

**Democratic Services**

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**Your ref:**

**Our ref:** DT

**Date:** 22 August 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

**For information:**

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Development Control Committee: Wednesday, 31st August, 2011**

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 31st August, 2011 at 2.00pm** in the **Brunswick Room - Guildhall, Bath.**

The Chairman's Briefing Meeting will be held at 10.00am on Tuesday 30<sup>th</sup> August in the Meeting Room, Lewis 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, 31st August, 2011**

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

**AGENDA**

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 3RD AUGUST 2011 (Pages 9 - 22)

To approve as a correct record the Minutes of the previous meeting held on Wednesday 3<sup>rd</sup> August 2011

9. MAJOR DEVELOPMENTS

The Senior Professional – Major Developments to provide an oral update

10. PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 23 - 36)

11. PLANNING AND LICENSING LEGISLATION (Pages 37 - 42)

Referring to the Statement made by Edward Drewe at the previous meeting, to consider a joint report by the Development Manager and Senior Legal Advisor addressing the issue of the perceived conflict between licensing and planning as regards food outlets open after 11pm

12. TREE PRESERVATION ORDER - LAND BETWEEN 6 AND WILMSLOW, BANNERDOWN ROAD, BATHEASTON, BATH NO 15 (Pages 43 - 48)

To consider a report by the Senior Arboricultural Officer recommending confirmation, without modification, of the above Tree Preservation Order

13. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 49 - 52)

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, 3rd August, 2011

Present:- Councillor Gerry Curran in the Chair

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

**23 EMERGENCY EVACUATION PROCEDURE**

The Senior Democratic Services Officer read out the procedure

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

A Vice Chair was not required

**25 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

An apology for absence was received from Councillor David Veale whose substitute was Councillor Sally Davis

**26 DECLARATIONS OF INTEREST**

Councillor Liz Hardman stated for the record that she had attended Paulton Parish Council when the planning applications at Midsomer Pet Lodge, Paulton – to be determined at today's meeting - had been considered but that she had not taken part. She would therefore participate in the discussion and vote when these applications were considered by the Committee later in the meeting.

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

There were no items of Urgent Business

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

The Senior Democratic Services Officer reported that notice of a statement had been received and that this should be taken at this stage of the proceedings. There was also a representative for the applicants wishing to make a statement on Item 2 of the planning applications and she would be heard when reaching that Item in Report 10. Both speakers would have up to 3 minutes to make their statements.

The Chair invited Edward Drewe to make his statement regarding a perceived conflict between licensing and planning as regards food outlets open after 11pm. He

referred to documentation sent direct to Members about this matter. After hearing the statement, the Members discussed the issue. The Senior Legal Adviser responded to some of the points raised by Members and advised that licensing and planning were separate statutory regimes and that different criteria applied in the determination of licensing and planning applications. Members debated the issue and it was **RESOLVED** that a report be made to the next meeting with Edward Drewe being kept informed accordingly.

(Note: A copy of the document on this matter provided by Edward Drewe to Committee Members has been retained in the Minute Book)

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

There were no items from Councillors

## **30 MINUTES: WEDNESDAY 6TH JULY 2011**

The Minutes of the previous meeting held on Wednesday 6<sup>th</sup> July 2011 were approved as a correct record and signed by the Chair, subject to Councillor Martin Veal's name being added to the comments made about renewable energy aspects of the proposals at Bath Spa University (Items 8 and 9, Minute 22, Page 15)

## **31 MAJOR DEVELOPMENTS**

The Senior Professional – Major Developments updated the Committee on major developments in the district as follows:

K2 Keynsham – The Secretary of State had issued his decision to allow the appeal against the Council's refusal of development on the plot of land owned by Taylor Wimpey. An application for costs had been made. He would report on progress at a later date. If any Member would like a copy of the decision letter, they could contact the Committee Administrator to forward the request to him. He responded to Members' questions about various aspects of the proposed development.

Bath Western Riverside – A further application had been received from Crest Nicholson to develop 4 houses on some adjoining land which would complete the development. In response to a Member's comment, he stated that it was likely that the development would be completed ahead of schedule.

Former Railway Land, Radstock (Norton Radstock Regeneration) – In response to an enquiry by Councillor Eleanor Jackson about the road system, he stated that this was still a live application and couldn't comment on it. However, the highway works were being investigated and 2 Traffic Regulation Orders were being advertised. A further report on this development would probably be made to Committee at its September meeting. He advised that the Highways Department would be able to provide further information on the road system etc.

Supermarket developments in Bath – In response to a comment by the Chair, he stated that these were live applications and he couldn't comment except to say that Tesco hoped to develop the former Bath Press site on Lower Bristol Road, Bath, and that Sainsbury's were looking to extend their existing supermarket at Green Park

Station, Bath. It was anticipated that these applications could come before the Committee at its meeting in September.

Bath Spa Railway Station/Bus Station – Councillor Neil Butters raised the issue of works at the Railway Station which could have a large impact and considered that this should be included in the major developments on which the Committee were updated. Councillor Les Kew provided information on the prospective completion date. The Senior Professional – Major Developments agreed to include this site in his regular updates to the Committee. There was further discussion regarding wc facilities not being available at the Bus Station with no directions to other public conveniences. This was the responsibility of First Group. It was stated that the facilities at the rear of Debenhams in Southgate closed from 5pm. The Chair stated that he would see what he could do to ensure that better facilities could be provided in the future. The Senior Professional – Major Developments requested that he be advised in advance if there were any other major developments on which Members would like to be updated at Committee.

Lidl's – In response to a Member's query, the Chair stated that there were some issues to be resolved but it was hoped that permission could be issued shortly.

Somerdale, Keynsham – The Senior Professional – Major Developments reported that, after undertaking a marketing exercise, the owners, Cadbury Kraft, had short-listed 3 developers for the site and that discussions/negotiations would be carried out with the successful developer and the Council later in the year.

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

The Committee considered

- The report of the Development Manager on two planning applications at Midsomer Pet Lodge, Paulto' Hill, Paulton
- An Update Report by the Development Manager on Item 2, the Report being attached as *Appendix 1* to these Minutes
- An oral statement by a Trustee for Greyhound Rescue West of England speaking on behalf of the applicants, the Speakers List being attached as *Appendix 2* to these Minutes

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

**Item 1 Midsomer Pet Lodge, Paulto' Hill, Paulton – Erection of replacement kennel building (Retrospective)** – The Case Officer reported on this application and his recommendation to Permit with conditions. He stated that the wording of the recommended Condition 3 relating to land drainage assessment would need to be amended to ensure that the drainage works were carried out.

Members discussed the proposal. Councillor Liz Hardman considered that the proposal would not have a greater impact on the countryside or highway as there was no significant increase of the existing facilities provided. Also the facility existed prior to the residential dwelling on land adjoining the site and she felt that the amenities of the residents would not be significantly affected. The proposal, however, would benefit from some landscaping. She pointed out that the Parish Council supported the application. Councillor Hardman then moved the Recommendation to Permit with conditions which was seconded by Councillor Les Kew. Councillor Eleanor Jackson then read out a comment received from Councillor John Bull, one of the Ward Councillors, who supported the application.

Members debated the motion. Councillor Martin Veal referred to the “dazzling effect of the spotlight” to which an objector had referred and he enquired whether this could be mitigated. The Case Officer advised that a condition could be added accordingly. The mover and seconder of the motion agreed to this addition. Councillor Doug Nicol queried whether photovoltaic cells could be added to the roof for renewable energy purposes. The Case Officer responded that this was not part of the current application and could not be included without negotiation with the applicants.

The motion was then put to the vote. Voting: 11 in favour and 0 against with 1 abstention. Motion carried.

**Item 2 Midsomer Pet Lodge, Paulto’ Hill, Paulton – Use of store/office/cattery building as a 2 bedroomed dwelling and office with alterations to existing external appearance** – The Case Officer reported on this application and his recommendation to Refuse permission. The Update Report commented on further letters of support received.

The public speaker made her statement in support of the proposal. The Senior Legal Adviser commented on some of the issues raised in the statement as regards the legal status of the current Enforcement Notice on the property and the consequences if permission was granted for this proposal.

Councillor Liz Hardman opened the debate. She considered that this was a long established enterprise which was acceptable in a rural area. The adjoining house was originally part of the enterprise but the land had been divided some years ago. She commented that this was a useful facility located only a short distance from the community and felt that the kennels needed residential occupation on site for the welfare of the animals. The occupation of the dwelling could be tied to the business. She therefore considered that the recommendation should be overturned and accordingly moved that permission be granted. The motion was seconded by Councillor Neil Butters. Councillor Eleanor Jackson then read out the comments of Councillor John Bull, one of the Ward Councillors, who supported the application.

The Chair commented on some of the issues raised by Councillor Hardman. Councillors Les Kew and Bryan Organ asked questions about Council Tax payments and also the Enforcement Notice applying to the premises to which the Senior Legal Adviser responded. Members debated the motion. Some Members considered that there needed to be permanent residential occupation on the site for the wellbeing of the animals. The issue of the Enforcement Notice was discussed. The Case Officer responded that the Notice still applied to the property but no action had been taken to prosecute due to the personal circumstances of the then occupiers. The Senior

Legal Adviser responded on the legal situation if permission was either granted or refused. Reference was made by some Members to applications for residential dwellings required in conjunction with agriculture. Some Members were not convinced that permanent residential occupation was required on the site. The Chair pointed out that there was always the possibility that the business could fail or the applicants could retire etc which would then provide a permanent residence on the site without an allied business use. The Team Leader – Development Management emphasised the planning history of the site with a number of appeals against refusal being dismissed. The need for a permanent residential use had not been proven. He advised that, if permission was granted, it would need to be delegated to the Officers for appropriate conditions to be added. Also Members should be clear about the reasons for granting planning permission. It was also clarified that any permission would be subject to a Section 106 Agreement tying the residence to the business. This was accepted by the mover and seconder. Councillor Liz Hardman confirmed the reasons for granting permission.

The amended motion was then put to the vote. Voting: 6 in favour and 6 against. As there was an equality of voting, the Chair decided to use his second and casting vote against the motion. The voting was therefore 6 in favour and 7 against. Motion lost.

It was therefore moved by Councillor Les Kew to accept the Officer recommendation to Refuse permission which was seconded by Councillor Eleanor Jackson. The motion was put to the vote. Voting: 6 in favour and 6 against. As there was an equality of voting, the Chair decided to use his second and casting vote in support. Voting: 7 in favour and 6 against. Motion carried.

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

The report was noted

The meeting ended at 4.07 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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**BATH AND NORTH EAST SOMERSET COUNCIL**

**Development Control Committee**

**3 August 2011**

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

**ITEM 10**

**ITEMS FOR PLANNING PERMISSION**

Item No	Application No	Address	Page No
02	10/05372/FUL	Midsomer Pet Lodge, Paulto' Hill, Paulton	62

3 letters of support have been received, making the following points:

- the applicants/operators are committed and enthusiastic;
- the kennel facilities have been improved;
- a residential property is essential in providing 24hour care and security;
- travel to work, and other journeys, would be reduced;
- refusal would result in neglect of the property;
- the proposal is supported by the Parish Council;
- night staffing expensive, and would result in caravans, etc.;
- relates to a thriving small business;
- improvements to the building will result;
- represents a local, rural amenity; and
- history of the site is irrelevant.

Officer comment:

The enthusiasm and commitment of the applicants, in improving the kennel facilities, is not doubted. A residential property is not however considered to be essential; and night care could be facilitated by the existing building(s). Perceived improvements to the building are negligible. The authorised use of the site as kennels, and the support of the Parish Council, are noted. The history of the site is a material consideration. Overall, the perceived benefits of the proposal do not outweigh the identified harm.

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

**MEMBERS OF THE PUBLIC ETC WHO MADE A STATEMENT AT  
DEVELOPMENT CONTROL COMMITTEE AT ITS MEETING ON  
WEDNESDAY 3<sup>RD</sup> AUGUST 2011**

**SITE/ITEM                                      NAME/REPRESENTING    FOR/AGAINST**

<b>ITEM 6 ITEMS FROM THE PUBLIC</b>		
Conflict between licensing and planning as regards food outlets open after 11pm	Edward Drewe, Planning Consultant	Statement
<b>ITEM 10 PLANS LIST</b>		
Midsomer Pet Lodge, Paulto' Hill, Paulton (Item 2, Pages 62 - 66)	Jan Lake, Trustee for Greyhound Rescue West of England (representing the Applicants)	For

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**BATH AND NORTH EAST SOMERSET COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**3rd August 2011**

**DECISIONS**

<b>Item No:</b>	01	
<b>Application No:</b>	10/05370/FUL	
<b>Site Location:</b>	Midsomer Pet Lodge, Paulto' Hill, Paulton, Bristol	
<b>Ward:</b> Paulton	<b>Parish:</b> Paulton	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of replacement kennel building (Retrospective)	
<b>Constraints:</b>	Agric Land Class 1,2,3a, Coal fields, Forest of Avon,	
<b>Applicant:</b>	Mr And Mrs Jim And Paula Talbot	
<b>Expiry Date:</b>	24th March 2011	
<b>Case Officer:</b>	Andy Pegler	

**DECISION** PERMIT with following conditions:

1 Notwithstanding the details submitted, within one month of the date of this permission a soft landscape scheme and a programme of implementation shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in accordance with approved details.

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

2 The external finishes shall be applied in accordance with the submitted details, within one month of the date of this permission, unless otherwise agreed in writing by the Local Planning Authority.

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

3 Within one month of the date of this permission a land drainage assessment shall be submitted to, and approved in writing by the Local Planning Authority, and within four months of the date of this permission these approved details shall be fully implemented on site.

Reason: To ensure the provision of an appropriate drainage infrastructure.

4 Within one month of the date of this permission details of all external lighting, both existing and proposed, shall be submitted to the Local Planning Authority for approval and no other external lighting shall be installed at the site unless a further planning permission is granted.

Reason: In the interests of the appearance of the site, the amenities of nearby residents and to ensure minimum impact on any wildlife.

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:** This decision relates to Design and Access Statement, photographs, location plan, drawing nos.1362/02 and /03 all stamped 16 December 2010 and drawing no.1362/09 date stamped 27 January 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 building, the subject of recent works will not, with appropriate conditions, have a significant impact upon the appearance of the site on the landscape character of the surrounding area.

4. The building relates to an authorised use and existing residential amenities will not be significantly affected.

A

Bath and North East Somerset Local Plan including minerals and waste policies adopted for October 2007.

T.24 - General development control and access policy;

D.2 - General design and public realm considerations.

NE.1 - Landscape character

ES.5 - Drainage

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

Policies T.24, D.2, NE.1 and ES.5 are Saved Local Plan Policies.

**INFORMATIVE:** This permission relates to only to the replacement kennel building, and does not authorise the erection or placement of any other buildings or structures within the site.

<b>Item No:</b>	02
<b>Application No:</b>	10/05372/FUL
<b>Site Location:</b>	Midsomer Pet Lodge, Paulto' Hill, Paulton, Bristol
<b>Ward:</b> Paulton	<b>Parish:</b> Paulton <b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Use of store/office/cattery building as a 2 bedroomed dwelling and office with alterations to existing external appearance
<b>Constraints:</b>	Agric Land Class 1,2,3a, Coal fields, Forest of Avon,
<b>Applicant:</b>	Mr And Mrs James And Paula Talbot
<b>Expiry Date:</b>	10th February 2011
<b>Case Officer:</b>	Andy Pegler

**DECISION** REFUSE for the following reasons

1 The proposal would introduce an inappropriate residential use into this area of predominantly open countryside, to the detriment of its rural character, and contrary to Policies ET.9, HG.10 and D.2 of the Bath and North East Somerset Local Plan 2007; and to the aims of PPS 7 and PPG 13.

2 The proposal, located remote from services, employment opportunities and being poorly served by public transport and in the absence of an essential need, is contrary to the key aims of Planning Policy Guidance Note 13 which seeks to reduce growth in the length and number of motorised journeys.

**PLANS LIST:** This decision relates to Design and Access Statement, photographs, location plan and drawing nos.1362/04A, 05, 06A, 07B and 08 all date stamped 16 December 2010.

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<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	<b>31st August 2011</b>
<b>RESPONSIBLE OFFICER:</b>	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)
<b>TITLE:</b>	<b>APPLICATIONS FOR PLANNING PERMISSION</b>
<b>WARDS:</b>	ALL
<b>BACKGROUND PAPERS:</b>	
<b>AN OPEN PUBLIC ITEM</b>	

AGENDA  
ITEM  
NUMBER

**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.

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02	11/02635/FUL 19 August 2011	Mr Daniel Richards 96 Entry Hill, Combe Down, Bath, Bath And North East Somerset, BA2 5LT Provision of loft conversion with rear dormer	Lyncombe	Jonathan Fletcher	REFUSE
03	11/02371/LBA 29 July 2011	Mr Thomas Parkinson 12 Bennett Street, City Centre, Bath, Bath And North East Somerset, BA1 2QJ Internal alterations to replace existing carpet with floating Bamboo flooring in galleries	Abbey	Caroline Waldron	REFUSE



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

**Item No:** 01  
**Application No:** 11/02459/FUL  
**Site Location:** Barton House, The Barton, Corston, Bath



**Ward:** Farmborough

**Parish:** Corston

**LB Grade:** N/A

**Ward Members:** Councillor S Davis

**Application Type:** Full Application

**Proposal:** Erection of a single storey front and side extensions and a rear orangery.

**Constraints:** Agric Land Class 1,2,3a, Conservation Area, Forest of Avon, Greenbelt, Housing Development Boundary,

**Applicant:** Mr B Houghton

**Expiry Date:** 8th August 2011

**Case Officer:** Tessa Hampden

## **REPORT**

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

Cllr Sally Davis - Requests that this application comes before Development Control Committee if the officer is minded to refuse and the Parish Council support it as there have recently been other applications in this area [The Barton] with varying outcomes there is the need to be consistent in our decisions.

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

The application relates to a large detached cottage located at the end of the Barton in the village of Corston. The site is within the Corston Conservation Area and within the designated Green Belt. The site is also within the Housing Development Boundary of Corston. The dwelling has previously been extended by virtue of a two storey side extension and a kitchen porch area. There is also a large detached garage building within the application curtilage that would appear to be a more recent addition to the site.

The application seeks planning permission for the erection of a single storey front and side extensions and a rear orangery.

### **RELEVANT PLANNING HISTORY:**

WB11009/A Construction of kitchen porch permitted 6/4/84

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

Parish Council - No objections

### **POLICIES/LEGISLATION**

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

The following polices are relevant in this case:

- GB.1 Control of development in the Green Belt
- GB.2 Visual amenities of the Green Belt
- BH.6 Development within or affecting Conservation Areas
- HG15 Dwelling extensions in the Green Belt
- D.2 General design and public realm considerations
- D.4 Townscape considerations
- T.24 General development control and access policy
- T.26 On-site parking and servicing provision

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

Policy HG.15 states:

"Proposals to extend a dwelling in the Green Belt will be permitted unless they would:

- i) represent a disproportionate addition over and above the size of the original dwelling; or
- ii) contribute to a deterioration in rural character as a result of the cumulative effect of dwelling extensions."

Supplementary Planning Document - Existing Dwellings in the Green Belt adopted 2008.

PPG 2- Green Belts states that there is a general presumption against inappropriate development within Green Belts and that inappropriate development is, by definition, harmful to the Green Belt. It goes on that the construction of new buildings in the Green Belt is inappropriate development unless it is included in the listed exceptions one of which is for limited extension, alteration or replacement of existing dwellings. It advises that as long as it does not result in disproportionate additions over and above the size of the original building, the extension or alteration of dwellings is not inappropriate in Green Belts.

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:

GB2, CP8, BH6, HG15, D2, D4, T24, T26

### **OFFICER ASSESSMENT**

**PRINCIPLE OF DEVELOPMENT:** Policy GB.1 of the adopted Local Plan follows the guidance in Planning Policy Guidance 2 and states that permission will not be given for development, inter alia, except for limited extensions provided it is in accordance with Policy HG.15. Policy HG.15 of the Local Plan further requires that in relation to existing dwellings permission will not normally be given for development other than limited extensions that do not result in a disproportionate addition over and above the size of the original dwelling or contribute to a deterioration in rural character as a result of the cumulative effect of dwelling extensions.

In order to assess whether the proposed development does constitute inappropriate development and is therefore harmful by definition, it is necessary to consider the advice contained in the Councils Supplementary Planning Document on extensions in the Green Belt which was adopted to give advice on the Councils interpretation of Policy HG.15.

In order to guide consideration of what constitutes a disproportionate addition to the original building a calculation of its volume of the original building can be used. "Original" means how the building existed on the 1st July 1948 or if the building was built after this date, as originally built.

The dwelling has previously been extended by virtue of a two storey side extension and a kitchen porch extension. This represents approximately a 55% increase on the original dwelling. The property also benefits from a large double garage which would not appear to be original to the property. Although the agent believes this replaced an existing building, there does not appear to be evidence of this on the planning history maps.

The application seeks permission for further extensions, and these would represent approximately a further 20% increase over that of the original dwelling, meaning cumulatively the extensions would represent approximately a 70% increase. In volume terms, the development when assessed with previous extensions can therefore not be considered to be a proportionate addition.

The Supplementary Planning Document also makes it clear that when considering whether an extension is disproportionate, the character of the dwelling and its surroundings also need to be considered. The overall footprint of the dwelling would be expanded further into the site, and the extensions when considered with the previous extensions would have a materially greater impact visually on the site. The development when considered with the previous extensions is therefore considered to appear as a disproportionate addition to the original dwelling.

The extensions are single storey, appearing as subservient additions to the existing dwelling, and as such they do not have a significant impact upon rural character and the openness of the Green Belt. However as the extension is considered to be a disproportionate addition to the dwelling in both its volume and appearance, it is considered to be inappropriate development within the Green Belt.

The Agent has stated that there is the need for the development due to the requirements of the applicant to have an elderly relative live with them. A supporting letter from this elderly relative's doctor, confirming this need has been submitted by the Agent. However, whilst this need is recognised, as 'The Planning System: General Principles' points out, arguments relating to the personal circumstances of an occupier will seldom outweigh the more general planning considerations.

The agent has put forward further very special circumstances to demonstrate that the application should be granted planning approval. It is stated that as Barton House lies within the Housing Development Boundary, given its generous plot size, it is perfectly feasible and in line with Local Plan Policy, to sub-divide the property into two single dwellings. The Agent considers that on balance permission would be likely to be approved as the plot size is generous enough to incorporate the necessary parking, on site turning of vehicles and adequate residential amenity land for the proposed new dwellings. Planning permission has also recently been granted for a new dwelling house in the grounds of Lower Meadow, which lies to the west of the subject property, and Highways' recommendations at that time would indicate that the provision of an additional dwelling at Barton House would be acceptable.

The Agent continues to argue that if two separate dwellings were formed on the site, these could then individually be extended by 30-35% increase in volume, as this percentage would be in addition to the original volume of the property, i.e. once they had been created under planning approval. The Agent cites that the size of any potential extension under this scheme would be far in excess of the size of the proposals currently under consideration. The Agent considers these facts to be exceptional circumstances, which should be given material consideration under the current application.

Whilst the comments of the agent are duly noted, they do not outweigh the harm identified above. They are not deemed to represent very special circumstances as they could be repeated in a number of instances for properties that lie within the Housing Development Boundary and the Green Belt. Also, it is not certain that planning permission would be granted for the subdivision of this dwelling and any future extensions on any newly created dwelling would be judged on their own merits and again planning permission would not necessarily be granted for extensions if they were deemed to conflict with the reasons for including land within the Green Belt. It is also possible that if planning

permission were granted to subdivide the building permitted development rights could be removed by a condition of the permission.

On balance therefore, the development as proposed is considered to represent inappropriate development within the Green Belt.

**CHARACTER AND APPEARANCE:** The original character of the cottage has been lost by virtue of the erection of the two storey extension which has effectively tuned the modest size cottage into a relatively generously sized dwelling. The extensions proposed would, due to their single storey nature, appear as subservient additions to the host dwelling. Their acceptable design and use of materials ensures that the development would integrate successfully with the existing dwelling.

Overall therefore the proposed dwelling is considered to preserve the character and appearance of the property, and this part of the Conservation Area.

**RESIDENTIAL AMENITY:** The proposed extensions are set a sufficient distance away from the neighbouring properties and are of an appropriate scale, as to ensure that there will be no detrimental impact upon the residential amenity currently enjoyed by the neighbouring occupiers.

**CONCLUSION:** The proposed development, due to the design, size, scale and siting of the extension would result in a disproportionate addition over and above the size of the original dwelling. This represents inappropriate development within the Green Belt which is, by definition harmful. No very special circumstances have been demonstrated to outweigh the presumption against inappropriate development in the Green Belt. It is therefore recommended that this application is refused.

## **RECOMMENDATION**

REFUSE for the following reasons

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

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

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

**Item No:** 02  
**Application No:** 11/02635/FUL  
**Site Location:** 96 Entry Hill, Combe Down, Bath, Bath And North East Somerset



**Ward:** Lyncombe                      **Parish:** N/A                      **LB Grade:** N/A  
**Ward Members:** Councillor Katie Hall                      Councillor D F Bellotti  
**Application Type:** Full Application  
**Proposal:** Provision of loft conversion with rear dormer  
**Constraints:** Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, Water Source Areas, World Heritage Site,  
**Applicant:** Mr Daniel Richards  
**Expiry Date:** 19th August 2011  
**Case Officer:** Jonathan Fletcher

## **REPORT**

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

A request has been submitted from Councillor David Bellotti for the application to be considered by the Committee if officers are minded to recommend refusal as he considers that the proposal would have an acceptable impact on the visual amenity of the area.

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

The application relates to a mid terrace dwelling located within the Bath World Heritage Site. The prevailing character of the surrounding area is residential however there is a building supplies outlet located to the rear boundary of the application site.

The application seeks planning permission for the erection of a dormer window to the rear elevation to accommodate a proposed loft conversion. The dormer window is designed with a flat felt covered roof and would be finished with brown tile hanging to the vertical planes.

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

Councillor David Bellotti advises that the proposal is considered to have an acceptable impact on the visual amenity of the area. He notes that there are other dormer windows in the area and that there are no objections to the proposal.

A public consultation exercise has been undertaken however no other responses have been received.

### **RELEVANT PLANNING HISTORY**

10/03568/FUL - Refused - 6 October 2010 - Provision of rear dormer window for loft conversion

10/04585/FUL - Refused - 29 December 2010 - Provision of rear dormer window for loft conversion (Resubmission)

### **POLICIES/LEGISLATION**

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

The following policies are relevant in this case:

D.2: General design and public realm considerations

D.4: Townscape considerations

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

Consideration has also been given to the following policies in the Bath & North East Somerset Draft Core Strategy December 2010 however only limited weight can be attached to this document until it is formally adopted. The policies above have been saved indefinitely until they are replaced through the Local Development Framework.

CP6: Environmental quality

## **OFFICER ASSESSMENT**

**INTRODUCTION:** The primary issues to consider when determining this application relate to the visual impact of the development and residential amenity of adjoining occupiers. The application is a resubmission of a previous scheme which was refused due to the impact on the character and appearance of the host building and the streetscene. The previous scheme was submitted in two identical applications which were both refused for the same reasons. The current application presents a reduction in the width of the dormer window of approximately 400 mm. This would bring the structure away from the north boundary.

**VISUAL IMPACT:** The host building is a mid terrace property located within the Bath World Heritage Site. The roofscape of this collection of terraced properties has remained largely undeveloped with the exception of a small dormer window to number 92 which may have been implemented under permitted development rights. A private lane runs to the south of the application site allowing access to properties on Entry Hill, Hawthorn Road and a building supplies outlet which is located to the rear boundary.

The proposal is for a large dormer window which would be sited in an off-centre position within the roof of the host building. The development would be visible from the east in light of the open aspect created by the access lane to the rear. The scale and width of the dormer window would be disproportionate to the size of the main roof which would have an adverse impact on the character and appearance of the host building and the streetscene. This would be exacerbated by the fenestration details which would create an asymmetrical appearance to the dormer which would fail to integrate the structure with the windows to the rear elevation of the host building. It appears that an alternative internal arrangement would allow a loft conversion to be achieved with a smaller dormer window which could be sited centrally to the roof of the host building. Although a reduction in the size of the dormer window is welcomed, the change to the width of the structure in the current application serves to emphasize the off-centre position of the development.

Whilst there is considered to be clear harm to the character and appearance of the host building and the streetscene, the proposal would not affect the qualities which justified Bath's inscription as a World Heritage Site. Therefore, no objection is raised to the proposal on this basis.

**RESIDENTIAL AMENITY:** There are no properties located to the rear boundary of the application site. Although the proposal would create an additional outlook from the attic bedroom this would not significantly increase the level of overlooking to the adjacent properties. Therefore, no objection is raised to the proposal on the basis of the residential amenity of adjoining occupiers.

**CONCLUSION:** The design of the proposed dormer window would have an adverse impact on the character and appearance of the host building and the surrounding area. The proposal is therefore contrary to policies D.2 and D.4 of the Local Plan.

## **RECOMMENDATION**

**REFUSE** for the following reasons:



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

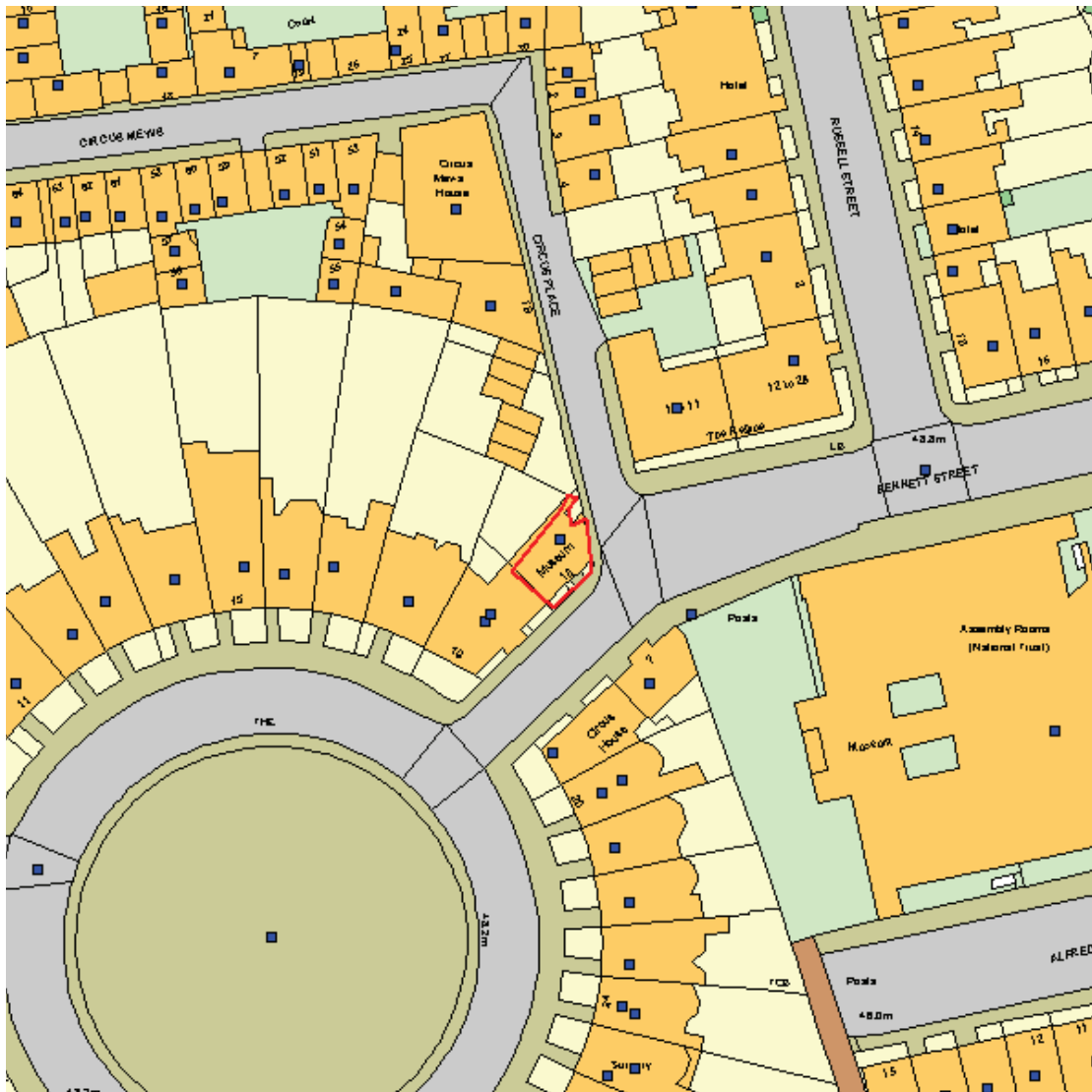
1 The proposed dormer window, by reason of its scale, position, width, fenestration details and the siting of the development in a location which is visible from the surrounding area, would have a detrimental impact on the character and appearance of the host building and the streetscene contrary to policies D.2 and D.4 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

## **PLANS LIST:**

1a received 23 June 2011.

2a, 3, 4a, 5, 6a received 13 June 2011.

**Item No:** 03  
**Application No:** 11/02371/LBA  
**Site Location:** 12 Bennett Street, City Centre, Bath, Bath And North East Somerset



**Ward:** Abbey      **Parish:** N/A      **LB Grade:** II  
**Ward Members:** Councillor B J Webber      Councillor Manda Rigby  
**Application Type:** Listed Building Consent (Alts/exts)  
**Proposal:** Internal alterations to replace existing carpet with floating Bamboo flooring in galleries  
**Constraints:** Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, World Heritage Site,  
**Applicant:** Mr Thomas Parkinson  
**Expiry Date:** 29th July 2011  
**Case Officer:** Caroline Waldron

## **REPORT**

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

This repeat application is put before the Development Control Committee at the request of Councillor B Webber.

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

12 Bennett Street is a grade II listed building currently used as the Museum of East Asian Art. The exhibitions are laid out in rooms on the ground, first and second floor of the building.

The application relates to lifting the carpet throughout the exhibition rooms (ground, first and second floors) and laying bamboo laminate flooring over the existing floorboards/ply. A small gap would be left between the edge of the laminate and the skirting and the gap would then be concealed by adding a flat fillet to the face of the existing skirting board. Where necessary the new floor would be scribed around the moulded architraves of the doors and the fireplaces.

The submitted Design and Access Statement makes the following points;

- "Bamboo" is both authentic and durable.
- The carpet is worn and the bamboo will give the museum a themed look.
- The harder surface will help stabilize display cases when they have large groups of visitors.
- Contractors have advised them not to alter structures.
- All work will be overseen.

### **PLANNING HISTORY**

Prior to the application being submitted the museum were advised that consent was unlikely to be granted to cover the original floorboards with laminate flooring.

A previous application reference 11/00340/LBA for identical work has already been refused on the grounds that;

Concealing the traditional floorboards beneath modern laminate flooring would look incongruous and be out of character with the context of an 18th century townhouse, and would fail to preserve the special architectural and historic interest of the listed building contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990 and Planning Policy Statement 5 (Planning for the Historic Environment).

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

Parish Council: NA

English Heritage: NA

Other representations: None received

### **POLICIES/LEGISLATION**

From the point of view of the historic environment the primary consideration is the duty placed on the Council under S 16 of the Listed Buildings Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

There is also a duty under S 72 to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area.

Planning Policy Statement 5: Planning for the Historic Environment sets out government advice concerning alterations to listed buildings, development in conservation areas and world heritage sites.

If the Council is minded to grant consent there is not a requirement to notify the Secretary of State before a decision is issued.

### **OFFICER ASSESSMENT**

The historic floorboards are an integral part of the character and fabric of this 18th century building. The interior of this building is of heritage significance in its own right.

It is accepted that the laminate could be laid in a way that is technically reversible and that this process is unlikely to cause any direct damage to the floorboards. However laying laminate flooring over the boards would materially change the appearance of the listed building and look incongruous in the context of an 18th century interior.

On balance it is felt that laying a laminate floor with its new generally uniform appearance throughout most of the interior of the building would fail to preserve the special architectural and historic interest of the listed building and is accordingly recommended for refusal.

The applicant has been advised that laying a new carpet as an alternative falls outside the control of the legislation.

This report has had regard for all other matters raised by the applicant but these are not of such significance to outweigh the considerations that have led to my conclusions on the main issues.

### **RECOMMENDATION**

REFUSE for the following reason:

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

1 Concealing the traditional floorboards beneath modern laminate flooring would look incongruous and be out of character in the context of an 18th century townhouse, and would fail to preserve the special architectural and historic interest of the listed building contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990 and Planning Policy Statement 5 (Planning for the Historic Environment).

### **PLANS LIST:**

Drawings site location plan, block plan, survey photographs, proposed ground floor, proposed first floor, proposed second floor, proposed basement, section of proposed floor, Design and Access Statement date stamped: 3rd June 2011

<b>Bath &amp; North East Somerset Council</b>	
MEETING:	<b>Development Control Committee</b>
MEETING DATE:	<b>31 August 2011</b>
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager of Planning and Transport Development (Telephone: 01225 477281) Simon Barnes Senior Legal Advisor (Tel: 01225 395176)
TITLE:	PLANNING AND LICENSING LEGISLATION
WARD:	ALL
BACKGROUND PAPERS:	None
<b>AN OPEN PUBLIC ITEM</b>	

AGENDA ITEM NUMBER
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The Issue

At the meeting of the Development Control Committee on 3 August 2011 concern was expressed by a public speaker that some takeaway food premises had been granted Premises Licenses, the hours of which exceeded the trading hours allowed by the conditions of their planning permissions. The speaker was concerned that these premises had been allegedly trading in accordance with the longer Premises Licence hours in breach of the hours specified in their planning conditions.

Members requested that officers investigate this issue and report back to Committee.

The specific complaint was with regard to takeaway food premises which are licensed to provide late night refreshment, however this report will also look more generally at the relationship between licensing and planning.

Relevant law and policy

As members will know, determinations under the planning acts must be made in accordance with the development plan unless material considerations indicate otherwise. This means that the planning authority can consider a wide range of factors such as highway safety, residential amenity, ecology and design.

By contrast, licensing decisions are made under a different statutory regime, namely the Licensing Act 2003. Decisions under the Licensing Act can only be made on the basis of four licensing objectives set out in the Act which are:

- (a) the prevention of crime and disorder;
- (b) public safety;

- (c) the prevention of public nuisance; and
- (d) the protection of children from harm

There is a further important difference between planning and licensing which is that unlike a planning application, if no relevant representations (i.e. representations relating to the licensing objectives) are received by a licensing authority during the consultation period then the licensing authority must grant the licence as applied for together with such conditions as are consistent with the operating schedule submitted by the applicant and mandatory conditions if appropriate. It is only if relevant representations are received that the application will be determined by the licensing committee and the statutory guidance issued to licensing authorities by the government is very clear on how licensing authorities should approach that duty:

“[the licensing authority] may then only impose conditions that are necessary to promote one or more of the four licensing objectives.”

The statutory guidance then goes on to address the issue which was raised before the DC Committee. The full text is set out below and the penultimate paragraph (underlined) is of particular relevance:

“13.64 The statement of licensing policy should indicate that planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency. Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority.

13.65 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority planning committee or following appeals against decisions taken by that committee. Licensing committees are not bound by decisions made by a planning committee, and vice versa.

13.66 The granting by the licensing committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.

13.67 There are also circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission would be liable to prosecution under planning law.

13.68 Proper integration should be assured by licensing committees, where appropriate, providing regular reports to the planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap. A planning authority may also make representations as a responsible authority as long as they relate to the licensing objectives.”

The Council’s own Statement of Licensing Policy is consistent with the above advice and also recognises the distinction between licensing and planning:

“9.1 The Licensing Authority recognizes that Licensing and Planning are separate regimes. Where an application is granted by the Licensing Authority which would require planning permission this would not relieve the applicant of the need to obtain that permission. It will still be necessary, for the applicant to ensure that he/she has all the necessary permissions in place to enable them to run the business within the law.

9.2 There will, however, be a clear separation of the Planning and Licensing regimes to avoid duplication and inefficiency. Therefore, any decision made under the Licensing Act will not take into consideration the need for planning permission.

9.3 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process as different considerations will apply.

9.4 In addition, if an application is granted by the Licensing Authority which involves a material alteration to a building, this would not relieve the applicant of the need to apply for planning permission.”

With regard to planning conditions, circular 11/95 states (emphasis added):

“**22.** Other matters are subject to control under separate legislation, yet also of concern to the planning system. A condition which duplicates the effect of other controls will normally be unnecessary, and one whose requirements conflict with those of other controls will be *ultra vires* because it is unreasonable. For example, a planning condition would not normally be appropriate to control the level of emissions from a proposed development where they are subject to pollution control, but may be needed to address the impact of the emissions to the extent that they might have land-use implications and are not controlled by the appropriate pollution control authority (for further advice on conditions and pollution see paragraphs 3.23--3.28 of PPG23: Planning and Pollution Control) (England only). A condition cannot be justified on the grounds that the local planning authority is not the body responsible for exercising a concurrent control, and therefore cannot ensure that it will be exercised properly. Nor can a condition be justified on the

grounds that a concurrent control is not permanent but is subject to expiry and renewal (as, for example, with certain licences). Nor, as a matter of policy, should conditions be imposed in order to avoid a liability to pay compensation under other legislation. Even where a condition does not actually duplicate or conflict with another control, differences in requirements can cause confusion, and it will be desirable as far as possible to avoid solving problems by the use of conditions instead of, or as well as, by another more specific control.

23. Where other controls are also available, a condition may, however, be needed when the considerations material to the exercise of the two systems of control are substantially different, since it might be unwise in these circumstances to rely on the alternative control being exercised in the manner or to the degree needed to secure planning objectives. Conditions may also be needed to deal with circumstances for which a concurrent control is unavailable. A further case where conditions may be justified will be where they can prevent development being carried out in a manner which would be likely to give rise to onerous requirements under other powers at a later stage (eg. to ensure adequate sewerage and water supply for new developments and thus avoid subsequent intervention under the Public Health Acts).”

The issue of the relationship between licensing and planning was also considered by the High Court in The Queen on the application of Blackwood v Birmingham Magistrates and The Birmingham City Council [2006]. In this case a judicial review challenge was brought by a local resident against the decision of the Magistrates, on appeal from the Licensing Committee, to grant a variation of a premises licence. The main ground of challenge was, in summary, that the Magistrates had failed to take account of relevant planning matters raised by the appellants and in doing so had acted unlawfully. The judicial review challenge was rejected by the High Court. The judge, Deputy Judge Parker QC, whilst noting that there was an overlap between the objectives of planning and licensing, stated at paragraph 62 of his judgment:

“It was not for the Magistrates in a licensing appeal under the Act to examine whether the proposed variation required planning consent or to speculate whether, if it did, such consent would be forthcoming. That would be a planning matter falling exclusively within the competence of the planning authority.”

Although this case was concerned with licensing, the Court made it clear that, whilst there is some overlap, the two regimes are separate and distinct.

### Specific cases

The public speaker at the meeting on 3 August referred to two specific cases of takeaway food establishments which were allegedly trading beyond the hours specified in their planning permissions.

In both cases complaints were made to the Planning Enforcement section and the complainant provided evidence in support.



Officers investigated the complaints, spoke to the operators of the premises concerned and received assurances that, contrary to the information submitted by the complainant, the premises were not trading in breach of their planning conditions. Officers did not receive any complaints about either premises from local residents. Officers also consulted colleagues in the Environmental Protection team who confirmed that there had been no complaints of nuisance caused by the premises concerned.

Officers therefore concluded that, as there had been no complaints from residents and no evidence of any adverse effect on residential amenity, further action was not expedient. The complainant's representatives were informed accordingly and the cases were closed.

### Discussion

There are two issues here:

- the relationship between planning and licensing
- the two enforcement complaints referred to above.

Dealing first with the relationship between planning and licensing, whilst these are separate regimes, there is a degree of overlap. Clearly it is desirable that planning and licensing conditions are consistent, but the Council must act within the boundaries of the relevant law and policy.

The starting point is that each planning or licensing application must be looked at on its merits, so this precludes the adoption of blanket policies where particular conditions are imposed as 'standard'.

Licences contain a schedule setting out when the licensable activities in question may be carried on. A planning permission may contain conditions governing hours of operation, but this is not mandatory.

Planning officers who are dealing with applications for licensed premises can liaise with the licensing department if appropriate and the licensing team consult with planning regarding licence applications. However, it may be that there are planning reasons why an hours of operation condition is required which is not consistent with the licence.

For example, a licensing authority dealing with an application for a late night takeaway, having considered representations from people living in the vicinity of the premises (only people in the vicinity are entitled to make representations on licensing applications), may be satisfied that the sale of hot food and drink can continue until 5am because there will be no adverse impact on the licensing objectives of public nuisance and crime and disorder. However the planning authority, which can consider representations from anybody, may take the view that the use of the premises as a takeaway should be limited to midnight due to an adverse effect on traffic in terms of

customers parking near the premises. In this situation, notwithstanding the licence, the premises could only trade until midnight, otherwise it would be at risk of planning enforcement action. If it wanted to trade later, it would need to apply for the necessary planning consent. Members are advised that this approach has been applied by the LPA in practice and has been upheld on appeal.

It is also important to bear in mind that the licensing system is much more flexible than the planning system. Licences can be reviewed on the application of a responsible authority<sup>1</sup> or a member of the public which can lead to conditions being altered. By contrast, a planning permission runs with the land and therefore if there are planning reasons why the hours of operation should be limited to particular times then it is important that this is secured in planning terms because the licence (or perhaps even the licensing regime) might change in the future.

With regard to the two enforcement complaints, members will be aware that the Council should not take planning enforcement action unless it is expedient to do so. In both cases, officers investigated the complaints and concluded that as there was no demonstrable harm, it was not expedient to take the matters any further. However, the complainant clearly still has concerns and it would be open to officers to re-open the cases and carry out further investigations.

### Conclusion

Whilst there is liaison and sharing of information between the licensing and planning departments of the Council, the two regimes are governed by different legal and policy frameworks which can sometimes lead to differing results, in particular with regard to hours of operation. However the government recognises this and has made it clear that in cases where the operating hours on a planning permission and a Premises Licence differ, the operator must abide by the earlier time. If they do not, then they will leave themselves open to enforcement action. If an operator wishes to synchronise their planning permission and licence then it is up to them to make the appropriate application.

With regard to these specific enforcement complaints, officers investigated and came to the conclusion that it was not expedient to pursue the matters any further. However, in light of the complainant's obvious concerns, officers are of the view that it would be appropriate to look again at these complaints and report back to a future meeting of the Committee.

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<sup>1</sup> 'Responsible Authority' is a defined term in the Licensing Act 2003 encompassing various authorities including the police, fire service and the body responsible for the protection of children

<b>Bath &amp; North East Somerset Council</b>		
MEETING:	<b>Development Control Committee</b>	AGENDA ITEM NUMBER
MEETING DATE:	<b>31 August 2011</b>	
TITLE: <b>Tree Preservation Order: Bath and North East Somerset Council (Land between 6 and Wilmslow, Bannerdown Road, Batheaston No.15) Tree Preservation Order 2011</b>		
WARD: <b>Batheaston</b>		
List of attachments to this report: <b>Plan of Site</b>		
<b>AN OPEN PUBLIC ITEM</b>		

**1. THE ISSUE**

- 1.1 This report primarily requests the Committee to confirm, without modification, the Tree Preservation Order entitled Bath and North East Somerset Council (Land between 6 and Wilmslow, Bannerdown Road, Batheaston No.15) Tree Preservation Order 2011 (“the TPO”), which was provisionally made on the 25 March 2011 to protect a tree which makes a significant contribution to the landscape and amenity of the area.

**2. RECOMMENDATION**

- 2.1 That the Committee resolve to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (Land between 6 and Wilmslow, Bannerdown Road, Batheaston No.15) Tree Preservation Order 2011

**3. FINANCIAL IMPLICATIONS**

- 3.1 **Financial:** Under the law as it stands the owner of a tree cannot claim compensation from the Council for making a tree the subject of a tree preservation order. However if the tree is covered by a tree preservation order and the Council refuses an application to fell the tree, the owner could claim compensation if he or she suffers a loss or damage as a consequence of that refusal.
- 3.2 **Staffing:** None.
- 3.3 **Equalities:** In deciding to make the TPO the provisions of the Human Rights Act 1998 have been taken into account. It is considered that Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property) of the convention rights apply in this matter. Confirmation of the TPO is however, considered to be a proportionate interference in the wider public interest.
- 3.4 **Economic:** None.

- 3.5 **Environment:** The tree which is the subject of this report makes an important contribution to the landscape and amenity of the local area.
- 3.6 **Council Wide Impacts:** The confirmation of the TPO will involve officers from Legal Services and Officers from Development Control will need to take account of the tree when considering any application for development or alterations on the site which might affect the tree.

#### **4. THE REPORT**

##### **BACKGROUND**

- 4.1 The tree which is the subject of the TPO is a mature Lime on land between 6 and Wilmslow, Bannerdown Road and close to Fosse Lane shown encircled in black and marked T1 on the attached plan.
- 4.2 A planning application was received to develop the land on which the tree stands, reference 11/00608/FUL. The proposal indicated that the tree was to remain but the layout had not been informed by the recommendations within an arboricultural report dated May 2009.
- 4.3 The tree was assessed and was considered to be of sufficient merit to be worthy of a Tree Preservation Order.
- 4.4 The making of a Tree Preservation Order was considered expedient following receipt of the planning application reference 11/00608/FUL.

##### **4.5 Letters of objection to the Tree Preservation Order**

The Council are required to take into account all duly made objections and representations before deciding whether to confirm the TPO.

- 4.6 Six letters objecting to the TPO have been received. Two are from the shared owners of the land; three are from residents in Fosse Lane living opposite the tree and one from the neighbour at Wilmslow. In addition to the letters received, the minutes of a meeting of Batheaston Parish Council indicated that the Parish Council could not support the TPO. The decision will be reviewed at a meeting on 30<sup>th</sup> August.
- 4.7 The main objections are identified below.
- The TPO would hamper future management of the tree.
  - The tree blocks light to residents in Fosse Lane.
  - The tree will damage the tall retaining wall beside Fosse Lane.
  - The tree does not have sufficient amenity value to merit a TPO.
  - The tree is not under threat and so a TPO is not expedient.
  - The tree could fail in a storm and causes neighbours to worry.
  - The tree is too big and should be cut back or removed.
- 4.8 The objections to the Tree Preservation Order outlined in section 4.7 above have been considered by Officers and the following comments are made:

- The Councils Arboricultural Officers have assessed the tree for amenity value as part of the TPO process and found that it is an important tree within the locality. Two Tree Surveys have been carried out by independent Arboricultural Consultants on behalf of the planning applicant. Both of the qualified and experienced Arboriculturalists stated that the Lime is a B category tree as assessed in accordance with BS5837:2005 Trees in Relation to Construction. Recommendations. A tree considered to be included within the B category is considered to be 'in such a condition as to make a significant contribution.'
- An application to carry out management to the tree can be made under the TPO. The April 2011 report does not identify any management recommendations currently required.
- No evidence has been provided to indicate that there is any current damage to the boundary wall and the April 2011 report states, 'no sign of movement within the wall'. If there are any future issues an application could be submitted for appropriate works.
- Without a TPO the tree could be managed inappropriately or felled with no due consideration. Any consent for appropriate management can include a condition to ensure that the quality of workmanship is based on current good practice. Should felling be necessary in the future then replacement planting can be conditioned.
- The original planning application was amended to take into account the root protection area required during construction activities and to accommodate the tree. The amendment did not occur until after comments by the Arboricultural Officer. Landscape conditions are not considered an appropriate long term solution to protect the tree. A TPO is considered to remain expedient because the objection letter from one of the shared owners states that they consider that the tree is in the wrong place.

## 5.0 LEGAL AND POLICY FRAMEWORK

### Tree Preservation Order

- 5.1 A tree preservation order is an order made by a local planning authority in respect of trees and woodlands. The principal effect of a tree preservation order is to prohibit the:
- Cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of trees without the council's consent.
- 5.2 The law on tree preservation orders is in **Part VIII of the Town and Country Planning Act 1990** and in the **Town and Country Planning (Trees) Regulations 1999**
- 5.3 A local planning authority may make a tree preservation order if it appears
- "Expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area"
- 5.4 The Council's Arboricultural Officers have a written method for assessing the 'Amenity' of trees and woodlands considered to be under threat. This is in keeping with the Office of the Deputy Prime Minister (formally the Department of the Environment, Transport and Regions) guidance, and takes account of the visual impact of the tree/s and their contribution to the landscape, their general overall health and condition, their longevity and their possible or likely impact on services and property.
- 5.5 This assessment concluded, having taken account of, visual amenity, tree health considerations and impact considerations, that it would be expedient in the interest of

amenity to make provision for the preservation of the tree. One objection letter from a shared owner of the property makes reference to the assessment and considers that the tree does not reach the lower threshold to justify a TPO. The form is used purely as an aid to the decision process and is not definitive. The TPO was made on 25 March 2011. This took effect immediately and continues in force for a period of six months.

Planning Policy

5.6 Bath and North East Somerset Local Plan including minerals & waste policies 2007

C2.22 *'Trees are an important part of our natural life support system: they have a vital role to play in the sustainability of our urban and rural areas. They benefit:*

- *the local economy – creating potential for employment, encouraging inward investment, bringing in tourism and adding value to property;*
- *the local environment by reducing the effects of air pollution and storm water run off, reducing energy consumption through moderation of the local climate, and providing a wide range of wildlife habitats;*
- *the social fabric in terms of recreation and education'*

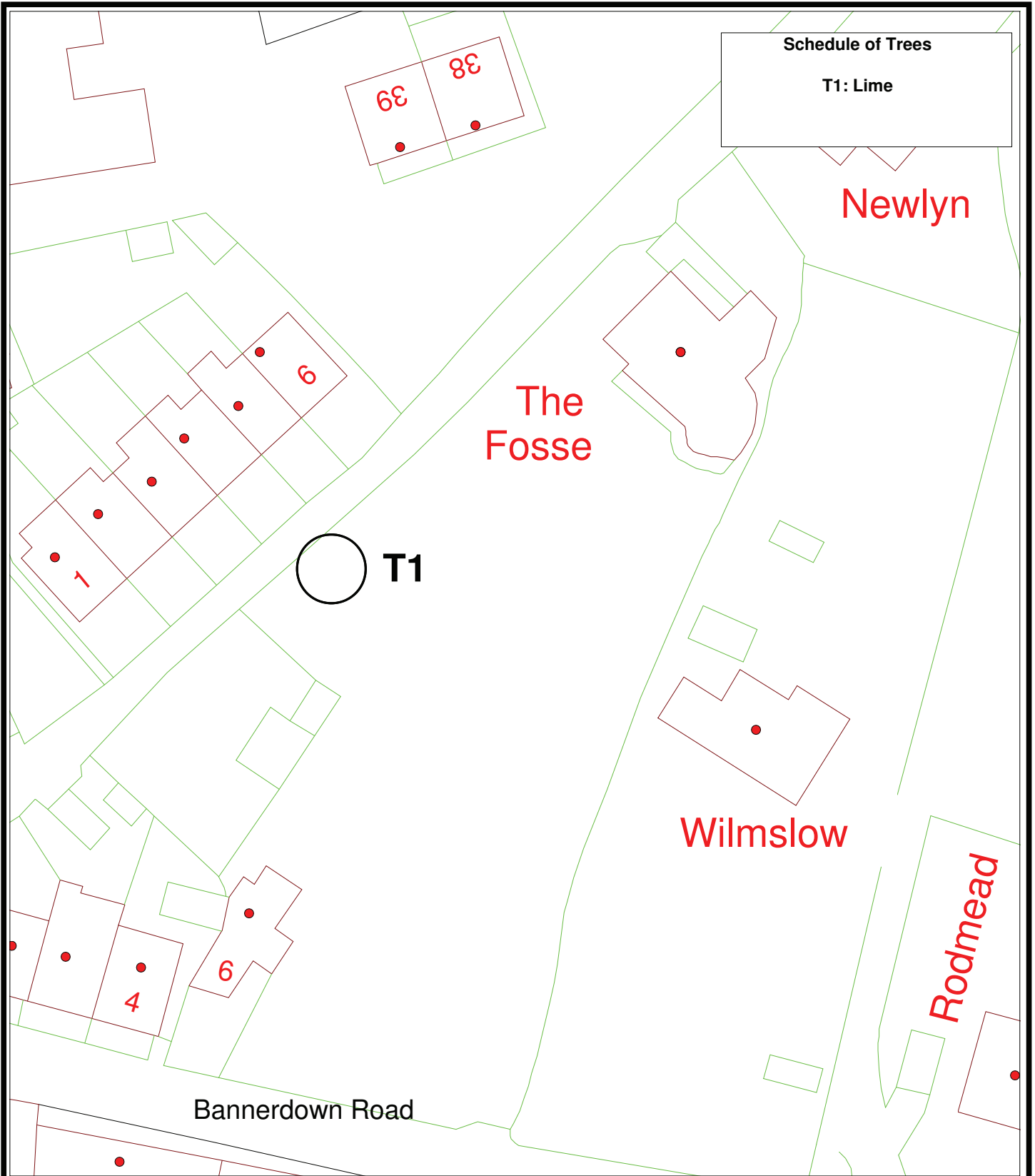
C2.23 *'Much of the tree cover in the urban areas is in a critical condition and there is little or no replacement planting for over-mature trees in decline. Infill development has often reduced the space available for planting large tree species. In addition, new tree planting takes many years to mature. The management and retention of significant trees is therefore pressing'*

C2.25 *'Bath & North East Somerset has a duty under the Town and Country Planning Act 1990 to ensure tree and woodland preservation wherever it is appropriate. The Council will continue to protect trees and woodlands through Tree Preservation Orders (TPOs) as appropriate. There is also a level of protection afforded to trees in Conservation Areas (CAs). However there are many trees of value outside these designations and careful consideration should be given to the removal of any tree'*

**6. CONCLUSION**

- 6.1 The tree makes a significant contribution to the landscape and amenity of this part of the Batheaston.
- 6.2 Confirmation of the TPO would ensure the retention of the tree. Should it be found in the future that it would be unreasonable to retain the tree the Council will then be able to ensure that a replacement tree of a similar species is planted.
- 6.4 In keeping with the policies referred to above and the Council's commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO without modification.
- 6.5 This report has not been sent to Trades Unions because there are no staffing implications.

<b>Contact person</b>	Jane Brewer – Senior Arboricultural Officer 01225 477505
<b>Background papers</b>	The file containing the provisional Tree Preservation Order, relevant site notes, documentation and correspondence can be viewed by contacting Jane Brewer on the above telephone number.



Schedule of Trees  
T1: Lime

Newlyn

The Fosse

T1

Wilmslow

Rodmead

Bannerdown Road

Scale 1:500      Date: March 2011      Plan No: 502/15      Grid Ref: ST 781 674

**Title:**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**BATH AND NORTH EAST SOMERSET COUNCIL**  
**( Land between 6 and Wilmslow, Bannerdown Road,**  
**Batheaston No.5 )**  
**TREE PRESERVATION ORDER 2011**

**I hereby certify that this plan referred to in**  
**the BATH AND NORTH EAST SOMERSET**  
**COUNCIL ( Land between 6 and Wilmslow,**  
**Bannerdown Road, Batheaston No.5 )**  
**TREE PRESERVATION ORDER 2011**

*[Signature]*

Divisional Director, Planning & Transport Development

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<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	<b>31<sup>st</sup> August 2011</b>
<b>RESPONSIBLE OFFICER:</b>	Lisa Bartlett, Development Control Manager, Planning and Transport Development (Telephone: 01225 477281)
	AGENDA ITEM NUMBER
<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:** 10/04816/FUL  
**Location:** Church Farm Barn Washing Pound Lane Whitchurch Bristol  
**Proposal:** Repair of existing dilapidated agricultural outbuilding.  
**Decision:** REFUSE  
**Decision Date:** 28 January 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 7 July 2011

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**App. Ref:** 11/01534/FUL  
**Location:** Old Playground Church Road Combe Down Bath BA2 5JN  
**Proposal:** Erection of a two storey terrace of two dwellings (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 15 June 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 20 July 2011

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**App. Ref:** 11/01289/FUL  
**Location:** 46 Calton Gardens Lyncombe Bath BA2 4QG  
**Proposal:** Provision of an extension to existing balcony.  
**Decision:** REFUSE  
**Decision Date:** 9 May 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 25 July 2011

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**App. Ref:** 11/00559/FUL  
**Location:** 20 Walden Road Keynsham Bristol BS31 1QW  
**Proposal:** Erection of a single storey front extension (resubmission).  
**Decision:** REFUSE  
**Decision Date:** 10 June 2011  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 28 July 2011

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**App. Ref:** 11/01182/LBA  
**Location:** The Clock House Bathford Hill Bathford Bath BA1 7SW  
**Proposal:** External alterations for the closure of an opening in garden wall.  
**Decision:** REFUSE  
**Decision Date:** 8 July 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 2 August 2011

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**App. Ref:** 11/02034/FUL  
**Location:** 34 Rosslyn Road Newbridge Bath BA1 3LH  
**Proposal:** Erection of two storey side extension following demolition of existing garage  
**Decision:** REFUSE  
**Decision Date:** 15 July 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 2 August 2011

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**App. Ref:** 10/04848/LBA  
**Location:** 3 The Old House The Hill Freshford Bath  
**Proposal:** Internal alterations for the installation of a temporary fire and acoustic partition between the first and ground floor.  
**Decision:** REFUSE  
**Decision Date:** 18 February 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 3 August 2011

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**App. Ref:** 10/05319/FUL  
**Location:** 87 High Street Bathford Bath BA1 7TF  
**Proposal:** Extension and alterations reconfiguring existing accommodation and providing new garage/ workshop and living spaces.  
**Decision:** REFUSE  
**Decision Date:** 28 March 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 11 August 2011

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**App. Ref:** 11/02146/FUL

**Location:** 7 Uplands Road Saltford Bristol BS31 3JQ  
**Proposal:** Extensions to the front and roof of property to provide a study and two bedrooms  
**Decision:** REFUSE  
**Decision Date:** 14 July 2011  
**Decision Level:** Delegated  
**Appeal Lodged:** 16 August 2011

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## APPEAL DECISIONS

**App. Ref:** 10/05084/FUL  
**Location:** Stonewold, 78 Ashgrove, Peasedown St John, Bath, BA2 8EG  
**Proposal:** Erection of a detached dwelling and double garage and erection of a double garage for the existing property  
**Decision:** REFUSE  
**Decision Date:** 22<sup>nd</sup> November 2010  
**Decision Level:** Delegated  
**Appeal Decision:** **DISMISSED**

### Summary:

The appellant applied for the erection of a detached dwelling and double garage to the rear of Stonewold and a detached garage for the existing property (10/05084/FUL). The application was refused as the siting of the detached dwelling to the rear of Stonewold would result in the properties having a discordant relationship and would be harmful to the character and appearance of the area, the detached dwelling would have an overbearing impact on the private amenity space of the existing dwelling, and the proposed access would have a detrimental impact on the living conditions of the existing property and the neighbouring property at Woolacombe. The proposed detached garage would fail to respect the open character of the frontages of this part of Ashgrove.

The Inspector concluded that the siting of a detached dwelling to the rear would result in a tandem style layout with the host dwelling and, none of the surrounding dwellings have evidence of tandem-style residential development within them. In respect of this, the proposed dwelling would be out of context with its surroundings and not accord with PPS3 or Local Plan Policy D.4 (a).

He was of the opinion that the dwelling was attractively designed and would allow both the proposed and existing dwellings with a reasonable amount of useable amenity space and the difference in floor level would be acceptable to limit mutual overlooking between the dwellings. Furthermore, he concluded that, due to the land in front of Stonewold being lower than street level, this would limit its visual prominence in the street scene.

He noted that the introduction of the access to the proposed dwelling would result in increased vehicular activity in the rear area, which would intrude on an area that is currently quiet. He considered this disturbance would reduce the enjoyment of the gardens of Stonewold and Woolacombe and is in conflict with Local Plan Policy D.2. He stated that this on its own would not lead him to dismiss the appeal but reinforces the view that the scheme as a whole is unacceptable.

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