect the existing pattern of development in this part of Newbridge. In visual terms the planning site forms the backdrop to the existing properties in Newbridge Hill and overall it is considered the development would not connect or respond well to the context of the local surroundings. In view of the setting of the proposed development it would appear unsympathetic and unrelated to the nearby properties and the distinctive setting and street form that presently exists.

Although the development proposes an acceptable level of outdoor amenity space, and in isolation would not appear cramped, it is seen in close context with the larger building of Newbridge Hill, and as such the development has the effect of the overall area appearing cramped and congested, and the current sense of local spaciousness would be damaged,



resulting in harm to local visual amenity. The development is therefore contrary to policies D4 and BH6 of the adopted Local Plan.

Notwithstanding the above, the development proposes a contemporary design using high quality materials including slate and rubble stone. Elements of timber are also proposed and this is considered acceptable on a more contemporary development. Rather than try to mirror the surrounding development, the agent has proposed a standalone building with its own identity which intentionally does not try and copy the design of the surrounding buildings. However it is primarily the siting and scale of the development rather than its intrinsic design which is objectionable.

Therefore the proposal by virtue of its siting, scale and form would seriously detract from the appearance and character of the City of Bath Conservation Area, contrary to policy BH6 of the Local Plan.

**HIGHWAY SAFETY:** Planning permission was granted in 1988 for the construction of a vehicular access and provision of 3 parking spaces. This parking area was not conditioned to relate to any particular property. Although the area is currently closed off by the padlocking of the gates, its use could be reinstated at any time.

The proposed layout of the site would provide a single garage with two tandem parking spaces alongside it. A separate turning area would also be provided, to ensure vehicles could enter and leave the site in a forward gear. The garage is proposed of dimensions 2.85m wide and 5.1m long which, whilst generally sufficient to accommodate a parked car, it is not in accordance with the latest guidance on parking dimensions which sets out a 3m width and 6m length, which would provide adequate room for parking, whilst also allowing for some degree of domestic storage.

However, the level of open parking on the site is sufficient for the dwelling, as proposed, and having regard to the sustainable location of the site, the garage parking is not essential to the needs of the dwelling. There is therefore no objection to the sizing of the garage, as proposed.

The Design and Access Statement states that the existing parking area is not currently being used by any properties on Newbridge Hill, and therefore the use of the permitted parking area, in connection with a new dwelling, would not displace parking onto the public highway. The layout plan shows the repositioning of the entrance gates for the access to a point further into the site, to ensure that vehicles can pull clear of the highway, which is a welcomed change to the existing access layout.

Having regard to the above, no highway objections are raised subject to a number of conditions being attached to any permission granted.

**RESIDENTIAL AMENITY:** The previous application raised concerns both with regards to the impact upon the residential amenity of the existing occupiers of the neighbouring properties and the living conditions of the future occupiers of the development.

An 'overlooking' diagram has been submitted by the agent to demonstrate that the occupiers of the proposed development would benefit from a satisfactory level of privacy which would not be compromised in particular by the views of the occupiers of the upper

flats at 153 and 155 Newbridge Hill. The orientation of the proposed dwelling and siting of the windows are as such that the occupiers of the surrounding dwellings would not have a direct view into the habitable rooms of the proposed dwelling. However this diagram does not show that there are numerous windows in the rear elevation and the section area only indicates the area of least impact. Therefore a large portion of the garden will be partially overlooked by the occupiers of these properties at a distance of approximately 15m and there will be a sense of overlooking from the banks of windows. However, this not dissimilar to many gardens in built up areas, and given the separation distances it is not considered to be significantly harmful to the living conditions of the future occupiers of the development.

The north elevation of the dwelling is built in close proximity to the existing and proposed screening which separates the application site from the small rear courtyards of the adjacent flats. This screening will limit the light reaching the habitable windows on this elevation, but given that these are secondary north facing windows, this would not be considered to significantly compromise the living conditions of the future occupiers. On balance therefore the proposed development is considered to result in satisfactory living conditions for its future occupiers.

Given the siting of the dwelling, which is in close proximity to the neighbouring dwellings and their gardens careful consideration needs to be given to the residential amenity of these occupiers. The adjacent ground floor flats only benefit from small rear gardens and as such their living space is sited particularly closely to the application site. However the lawful parking area is directly in front of the ground floor flat and a certain degree of noise and disturbance would be expected if this use were to be in operation on a regular basis. The proposal has pulled the parking area away from this rear garden and proposed a buffer between the parking area and the neighbouring garden. Further screening is proposed along the access way in the form of a boundary wall. This should ensure that the occupiers of the adjacent property do not suffer from undue noise and disturbance, from vehicles, including from the headlights, and pedestrians passing along the access. Given the existing screening and the orientation of the dwelling, there is not considered to be a significant level of loss of light from any screening proposed.

The proposed dwelling, due to the appropriate siting of windows, and the screening proposed is not considered to result in any significant overlooking or loss of privacy to warrant a refusal.

The proposed dwelling will be set approximately 9.5 m away from the rear windows of the neighbouring dwelling and will be set approximately 1 metre below the ground level of the neighbouring property. Due to the acceptable siting and scale of the development the proposed dwelling is not considered to have a significant overbearing impact, result in a significant loss of light, or create any other undue disturbance for the occupiers of the neighbouring properties. On balance, subject to appropriate conditions, the proposed development is not considered to result in any significant harm to the residential amenity of the neighbouring occupiers.

**OTHER ISSUES:** Concern has been raised regarding to the fact that this development would set a precedent for future developments in the gardens of the property in Newbridge. The context of this plot would appear to be different to that of the other rear



gardens on Newbridge Hill, in terms of its detachment to the properties to which the land originally belonged and its established vehicular access to a separate plot.

No other significant planning issues have arisen as a result of this planning application. However it is considered that the application has not wholly overcome the previous reasons for refusal and for the reason stated above this application is recommended for refusal.

## **RECOMMENDATION**

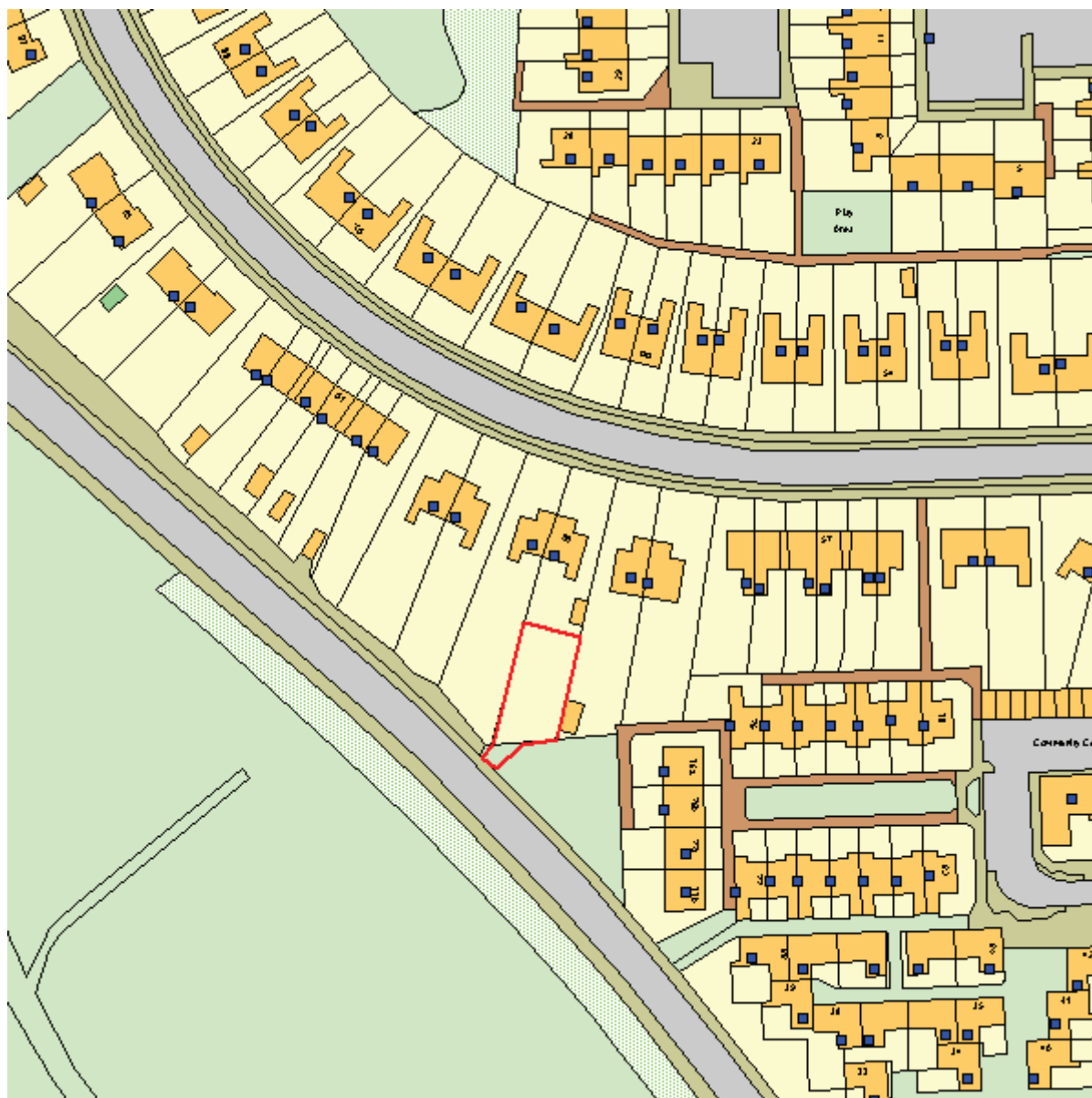
REFUSE for the following reasons:

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

1 The proposal by virtue of its size, scale and siting in this backland location would detract from the character and appearance of the City of Bath Conservation Area. The development is therefore contrary to policies D2, D4 and B6 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted October 2007

**PLANS LIST:** 1102 P01, 02, 07, 15, 16, 17, 18, date stamped 8th August 2011, 1102 P19 date stamped 16th August 2011, and 1102 P051, 06A date stamped 19th August 2011.

**Item No:** 05  
**Application No:** 11/03987/OUT  
**Site Location:** 69 Haycombe Drive, Southdown, Bath, Bath And North East Somerset



**Ward:** Southdown      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor P N Crossley      Councillor D M Romero  
**Application Type:** Outline Application  
**Proposal:** Erection of a detached 2 storey dwelling on land to the rear of 69 Haycombe Drive  
**Constraints:** Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, World Heritage Site,  
**Applicant:** Mr & Mrs David and Elizabeth Bates  
**Expiry Date:** 8th November 2011  
**Case Officer:** Richard Stott

## **REPORT**

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

The Application was request to be presented to the Committee by Cllr Romero and Cllr Crossley as local ward members who have raised concerns relating to access and amenity. The application was referred to Cllr Curran on the 25th October 2011 under the approved Scheme of Delegation who echoed the concerns relating to the access and agreed for the application to be presented to the Committee

### **DESCRIPTION OF SITE AND APPLICATION:**

Outline permission is sought for the erection of a detached 2 storey dwelling on land to the rear of 69 Haycombe Drive. This outline application seeks to establish whether the principle of development on this site is acceptable and seeks approval for the access only - details of the appearance, landscaping, layout and scale are all reserved and therefore do not form part of this application.

This application relates to a site situated on land to the rear of 69 Haycombe Drive on the southern fringe of Bath, the site is located within the Bath urban area and the World Heritage Site. The Bath/Bristol green belt bounds the opposite side of Whiteway Road, although the site is not within the green belt.

The plot of land was formerly within the curtilage of number 69, a mid-1960s semi-detached dwelling, however was sub-divided to create a separate plot measuring 21m x 10.5m whilst retaining a rear garden for 69 of 11.5m in length. The site benefits from independent vehicular access and a dropped curb which was installed following approval by the Highway Maintenance Department in January 2009.

To the north of the site are the 1960s semi-detached dwellings fronting Haycombe Drive, these are simply designed two storey dwellings in reconstituted Bath Stone under concrete double roman tiled hipped roofs benefiting from long rear gardens fronting Whiteway Road. To the east of the site, at a distance of c.20m and screened behind a belt of mature trees, is Blagdon Park, a mid to late twentieth century development comprised of two storey terraces surrounded by small terraces of bungalows. The southern edge of the proposed development site is in line with the northern corner of 76a Blagdon Park and the side (blank) elevation of 76 Blagdon Park. To the south and west of the site on the opposite side of Whiteway Road is Haycombe Cemetery.

The application site itself is currently a derelict plot however benefits from a dropped curb access (approved by Highway maintenance in January 2009), adjacent to the site (to the north east) are dropped curbed accesses serving the rears of 71, 73 and 75, whilst to the rear of 77 is a detached garage exiting onto Whiteway Road. Whilst the site has highways approval for the dropped curb, there is no record of a planning consent for the formation of an access onto the classified road however if approved, this application will regularise this situation.

### **RELEVANT PLANNING HISTORY:**

Pre-application advice was sought prior to the submission of this application offering confirmation of the suitability of the site for development in general planning terms and confirming with the highway officer that the access arrangements and visibility splays are acceptable and to the current standards.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

**CLLR CROSSLEY: Object:**

- The access to Whiteway Road is the only exit for this application and as the Whiteway Road is very busy this poses a Highways hazard.
- The application represents a loss of amenity for 69 and 71
- It represents the first back garden infill in the Haycombe Drive Estate and as such spoils the vernacular of the design of the Drive and poses a serious precedent for the estate as a whole.
- There is some local dispute as to whether the applicant actually owns the land that links the garden to the road and it is felt that this patch belongs to Somer Housing and fits with the triangle of trees that is just there.

**CLLR ROMERO: Object:**

- Concern about the access - this will be the sole access to the property.
- The dropped kerb has been put in in advance of this application but may have been put in without express permission by Highways.
- Concern that the proposal puts the house at the top end of the garden very close to the existing property; this would mean a loss of amenity especially of privacy.

**HIGHWAY DEVELOPMENT OFFICER: No Objection:**

- There is no objection to a residential development at this location which is accessible and convenient to local shops, schools, public transport etc.
- A vehicular access exists at this location already and is of an appropriate width, and has suitable levels of visibility to serve a single dwelling.
- Two parking spaces are considered adequate for a dwelling of this size, at this location, and the proposed is consistent with Local Plan guidance.
- The existing dwelling has separate parking available directly from Haycombe Drive
- Recommend conditions relating to the surface treatment and allocated parking and turning area.

**ENVIRONMENTAL HEALTH OFFICER: Comments:**

The application should be conditioned to require the submission of an assessment from a competent person to determine into which Noise Exposure Category in PPG24 the development falls and that sound attenuation measures should be installed to ensure the future residents are not disturbed by external noise from Road Traffic.

## **OTHER REPRESENTATIONS / THIRD PARTIES**

**BATH PRESERVATION TRUST: Comments:**

- No objection to small bungalow provided access is available. Object to a 2 storey house on the grounds of being over development and creating overlooking.

**2X LOCAL RESIDENTS: Object:**

- Loss of amenity through overlooking and intervisibility
- Poor access, the plot of land does not extend to the highway.
- Poor visibility requiring the removal of more trees and bushes on site
- Catalyst for garden grabbing.

## **POLICIES/LEGISLATION**

Legal Framework

Town and Country Planning Act, 1990

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

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

HG.4 Residential Development in Urban Areas

GB.2 Visual Amenities of the Green Belt

BH.1 World Heritage Site

T.24 Access

T.26 Parking

SUBMISSION CORE STRATEGY, MAY 2011 (The submission core strategy is a key material consideration but at this stage it has limited weight)

B1 Bath Spatial Strategy

B4 World Heritage Site

Policies D.2, D.4, GB.2, T.24 and T.26 of the adopted Local Plan are saved policies.

National Policy

PPS.3 Housing

PPG.13 Transport

Draft National Planning Policy Framework

Due consideration is given to the Draft National Planning Policy Framework, July 2011, however at present this carries little weight and in this case it proposes little change to the aspects of local and national policy that are relevant to this decision.

## **OFFICER ASSESSMENT**

**PRINCIPLE OF PROPOSED DEVELOPMENT:** In consideration of the siting of a residential unit on this site the principle is deemed acceptable and in accordance with policy. Local Plan Policy HG.4 states that development within the built up area of Bath will be permitted provided the proposal is appropriate to the scale of the settlement in terms of the availability of facilities and employment opportunities and accessibility to public transport, in this regard the site is deemed acceptable for development as it is within a sustainable urban location. In respect of the national policy context, PPS.3 encourages the efficient reuse of land however makes it clear that new developments should reflect the prevailing grain and characteristics of the surrounding area. It is worth noting that in the revision to PPS.3 in June 2011 the Government redefined previously developed land to exclude the curtilage of private dwellings and whilst this means that there is no longer a presumption in favour of developing sites such as this, equally there is no presumption against such sites. The implication of this change in national policy for applications such as this is that each must be assessed on its own individual merits rather than relying on the previous presumption in favour of allowing development. Notwithstanding this redefinition by the Government, it is considered that the site is still in accordance with the prevailing local policy and is deemed to be suitable for development due to its sustainable location, in this regard, and as will be explored later in this report, the proposed is not considered to be contrary to PPS.3.

It is noted that this application is for outline permission only, and whilst the specific details of the siting and design are reserved (i.e. not for consideration at this stage) the principle of development is considered against the characteristics of the immediate area. As stated in the preamble to this application, the development will be viewed against the backdrop of the two storey dwellings to the north (fronting Haycombe Drive) and the single storey bungalows situated to the east (fronting Blagdon Park). Following the advice given at the pre-application stage, a copy of which is provided in the Design and Access Statement, the application indicates the siting of a detached 2 storey chalet style dwelling with the second storey set into the roof space. Whilst the specific details of the design are not being considered at this stage, the approach indicated in the application is considered to be acceptable as such a dwelling would be viewed as a transition between the aforementioned single storey and two storey dwellings surrounding. There is ample space available on the plot and the dwelling would not conflict with the surrounding context. Subject to conditions relating to the height and style of the dwelling as well as it being constructed in appropriate and sympathetic materials it is considered that a single dwelling on this site would be appropriate to the scale of the wider area.

Objections have been raised in respect of the implications that the development of this site could have on the surrounding plots with concern expressed that this application could be the catalyst for future similar developments. It must however be stressed that this is not a material planning consideration and could not be used to justify a refusal of this application, each application is judged on its own merits and should not be influenced by the potential of future developments. To this end, whilst the comments received are noted, they are considered to be irrelevant in the determination of this application.

In addition to the above, objections have been raised in respect of the impact the proposed would have on the residential amenity of the adjacent residents. Whilst this issue is difficult to fully assess at this stage given that this is an outline application with the details of the siting and the appearance (i.e. fenestration arrangements) being reserved, it is nonetheless possible to judge how a new unit on this site could impact on the surrounding dwellings. As set out in the preamble the application plot measures 21m x 10.5m set 11.5m from the rear of numbers 67, 69, 71 Haycombe Drive. These houses are the closest affected dwellings however they are considered to be at a sufficient distance away so that overshadowing and a general sense of encroachment should not be overly detrimental. Subject to careful consideration of the fenestration arrangements at the reserved matters stage overlooking could be avoided through careful design, however is not possible to fully evaluate this issue with this application. The impact on numbers 65 and 73 Haycombe Drive should be minimal due to their distance from the plot. To the east of the site are the bungalow terraces of Blagdon Park however these are set at a distance of c.20m and screened behind a belt of mature trees. The southern edge of the proposed development site is in line with the northern corner of 76a Blagdon Park and the side (blank) elevation of 76 Blagdon Park meaning that the site, in addition to being screened by the trees, will be set in a position that will not directly overlook the application site. On balance, it is unlikely that the development of this site would detrimentally harm the amenity of the surrounding properties however in the interest on maintaining control over the future development of this site, and in the interest of amenity it is recommended that permitted development rights are removed for extensions and outbuildings.

Overall, for the reasons set out above, it is considered that the siting of a single dwelling on this plot would be acceptable and would not compromise the setting of the Bath World



Heritage Site. Having considered the impact on the openness of the adjacent green belt, given the site would be viewed against the backdrop of urban development the siting of an additional dwelling on this plot would have little or no impact on the wider open landscape.

**PLANNING OFFICER ASSESSMENT OF HIGHWAY ISSUES:** The crux of this application relates to the access arrangements in respect of the highway safety for both users of the site and users of Whiteway Road. Access is the single element of this scheme that is under consideration as all other matters are reserved for later consideration, however it is also the key area of objection and the reason the case is being presented to the Committee.

At the pre-application stage the applicant had proposed two 2 bed semi-detached properties however this was considered to be an overdevelopment of the site with insufficient room to turn on site and representing an intensification of the use of the access. In response to the dialogue with the highway development officer the application as submitted has been revised to reflect the comments of the highway officer and offers a single detached dwelling only with allocated space for two parking bays, the submitted plans show the bays as being orientated perpendicular to the eastern boundary retaining sufficient space on site to turn.

In response to this application, the highway development officer has confirmed that the provision of two parking spaces would be sufficient to serve a single 3-4 bed dwelling, and is consistent with the guidance set out in the Bath and North East Somerset Local Plan. In light of the indicative parking arrangements and provision on site for the scale of the dwelling proposed this application is deemed to be in accordance with policy T.26 of the Local Plan.

Turning to the concerns raised in respect of highway safety it is noted that the majority of the properties fronting Haycombe Drive with back gardens fronting Whiteway Road already benefit from well used rear access, parking and in some instances garages, indeed, as stated this site already has an access that, subject to regularisation, could be used to serve the site. In this regard access on to Whiteway Road from the rear of these properties is already well established, and whilst it is noted that the Whiteway Road is a heavily used route, the visibility available for vehicles exiting the site is more than adequate.

In terms of the standards for visibility, Manual for Streets recommends a minimum visibility splay for an access onto a 30mph road as being 43m clear line of sight from a point set 2.4m back from the carriageway in both directions. For clarification, at the point 2.4m back from the carriageway on this site, there is clear visibility to the right for in excess of 100m and to the left, in excess of 70m, this is clearly well above the aforementioned minimum standards. Whilst it is acknowledged that the figure of 43m relates to a 30mph speed limit given the character of this road vehicles are prone to speeding, looking again at Manual for Streets it gives a stopping sight distance of 56m for cars travelling at 37mph and therefore it is concluded that even at speeds above the legal limit, there is still more than adequate visibility.

By way of further clarification of the issue of highway safety the Highway Officer has provided information relating to casualty accidents along Whiteway Road between the junctions of Poolemead Road and The Hollow (i.e. covering the section of road onto which

this site exits). In the past three years there have been two recorded accidents in this area however both of these occurred at the junction of Poolemead Road involving vehicles manoeuvring from the junction. There have been no recorded incidents on the stretch of road to the rear of this application site or involving vehicles exiting the plethora of existing accesses in this area.

Overall, whilst the objections raised in respect of highway safety are noted, on balance they are not deemed sufficient enough to be upheld. To summarise the facts, firstly, there are already multiple accesses in existence serving the properties fronting Haycombe Drive which exit onto Whiteway Road, including one serving the application site; secondly, in the event that this application were to be refused, subject to regularisation, the existing access could be used to serve the site thus resulting in a net increase in traffic existing onto Whiteway; thirdly, there is more than adequate visibility in both directions for vehicles exiting the site, certainly well in excess of the minimum standards as set out in Manual for Streets; finally, in the past three years there have been no associated incidents along this section of road.

Having considered the above facts in respect of this application it is concluded that the provision of a single dwelling on this site will not adversely prejudice the safety of highway users, in accordance with Policy T.24 of the Local Plan and it would therefore be difficult to substantiate a refusal on this issue.

It is noted that whilst the site benefits from highways consent for the dropped kerb access, a planning application would have been required as the site exits onto a classified highway. In consideration of this application, if permission is granted this will retrospectively approve the access. This is not considered to be an issue as the access in this location is deemed to be acceptable and the highway development officer has raised no objection.

#### **CONCLUSION:**

Having assessed this application for outline permission against the characteristics of the site and in consideration of the third party comments received, as has been set out in the above report it is considered that the principle of development in this location is acceptable and in accordance with policy and the impact on highway safety would be negligible. In light of the aforementioned observations it is recommended that this outline application be approved in respect of the principle of development and access and subject to the submission of an application for reserved matters to address the appearance, landscaping, layout and scale. It is recommended that conditions are attached relating to the surface treatment of the access and the retention of the parking bays and also in the interest of the size of development on the site and the amenity of adjoining neighbours, it is recommended that permitted development rights for extension and alterations are removed.

#### **RECOMMENDATION**

PERMIT with condition(s)



## CONDITIONS

1 The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: As required by Section 92 of the Town and Country Planning Act (as amended), and to avoid the accumulation of unimplemented planning permissions.

2 Approval of the details of the (a) layout, (b) scale, (c) appearance, and the (d) landscaping of the site (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Articles 1 and 3 of the General Development Procedure Order 1995 (as amended).

3 Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

Reason: As required by Section 92 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permissions.

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority to safeguard the amenities of the surrounding area.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no garages or other free standing buildings shall be erected within the curtilage of the dwelling(s) hereby approved, other than those expressly authorised by this permission, unless a further planning permission has been granted by the Local Planning Authority.

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

6 Before the dwelling hereby approved is first occupied, a properly bound and compacted access (not loose stone or gravel) shall be constructed, details of which shall have been submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety.

7 Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

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

Reason: In the interests of amenity and road safety.

9 On completion of the works but prior to any occupation of the approved development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise in accordance with BS8233:1999. The following levels shall be achieved: Maximum internal noise levels of 30dBLAeq, T for living rooms and bedrooms. For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax.

Reason: in the interest of the residential amenity of the future occupiers

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

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

**PLANS LIST:** This decision relates to the Design and Access Statement, Site Location Plan and drawings 1023/01 and 1023/03 date stamped 13th September 2011.

#### REASONS FOR GRANTING APPROVAL

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

2. All other material considerations, including the views of third parties, have been considered and they do not outweigh the reasons for approving the proposed development.

3. The proposed siting of a dwelling on this site would be acceptable in this sustainable location being proportionate to the size, scale and grain of the surrounding area would not adversely harm residential amenity or the setting of the wider World Heritage Site. The proposed is deemed to be in accordance with the prevailing local and national policies.

4. The development of this site will maintain an acceptable level of off street parking and the site access is of an adequate size offering more than sufficient visibility so as not to prejudice the safety of highway users.

A

Legal Framework

Town and Country Planning Act, 1990

Local Policy:

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

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

HG.4 Residential Development in Urban Areas

GB.2 Visual Amenities of the Green Belt

BH.1 World Heritage Site

T.24 Access

T.26 Parking

SUBMISSION CORE STRATEGY, MAY 2011 (The submission core strategy is a key material consideration but at this stage it has limited weight)

B1 Bath Spatial Strategy

B4 World Heritage Site

Policies D.2, D.4, GB.2, T.24 and T.26 of the adopted Local Plan are saved policies.

National Policy

PPS.3 Housing

PPG.13 Transport

Draft National Planning Policy Framework

Due consideration is given to the Draft National Planning Policy Framework, July 2011, however at present this carries little weight and in this case it proposes little change to the aspects of local and national policy that are relevant to this decision.

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<b>Bath &amp; North East Somerset Council</b>		
MEETING:	<b>Development Control Committee</b>	<div style="border: 1px solid black; width: 100px; height: 100px; display: flex; align-items: center; justify-content: center;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">           AGENDA ITEM NUMBER         </div> </div>
MEETING DATE:	<b>23 November 2011</b>	
REPORT OF	<b>David Trigwell, Divisional Director of Planning and Transport Development</b>	
REPORT ORIGINATOR:	<b>Lisa Bartlett, Development Control Manager, Planning and Transport Development (Telephone: 01225 477281)</b>	
DATE PREPARED: 9 November 2011		
TITLE:	<b>Enforcement Report: The Old Orchard, 1 The Shrubby, Lansdown, Bath BA1 2RU</b>	
WARD:	<b>Lansdown</b>	
BACKGROUND PAPERS: <b>Planning Application 09/00367/FUL, Condition application 10/00919/COND and Enforcement file 11/00271/NONCOM</b>		
<b>AN OPEN PUBLIC ITEM</b>		

## 1.0 PURPOSE OF REPORT

To seek Members view on the harm caused to the City of Bath Conservation Area, the World Heritage Site and the visual amenities of the area by unauthorised development relating to the erection of a new dwelling and the formation of a parking area.

## 2.0 LOCATION OF PLANNING CONTRAVENTIONS

The Old Orchard, 1 The Shrubby, Lansdown, Bath, BA1 2RY ("the Property"), as outlined in bold on the attached site location plan (Appendix 1).

## 3.0 OUTLINE OF PLANNING CONTRAVENTIONS

- a) The materials used to clad the boundary wall to the garden and parking areas, and parts of the new dwelling, do not match the approved sample.
- b) The boundary to the property has not been constructed in accordance with the details approved under planning permission 09/00367/FUL;
- c) The boundary to the parking area has not been constructed in accordance with approved plan S2B, in breach of Condition 10 of planning permission 09/00367/FUL;

- d) The surface of the parking area has not been constructed in accordance with approved plan S2B, in breach of Condition 10 of planning permission 09/00367/FUL; and
- e) Gates to the parking area have been erected on the western boundary, without planning permission.

#### **4.0 RELEVANT PLANNING HISTORY**

In February 2009 an application (09/00367/FUL) was received by the Local Planning Authority for a single dwelling on vacant land located between Lansdown Road and Portland Place.

The application was referred to Planning Committee (5<sup>th</sup> August 2009) with a recommendation to refuse planning permission. Members resolved however to grant conditional planning permission. Of particular relevance are Conditions 2 and 10.

Condition 2 states:

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

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

Condition 10 states;

*"The dwelling hereby approved shall not be occupied or brought into use until the area allocated for parking and turning on the submitted plans has been properly consolidated (not loose stone or gravel) and thereafter kept clear of obstruction and shall not be used other than for the parking and turning of vehicles in connection with the development hereby permitted. The parking area including the boundary wall/fence shall be constructed in accordance with drawing No. s2b dated 5th June 2009 and permanently retained as such."*

*Reason: In the interest of highway safety."*

In March 2010 an application (10/00919/COND) was received to discharge a number of conditions, including condition 2 (materials). Within the application was a photograph marked "photograph B" which showed a stone sample panel. The planning case officer subsequently visited the site and viewed the sample board. Based on the information provided, the condition was formally discharged on 28<sup>th</sup> April 2010.

In response to a number of complaints received, the Property was visited on the 11<sup>th</sup> May 2011. The Enforcement Officer observed that the materials used to clad the new dwelling and boundary wall along The Shrubbery public footpath did not match those approved under application 10/00919/COND. The Enforcement Officer noted that the stone was of an orange colour and did not match the surrounding structures built of Bath Stone. Also during the visit the Enforcement Officer noted that the opening onto The Shrubbery footpath from the parking area was wider than that shown on approved plan S2B. It was noted that the opening was wide enough to facilitate a motor vehicle.

The owner was advised by letter on 20<sup>th</sup> May 2011 that the parking area has not been built in accordance with approved plans and that, following a consultation with the Authority's Highway Team and Public Rights of Way Team, under no circumstances must The Shrubbery footpath be used for any form of vehicular access, in the interest of public and highway safety. The owner was also advised to provide the stone sample approved by the Authority for clarification.

The Enforcement Officer received a reply from the owner dated 29<sup>th</sup> May 2011. The letter advised that the sample board had been removed deliberately from the site by persons unknown.

The owner is in dispute the Local Planning Authority about the external stone used on the dwelling and boundaries. The Enforcement Team have conducted an independent investigation and are of the view that the stone used on the dwelling and boundary is different to that which was approved by the Planning Authority. The appearance of the wall is demonstrated in photographs taken from The Shrubbery public footpath.

The owner was advised by letter on 13<sup>th</sup> June 2011 the parking area should be built in accordance with the approved scheme and again under no circumstances must The Shrubbery footpath be used for vehicular traffic. This was following advice from the Council's Highway Development Team Leader who had advised that the emergency services would not attempt to drive across the footpath due to the width of the gates and lack of ground clearance; and that it would not be safe for private vehicles. In the event of an emergency the Fire Brigade would park their appliances in St. James's Park and enter the property on foot.

On 13<sup>th</sup> June 2011, the owner submitted an application (11/02513/COND) to discharge condition 10 (parking area) of planning permission 09/00367/FUL. This application was subsequently refused on 8<sup>th</sup> August 2011 for the following reason:

*"The development has not been constructed in accordance with the requirement of condition 10 of planning application 09/00367/FUL and the condition can therefore not be discharged."*

A letter was received from the owner on 1<sup>st</sup> July 2011 stating that the stone used on the development is the same stone that was approved by the Planning Authority through application 10/00919/COND. The letter further states that the parking area has been built in accordance with the approved plan which was not intended to be

scaled. The letter also confirms that the owner would not use The Shrubbery public footpath for vehicular access.

The owner was advised by letter (Appendix 2) on 14<sup>th</sup> July 2011 by the Development Manager that, following a site visit, it was noted that it would not be safe to drive a vehicle over The Shrubbery footpath, and that the loose material used to surface the parking area is unacceptable and contravenes the requirements of condition 10 of permission 09/00367/FUL. The letter further advised that the stone used on the development does not match the stone used on the approved sample board which can be proven through photographic evidence; and that the stone used is not acceptable in terms of the location of the site within the Conservation Area and World Heritage Site, and in close proximity to several listed buildings. The owner was also advised that Officers did not initially consider it expedient to pursue the issue of the stone used on the dwelling, but that Members may reach a different conclusion in the event of the matter being considered in the Development Control Committee. The owner was given the option of revising the development in order to mitigate the harm caused in terms of the boundary wall and parking area.

A subsequent site visit has identified the further contraventions described in 3 b) and e) above.

There have been considerable amounts of correspondence with the owner and her legal representative in an attempt to seek an acceptable resolution to this situation. However, the situation has not been resolved and the dwelling, boundary treatments and parking area remain unauthorised. Your officers are therefore seeking authority to take appropriate action.

## **5.0 DEVELOPMENT PLAN**

Of particular relevance to this matter is the Bath and North East Somerset Local Plan, including minerals and waste policies, adopted October 2007 (the Local Plan). Policies D.2 and D.4 therein relate to design and townscape objectives. Policies BH.2 and BH.6 relate to the built and historic environment and policy T.24 relates to highway safety.

## **6.0 CENTRAL GOVERNMENT ADVICE**

Relevant advice is contained in Planning Policy Statement 1 (PPS 1): *Delivering Sustainable Development*; PPS 3: *Housing*; PPS 5: *Historic Environment*; and Planning Policy Guidance 18: *Enforcing Planning Control*.

## **7.0 EXPEDIENCY OF ENFORCEMENT ACTION**

The development is located within the City of Bath Conservation Area and the designated World Heritage Site. The site is visible from a number of Grade I and Grade II listed buildings, and from the public domain.

Whilst the new dwelling has been clad (in part) using inappropriate stone, your officers do not consider it expedient to seek to the removal of the stone from the dwelling for the reasons that the dwelling is not clearly visible from the public



viewpoint; and the detailed design means that the occupiers of the neighbouring properties predominantly view the roof or glazed sections of the new dwelling. This reduces the impact of the unauthorised material. However, the boundary wall, which is clad using the same unauthorised stone, is constructed next to a busy public footpath and considered detrimental to the setting of the surrounding listed buildings. It fails to either preserve or enhance the Conservation Area and is, in fact, harmful to the character and appearance of both the World Heritage Site and Conservation Area. The stone continues to cause significant harm because its overall appearance - with an orange colour and contrasting jointing - appears as an incongruous feature and is therefore contrary to policies D.2, D.4, BH.2 and BH.6 of the Local Plan.

Whilst the current owner has stated that she does not intend to drive through the gate, she has been unwilling to amend the boundary treatment as has been suggested. It remains possible for either the current owner or future owners to drive through the gates across the public footpath. This would result in a hazard to pedestrians using the path. The surface materials used within the parking area are loose in nature and present a hazard to users of the public footpath and to the highway in St. James's Park, contrary to policy T.24 of the Local Plan.

In the circumstances, enforcement action in respect of the materials used on the boundary walls; the surfacing of the parking area; and the gates to/from the parking area is therefore considered expedient.

## **8.0 HUMAN RIGHTS**

It is considered that Article 1 of Protocol 1 (peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life, home and correspondence) of the European Convention on Human Rights may apply in this case. However, these rights must be weighed against the rights of neighbouring occupiers who may be adversely affected by the unauthorised development; and the identified harm to the character and appearance of the Conservation Area. Taking into account the planning harm identified above, it is considered that the public interest weighs in favour of enforcement action.

## **9.0 RECOMMENDATIONS**

That delegated authority be granted to the Development Manager, in consultation with the Planning and Environmental Law Manager, to take any necessary enforcement action on behalf of the Local Planning Authority in respect of the alleged planning contravention outlined above, by exercising the powers and duties of the Authority (as applicable) under Parts VII and VIII of the Town and Country Planning Act 1990 (including any amendments to or re-enactments of the Act or Regulations or Orders made under the Act) in respect of the above Property.

### *General Note*

*This specific delegated authority will, in addition to being the subject of subsequent report back to Members in the event of Enforcement Action either being taken, not being taken or subsequently proving unnecessary as appropriate, be subject to:*  
*(a) all action being taken on behalf of the Council and in the Council's name;*

- (b) all action being subject to statutory requirements and any aspects of the Council's strategy and programme;*
- (c) consultation with the appropriate professional or technical officer of the Council in respect of matters not within the competence of the Head of Planning Services, and*
- (d) maintenance of a proper record of action taken.*



RECEIVED  
4 FEB 2009  
TAMBRIDGE HOUSE

09/00367/TUL

CLIENT	LOCATION	PROPOSAL	DRG. No.	SCALE
M5 J. WILSON	THE OLD ORCHARD 1 THE SHRUBBERY PORTLAND PLACE, BATH, BA1 2RU	NEW DWELLING	4	1:1250 / 500 A3
			REV.	DATE
			A	DEC 08

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**Planning & Transport Development  
Bath & North East Somerset Council  
PO Box 5006  
Bath  
BA1 1JG**

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**Lisa Bartlett**  
**Development Manager**  
Telephone: (01225) 477281  
E-mail: [lisa\\_bartlett@bathnes.gov.uk](mailto:lisa_bartlett@bathnes.gov.uk)  
Date: 14th July 2011  
Our Ref: 11/02513/COND

Ms J Wilson  
4 Portland Place  
Bath  
BA1 2RU

Dear Ms Wilson

**Ref The Shrubbery, Portland Place, Bath  
11/02513/COND**

I have now had the opportunity to visit the site following our meeting on 6<sup>th</sup> July 2011. I will not deal with your complaint about how this case has been handled in this correspondence as this will be subject to a reply under separate cover through the Council's Corporate Complaints Procedure. Here I will only deal with the planning and highway merits of what has been built on site.

I appreciate that you have experienced some difficulties in attempting to deal with the situation but the following views are based upon the planning merits of what exists on site when compared with the approved details. I have made some suggestions in terms how you could consider regularising the situation.

It is not possible for us to discharge condition number 10 of application reference 09/00367/FUL under the application 11/02513/COND. This is because the work that has taken place on site is, as a matter of fact, different, from that shown on the approved plans. The approved plans indicate two wooden gates to form the access with a relatively wide section of wall between the wooden gates and the footpath along side the electricity substation.

There are two issue to consider here. Whether the development, as it has been built on site, is acceptable in highway safety and appearance terms; and what to do in relation to the application to discharge the condition that is with us.

My view is that it would not be safe to drive a vehicle over the shrubbery. You say you do not want to do this but the wooden gates as built would allow this to happen if opened, although in my view the steepness of the camber from the parking space to the footpath would make it difficult to cross the footway without damaging the front of any car. I do not think it would be possible for any emergency vehicle to drive through the parking space onto the Shrubbery and have been advised

that the fire service would not attempt to drive a vehicle through the parking space but would approach the house on foot. There is no justification (and no additional risk to your wellbeing as a result) for any vehicular access through the parking space.

The loose surface used for the surface of the parking space is unacceptable and contravenes the requirements of condition 10 of permission 09/00367/FUL. The surface needs to be of a bound material. You will need to ensure that water does not run off the site onto the public footpath where it would create a nuisance and hazard, especially in freezing weather.

The appearance of the wooden doors as built is acceptable (I will comment on the stone used below).

I suggest that you withdraw the current application (11/02513/COND) and resubmit an application to vary condition 10 of permission 09/00367/FUL. You should seek to vary the condition to allow the retention of the three wooden gates. You were unhappy with my suggestion to place a bollard in front of the parking space to preclude vehicular access across The Shrubbery, when we spoke on Tuesday, unless you also had a key. As I explained this would preclude the point of locking the bollard as any occupier of the house could remove it at will and therefore drive across The Shrubbery. I therefore suggest that you indicate on the revised plans that the two wooden gates to the left of the pedestrian gate (when viewed from The Shrubbery) are revised to make them a non opening wooden fence panel. There is no safe way to drive across the footpath because of potential danger to pedestrians, potential damage to any car and because the emergency services would not be able to drive through the parking space in any case.

I can see no reason why you would not consider revisions in light of your clear statement that you do not wish to drive over the footpath. This measure would also preclude any future occupier from attempting to drive across the path.

You need to ensure that the correct surface is used for the parking space and ensure that water does not drain onto the footway.

I would be grateful if you would confirm your views in relation to these suggestions within 21 days of the date of this letter.

Turning to the stone that has been used for the house and boundary wall.

As a matter of fact, the stone that has been used does not match the stone that formed the sample panel that was viewed on site prior to the relevant condition being discharged. We have a photographic record of this sample panel and any reasonable person would, in my view, agree that the stone that has actually been used is far more orange than the approved sample.

So we need now to consider whether the alternative stone is acceptable in terms of the location of the site within the World Heritage Site, Conservation Area and in close proximity to several listed buildings.

In my view it is not. The colour jars with the natural Bath stone surrounding the site and is harmful to the character and appearance of this part of the Conservation Area and World Heritage Site. I do not believe that it will fade to Bath stone shades as you suggest. It is necessary for the Local

Planning Authority to consider whether it would be expedient to take enforcement action in relation to such a breach. In my opinion, since there are no clear public views of the house and because of the specific design which incorporates large glazed sections and single storey elements, I do not think it would be expedient to seek the replacement of the stone on the house. However, if this matter is considered by the Development Control Committee the Members may reach a different conclusion.

I do not have the same view in relation to the boundary wall which runs, for some length, along a busy public footpath.

My suggestion is that you consider discussing further with us how the prominence of the orange stone can be reduced in order to ensure an appropriate match with the surrounding stone.

In this regard, I invite you to submit some informal proposals to us for further consideration. You may wish to obtain some planning advice from a heritage expert in this regard.

Please confirm whether this would be your intention within 21 days of the date of this letter.

If you do not wish to consider my suggestions, I will prepare a report for the Council's Development Control Committee to address not only the concerns regarding the stone but also the parking space. The report will include any comments that you may wish to submit to the Planning Authority although we will only be able to consider material planning comments and not concerns raised in relation to how you consider the case has been dealt with. In the event that such a report is necessary you will also have the opportunity to attend the relevant committee meeting and make a statement to Members before they debate the issues.

I very much hope that this will not be necessary as I believe that with some amendments you should be able to regularise the scheme which will satisfy concerns relating the harm being caused in relation to the detrimental impact upon highway safety and the character and appearance of the Conservation Area, World Heritage Site and nearby listed buildings

Please respond to Victor Oyewole, Senior Enforcement Officer at this office by 4th August 2011.

Yours sincerely

Lisa Bartlett  
Development Manager

Cc Victor Oyewole

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<b>Bath &amp; North East Somerset Council</b>		
<b>MEETING:</b>	<b>Development Control Committee</b>	<div>AGENDA ITEM NUMBER</div> <div></div>
<b>MEETING DATE:</b>	<b>23<sup>rd</sup> November 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:** 11/02409/FUL  
**Location:** North Hill Farm Pagans Hill Upper Chew Stoke Bristol BS40 8UH  
**Proposal:** Change of use of building No. 6 to provide ancillary bedroom accommodation to the farmhouse. (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 21 July 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 13 October 2011

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**App. Ref:** 11/03561/LBA  
**Location:** 2 Northumberland Buildings Wood Street City Centre Bath  
**Proposal:** External alterations for the display of 1 no. cut-out letters sign  
**Decision:** REFUSE  
**Decision Date:** 10 October 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 19 October 2011

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**App. Ref:** 11/00005/FUL  
**Location:** 1 Ivy Cottages Shaft Road Monkton Combe Bath Bath  
**Proposal:** Erection of rear extensions (revised resubmission).  
**Decision:** REFUSE  
**Decision Date:** 16 June 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 26 October 2011

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**App. Ref:** 11/00006/LBA  
**Location:** 1 Ivy Cottages Shaft Road Monkton Combe Bath  
**Proposal:** Internal and external alterations to include the erection of rear extensions and alterations to layout.  
**Decision:** REFUSE  
**Decision Date:** 10 June 2011  
**Decision Level:** Chair Referral  
**Appeal Lodged:** 26 October 2011

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**App. Ref:** 11/03374/FUL  
**Location:** Cosy Club 20 Southgate Place Bath BA1 1AP  
**Proposal:** Installation of a new shopfront to Cosy Club Restaurant/Bar (retrospective) (resubmission).  
**Decision:** REFUSE  
**Decision Date:** 29 September 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 26 October 2011

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**App. Ref:** 11/03195/FUL  
**Location:** 28 Audley Grove Lower Weston Bath BA1 3BT  
**Proposal:** Erection of two storey rear extension and bay window to side elevation  
**Decision:** REFUSE  
**Decision Date:** 16 September 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 27 October 2011

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**App. Ref:** 11/01712/FUL  
**Location:** 11 Lyndhurst Road Twerton Bath BA2 3JH  
**Proposal:** Conversion and extension to garage to form new dwelling  
**Decision:** REFUSE  
**Decision Date:** 21 June 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 3 November 2011

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**App. Ref:** 09/04350/FUL  
**Location:** Land Between Old Coal Tips And The Firs Chapel Road Clandown Radstock  
**Proposal:** Change of use of land to provide secondary peak time vehicle access to/from Tiger Works with provision of 5no. customer parking spaces and landscape moundings  
**Decision:** Non-determination  
**Decision Date:** 6 July 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 7 November 2011 (change in procedure to Hearing, previously lodged 6<sup>th</sup> July as Written Representations)

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**App. Ref:** 11/02342/FUL  
**Location:** 7 Kingsway Southdown Bath BA2 2NH  
**Proposal:** Provision of 1no. rear dormer  
**Decision:** REFUSE  
**Decision Date:** 23 August 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 8 November 2011

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## APPEAL DECISIONS

**App. Ref:** 10/02405/FUL  
**Location:** Thai by the Weir, 16 Argle Street, Bath  
**Proposal:** Use of pavement in front of Thai by the Weir for the siting of 4no. tables and 10no. chairs.  
**Decision:** **Refused**  
**Decision Date:** **17/08/2010**  
**Decision Level:** **Delegated**  
**Appeal Decision:** **Dismiss**

**Summary:** The wide pavement adjoining the terrace is part of this special street scene, giving a sense of space and elegance, and enhancing the vista described above. While the seating would not take up the full width of it, the presence of furniture here would be intrusive, harming the character and appearance of the Conservation Area and adding to the clutter which already results from advertising boards set out along the pavement. The proposal does not accord with Planning Policy Statement 5's objective that new development should make a positive contribution to the character and local distinctiveness of the historic environment. Neither does it meet policies in the Local Plan (2007) which seek to conserve the setting of listed buildings and the character and appearance of Conservation Areas. More specifically, policy S.7 permits tables and chairs outside premises only where they would not adversely affect a Conservation Area and/or the setting of an individual group of listed buildings.

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**App. Ref:** 10/05204/FUL  
**Location:** 25 Bailbrook lane, Lower Swainswick, Bath  
**Proposal:** Erection of new dwelling on parking area to rear of 25 Bailbrook Lane and associated car parking and landscaping.  
**Decision:** **Recommend to Refuse**  
**Decision Date:** **Non-determination**  
**Decision Level:** **Delegated**  
**Appeal Decision:** **Dismiss**

**Summary:** Although the design and materials would be contemporary, its scale and height would not be out of keeping with the streetscene, or several recently developed properties which are visible from the access lane. On balance, the proposal would maintain the character and appearance of the Conservation Area, in line with the statutory requirement and *Bath and North East Somerset Local Plan* (2007) (LP) policies D2, D4 and BH6. I consider that the design and

orientation of the proposed windows would not unduly harm the privacy of neighbouring occupiers. In relation to outlook and light, however, the small size of the plot, combined with proximity to neighbouring properties and the pronounced slope, means that even a modest dwelling would have a significant impact on the living conditions of some neighbouring occupiers, especially at a lower level. Conclude that the ingenuity of the appellant's design would not overcome the unacceptable impact of the mass and height of the proposal on such a small site, which would unacceptably harm the living conditions of the neighbouring occupiers by reason of visual dominance, loss of outlook and loss of natural light.

**Appeal for costs: Dismissed**

Consider that, from the balance of the evidence before me, the Council informed the appellant within the period required by paragraph B11 as to why it was unable to come to a decision within the allotted time. This has not resulted in unnecessary expense, as described in Circular 03/2009, and therefore an award of costs is not justified. I consider that the balance of probability is that the Council officers made their concerns clear from an early stage. I do not find, therefore, that the Council has acted unreasonably, either in its pre-application discussions or in coming to a final view, even if that final view did not accord with any initial indications given by the case officer.

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<b>App. Ref:</b>	10/03877/FUL
<b>Location:</b>	1 Holly Court, High Street, Midsomer Norton
<b>Proposal:</b>	Change of use of Units 1 & 2 from retail (Use Class A1) to Use Class A3
<b>Decision:</b>	<b>Refuse</b>
<b>Decision Date:</b>	<b>03/12/2010</b>
<b>Decision Level:</b>	<b>Delegated</b>
<b>Appeal Decision:</b>	<b>Dismiss</b>

**Summary:** No empirical evidence has been provided to quantify the level of vacancies in the town centre but, based on my experience; it appeared to me that the level of vacancies was not unusual in comparison with other towns of a similar size.

The existing level of vacancies in the town does not warrant a departure from local policy. I understand the attraction to the appellant of providing a café/restaurant, but as I saw, and as many objectors pointed out, the centre is not short of such facilities. One of the main objectives of policy S.5 is to ensure that the town's shopping function is maintained by recognising and supporting a strong accessible shopping core. This proposal, if allowed, would weaken this function, contrary to policy. No other compelling arguments have been presented to justify a departure from the unequivocal provisions of LP policy S.5. Accordingly I conclude, since the proposal would harmfully dilute the principal function of the designated primary shopping frontage of the town.