

Democratic Services

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Date: 30 March 2012
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To: All Members of the Development Control Committee

Councillors: Neil Butters, Nicholas Coombes, Gerry Curran, 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, Sarah Bevan, John Bull, Sally Davis, Malcolm Lees, Dine Romero and Jeremy Sparks

Chief Executive and other appropriate officers
Press and Public

Dear Member

Development Control Committee: Wednesday, 11th April, 2012

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 11th April, 2012 at 2.00pm** in the **Brunswick Room - Guildhall, Bath**

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 10th April in the Meeting Room, Lewis House, Bath.

The rooms will be available for the 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.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact David Taylor who is available by telephoning Bath01225 - 394414 or by calling at the Riverside Offices Keynsham (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

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

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

Appendices to reports are available for inspection as follows:-

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

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

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

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

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

Development Control Committee - Wednesday, 11th April, 2012

at 2.00pm in the Brunswick Room - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

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

2. ELECTION OF VICE CHAIR (IF DESIRED)

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

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

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

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

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

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

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

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

7. ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

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

8. MINUTES: 14TH MARCH 2012(Pages 9 - 46)

To confirm as a correct record the Minutes of the meeting held on Wednesday 14th March 2012

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 47 - 96)

11. TREE PRESERVATION ORDER - LAND ADJACENT TO TESCO, OLD MILLS, PAULTON(Pages 97 - 108)

To consider a recommendation to confirm this Tree Preservation Order without modification

12. TREE PRESERVATION ORDER - GAIA, WIDCOMBE HILL, BATH(Pages 109 - 148)

To consider a recommendation to confirm this Tree Preservation Order without modification

13. QUARTERLY PERFORMANCE REPORT - OCTOBER TO DECEMBER 2011(Pages 149 - 158)

To note the report

14. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES(Pages 159 - 162)

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 (Mode Code of Conduct) Order 2001 adopted by the Council on 21st 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 the 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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BATH AND NORTH EAST SOMERSET

MINUTES OF DEVELOPMENT CONTROL COMMITTEE

Wednesday, 14th March, 2012

Present:- Councillor Gerry Curran in the Chair
Councillors Neil Butters, Liz Hardman, Eleanor Jackson, Les Kew, David Martin,
Douglas Nicol, Bryan Organ, Martin Veal, David Veale, Jeremy Sparks and Brian Webber

130 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure.

131 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not required.

132 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apology for absence was received from Councillor Lisa Brett. Councillor Jeremy Sparks was substitute for Councillor Brett.

133 DECLARATIONS OF INTEREST

There were none.

134 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none.

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

The Senior Democratic Services Officer informed the meeting that there were various members of the public and Ward Councillors wishing to make statements on Agenda item 10 (Article 4 Direction) and planning applications in Agenda items 10 and 11 and that they would be able to do so when reaching those items on the Agenda.

136 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

As per minute 135.

137 MINUTES: 15TH FEBRUARY 2012

It was **RESOLVED** to confirm the minutes as the true record of the meeting and signed by the Chair subject to the following amendments:

- Page 11, second to penultimate paragraph, fourth sentence should read: '...not harmful to openness or visual amenity **and the danger of the speed of the traffic on Midford Road related to the access and egress.**'

138 MAJOR DEVELOPMENTS

Geoff Webber (Senior Professional – Major Developments) updated Members on the following:

1. Kraft Keynsham Regeneration Scheme – a meeting with Taylor Wimpey had happened and the Committee will receive an update on the outcomes of that meeting at one of the future meetings.
2. Radstock Regeneration Scheme – Geoff Webber informed the Committee that Councillor Eleanor Jackson asked two questions about the scheme. First question was about the clarification of validity of planning permission. Geoff Webber confirmed that the development will commence no later than 5 years from when outline consent was given (March 2008). The developer has until March 2013 to submit a request for a time extension. Second question was about the highways in the area/phase 1 of the scheme (commercial area). Geoff Webber responded that condition 32 requires that all highway works should be subject of the independent safety audit which has to be secured by the Council.

The Chair asked about the works on the transport interchange between the bus and train stations. Councillor Les Kew commented that there was no signage indicating to the public what is happening on that site.

Geoff Webber responded that the works on the site are in progress and well on the way to achieving the target. Geoff Webber also said that the site would need advertising consent to put up signage describing what is happening there.

The Chair thanked Geoff Webber for the update.

139 ARTICLE 4 DIRECTION - HOUSES IN MULTIPLE OCCUPATION

The Chair invited the members of the public who had registered to speak on this matter to address the Committee.

Jackie Derbyshire, Naomi MacKrill, Harry Birch and Mark Rose read their statements to the Committee. All four speakers asked that the Article 4 Direction and threshold policy should not be adopted by the Council.

Councillors Sharron Ball (Westmoreland Ward Councillor), June Player (Westmoreland Ward Councillor) and Will Sandry (Oldfield Ward Councillor) spoke in favour of the Article 4 Direction and threshold policy by saying that the Article 4 Direction will help control and ensure an even and fairer spread of Houses in Multiple Occupation (HMOs) across the area and it will also help towards establishing a sense of community.

The Chair thanked all the speakers and reminded the meeting that the Development Control Committee does not have the decision making power on this matter. The

Committee are asked to pass their views to the Cabinet who has its meeting later in the day.

The Chair invited Cleo Newcombe-Jones (Planning Officer) and Simon De Beer (Policy and Environment Manager) to introduce the report.

The Committee made the following points:

Councillor Les Kew said that the Article 4 Direction was not retrospective and as such it will not change much. The Cabinet should not make the decision at this time but instead monitor this issue and bring it back for debate in one year's time. The Council should support students as they have limited incomes. Councillor Kew expressed his concern about financial implications and in particular for the option 2 of the proposal.

Councillor Eleanor Jackson agreed with Councillor Kew. Councillor Jackson appreciated the issues that the Ward Councillors had raised on this matter but, in her view, what is proposed is far too inflexible. Councillor Jackson felt that students were singled out on this matter and expressed her concerns about graduate retention in BANES. Councillor Jackson concluded her statement with a suggestion that the Cabinet do not make the decision now and instead monitor this issue and bring it back for debate next year with the BANES wide policy.

Councillor David Martin said that the Ward Councillors had highlighted the issue of community balance. Councillor Martin had concerns that the report did not contain sufficient evidence to justify an Article 4 Direction and licensing. Councillor Martin concluded that the consultation should go ahead and the recommendations should be taken forward as given.

Councillor Liz Hardman said that the number of HMOs will increase in time and highlighted that young professionals also live in HMOs.

Councillor Douglas Nicol agreed with Councillor Jackson and suggested that the Council should think again about the proposal.

Councillor Brian Webber said that he was sympathetic on issue of the community balance and on defending the desire for long standing communities to stay. However, he was concerned about a lack of objective evidence of harm in the report. Councillor Webber agreed with the suggestion from Councillor Kew and suggested that the Cabinet should wait for at least a year before making the decision.

Councillor Bryan Organ said that he supports option 4 in the report and said that this will not affect the areas that are already included.

Councillor David Veale said that the proposal will not change the current HMOs and he supported the suggestion from Councillor Kew.

The Chair thanked the Committee for sharing their views.

The Committee **AGREED** with the following summary of the debate to be passed to the Cabinet:

1. The Development Control Committee expressed the following concerns:
 - a. Financial implications for options 1 and 2
 - b. Impact on graduate retention
 - c. Students seemed to be singled-out
 - d. The report lacks detailed evidence of harm
2. Some Members suggested that the Cabinet should delay the decision and instead carry out a consultation on this matter and the results of the consultation be reported to the Development Control Committee before they are considered by the Cabinet.

140 SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered

- A report on a planning application at Former Allotment Gardens, Southbourne Gardens, Fairfield Park, Bath.
- An oral statement by a member of the public, the Speakers List being attached as Appendix 1 to these Minutes

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

Former Allotment Gardens, Southbourne Gardens, Fairfield Park, Bath – Variation of condition 2 (plans list) of application 10/03251/VAR (Variation of condition 2 of application 07/01598/FUL to allow a variation to the design of house type A (Plots 1-8)).

The Case Officer introduced the report and gave the reasons for their recommendation to Permit the application subject to the completion of a Section 106 Agreement (as presented in the report) and also subject to conditions.

Councillor Les Kew moved the officer's recommendation to **PERMIT** this application. Councillor Bryan Organ seconded the motion.

Members of the Committee debated the application, in particular the footway (pavement level) and the street lighting on site. All Members of the Committee felt that the site visit was really useful. Councillor Martin Veal suggested that the paving stones were removed before construction works began and replaced after the works had finished. The officers took on board suggestion from Councillor Veal.

Voting: 11 in favour with 1 abstention. Motion carried.

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

The Committee considered:

- A report by the Development Manager on various applications for planning permission
- Oral statements by members of the public etc, the Speakers List being attached as Appendix 1 to these Minutes
- An Update Report by the Development Manager, a copy of which is attached as Appendix 3 to these Minutes

RESOLVED that, in accordance with their delegated powers, the applications be determined as set out in the Decisions List attached as Appendix 4 to these Minutes.

Item 1 Sainsburys Supermarkets Limited, Green Park Station, Green Park Road, City Centre, Bath - Erection of extension to foodstore to provide additional retail floorspace and warehouse floorspace. Alterations to car park layout and engineering works to the southern bank of the River Avon to provide flood storage compensation.

Geoff Webber introduced the application and gave the reasons for his recommendation to Permit the application subject to the completion of a Section 106 Agreement (as presented in the main and update report) and also subject to the conditions presented in the main and update report. He also gave further advice following comments from English Heritage (attached as Appendix 5 to these minutes).

Members of the Committee debated this application and in particular the flood storage system, river safety on that part of the river, retail impact on Moorland Road and the design and sustainability of the store. Some Committee Members suggested that the air quality could be improved by using the river, instead of HGVs, for deliveries.

Councillor Neil Butters moved the officer's recommendation to delegate to **PERMIT** this application. Councillor Bryan Organ seconded the motion.

Some Committee Members felt that future applications, such as this one, should have energy and sustainability issues included in their applications.

Voting: All in favour. Motion carried.

Item 2 The Bath Press, Lower Bristol Road, Westmoreland, Bath – Withdrawn from the agenda.

Item 3 The Galleries Shop, Freshford Lane, Freshford, Bath - Erection of extension to Freshford Shop to increase cafe area and decking.

The Case Officer introduced the report and gave the reasons for their recommendation to Refuse the application.

Councillor Neil Butters (local Ward Councillor) read out a statement in which he said that the shop is a success story for Freshford, it fulfils a community purpose and it also improved the look of the village hall.

Councillor Butters moved to overturn the officer's recommendation and instead Permit the application for the following reasons: community benefit; reduction of car journeys; shop promotes village life and activity, and; the extension is adding to the viability of the shop. Councillor Martin Veal seconded the motion.

Members of the Committee debated the application. Members generally supported the motion by saying that this is a successful small enterprise which benefits the community. Some Members questioned if this would be against the Local Plan policy.

Lisa Bartlett (Development Manager) explained that the officers are bound to make recommendations on planning applications according to the Local Plan policy. This proposal is in the Green Belt and as such was inappropriate. If Members of the Committee are minded to overturn the officer's recommendation to Refuse this application then the advice is to Defer this application to a future meeting to allow the applicant an opportunity to submit further information about the very special circumstances which the applicant said existed and to advertise it as a departure from the Development Plan.

Councillors Neil Butters and Martin Veal agreed with this suggestion and withdrew their original motion.

Councillor Martin Veal moved to **DEFER** this application for the reasons highlighted above. Councillor Neil Butters seconded the motion.

Voting: All in favour. Motion carried.

Item 4 Lady Farm Cottage, Lady Farm Cottage Road, Chelwood, Bristol - Erection of new dwelling to regularise part built works (retrospective).

The Case Officer introduced the report and updated Members regarding correspondence received shortly before the meeting. She also informed Members that the application would be referred to the Secretary of State.

Lisa Bartlett explained to the Committee that the officer's recommendation for this application had changed slightly from Permit to Delegate to Permit subject to a) public consultation on the amended plans showing an additional porch and a balcony and no objections being received as a result of that consultation; and b) the Secretary of State not calling in the application for his own determination. If objections were received during the consultation then the application would come back to the Committee.

Councillor Les Kew moved the officer's recommendation to Delegate to **PERMIT** this application as above. Councillor Douglas Nicol seconded the motion.

Voting: All in favour. Motion carried.

Item 5 Fountain Buildings, City Centre, Bath - Installation of Superfast fibre optic broadband cabinet (PCP 012) at Fountain Buildings, S/O 1 Alfred Street.

The Case Officer introduced the report and gave the reasons for their recommendation to Refuse this application.

Members of the Committee debated this application, in particular the need for superfast broadband in the city. Members of the Committee also commented that if the application is permitted then the officers should negotiate the appropriate colour with BT.

Councillor Martin Veal moved to overturn the officer's recommendation and instead **PERMIT** the application for the economic prosperity of the city that superfast broadband will bring. Councillor Jeremy Sparks seconded the motion.

Voting: All in favour. Motion carried.

Item 6 Queen Square, City Centre, Bath - Creation of two pedestrian access points to east and west of Queen Square Gardens and insertion of two gateway piers within the existing boundary railings to the north side of Queen Square.

Note: Lisa Bartlett did not provide Senior Officer support to the Committee, nor took part in the debate, for this application as she is the partner of the applicant's agent who spoke at the meeting. Andrew Ryall (Planning Team Leader) provided the support for this item only.

The Case Officer introduced the report and gave the reasons for their recommendation to Permit this application.

Councillor Les Kew moved the officer's recommendation to **PERMIT** this application. Councillor Douglas Nicol seconded the motion.

Members of the Committee debated the safety and access to the site and also the width of two gateway piers.

Voting: All in favour. Motion carried.

Item 7 Stables, Butcombe Lane, Nempnett Thrubwell, Bristol - Retention of stable block, field shelter, hay store, hard-standing, lean-to and secure tack room and tractor, trailer, horsebox, creation of feed/storage area, incorporating a change of use of the land to equestrian (Resubmission).

The Case Officer introduced the report and gave the reasons for their recommendation to Permit this application.

Councillor Les Kew moved the officer's recommendation to **PERMIT** this application. Councillor Liz Hardman seconded the motion.

Voting: All in favour. Motion carried.

Item 8 Various Streets, Bath Urban Area - Display of 60 no. freestanding feather flags (30 Olympics branding + 30 Paralympics branding), bunting on railings and around lamp-posts and fence scrim on railings.

Geoff Webber introduced the report and gave the reasons for his recommendation to Grant the Advertisement Consent.

Councillor Les Kew moved the officer's recommendation to grant the **CONSENT**. Councillor Eleanor Jackson seconded the motion.

Voting: All in favour. Motion carried.

Item 9 Pulteney Road, Bathwick, Bath - Erection of 4 non-illuminated signs on Bathwick Hill roundabout.

Geoff Webber introduced the report and gave the reasons for his recommendation to Grant the Advertisement Consent.

Councillor Les Kew moved the officer’s recommendation to grant the **CONSENT**.
Councillor Eleanor Jackson seconded the motion.

Members of the Committee asked that the signs be positioned as safely as possible on the site.

Voting: All in favour. Motion carried.

Councillor Bryan Organ left the meeting at this point.

Item 10 8A Cavendish Crescent, Lansdown, Bath - Internal and external alterations (Part Regularisation).

The Case Officer introduced the report and gave the reasons for their recommendation to Grant Listed Building Consent with conditions.

Councillor Les Kew moved the officer’s recommendation to grant **CONSENT** with conditions. Councillor Douglas Nicol seconded the motion.

Voting: 10 in favour with 1 abstention. Motion carried.

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

It was **RESOLVED** to note the report.

The meeting ended at 5.45 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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

**MEMBERS OF THE PUBLIC WISHING TO MAKE A STATEMENT AT THE
MEETING OF THE DEVELOPMENT CONTROL COMMITTEE ON
WEDNESDAY 14TH MARCH 2012**

SITE/REPORT	NAME/REPRESENTING	FOR/AGAINST
ARTICLE 4 DIRECTION (REPORT 10)		
Houses in Multiple Occupation	Jackie Derbyshire (National Landlords Association) Naomi MacKrill (Vice President, Communities & Diversity, University of Bath Students Union) Mark Rose (University of Bath Consultant) Harry Birch (Vice President, Communities, Bath Spa University)	Statements – All up to 3 minutes each
SITE VISIT LIST (REPORT 11)		
Former Allotment Gardens, Southbourne Gardens, Fairfield Park, Bath (Pages 259-265)	Shaun Redden <u>AND</u> Christopher Dance Robert Gillespie, Impact Planning Services (Applicants' Agents)	Against - To share 3 minutes For
MAIN PLANS LIST (REPORT 12)		
Sainsbury's, Green Park Station, Bath (Item 1, Pages 270-295)	Bruno Moore (Sainsbury's Town Planner)	For
The Galleries Shop, Freshford Lane, Freshford (Item 3, Pages 320-333)	Hugh Delap, Freshford Parish Council Gitte Dawson	For For
Lady Farm Cottage, Lady Farm Cottage Road, Chelwood (Item 4, Pages 334-361)	James Paul (D B Paul, Applicant's Agents)	For

Queen Square, Bath (Item 6, Pages 367-371)	Vaughan Thompson (Applicants' Agent)	For
Stables, Butcombe Lane, NempnettThrubwell (Item 7, Pages 372-382)	John White (Applicant's Agent)	For
8A Cavendish Crescent, Bath (Item 10, Pages 391- 395)	Tim Trusted (Director, Management Company for 8 Cavendish Crescent) Mike Curnow (Applicant)	Against For

BATH AND NORTH EAST SOMERSET COUNCIL

DEVELOPMENT CONTROL COMMITTEE

14th March 2012

SITE INSPECTION DECISIONS

Item No:	01	
Application No:	11/04867/VAR	
Site Location:	Former Allotment Gardens, Southbourne Gardens, Fairfield Park, Bath	
Ward: Walcot	Parish: N/A	LB Grade: N/A
Application Type:	Application for Variation of Condition	
Proposal:	Variation of condition 2 (plans list) of application 10/03251/VAR (Variation of condition 2 of application 07/01598/FUL to allow a variation to the design of house type A (Plots 1-8))	
Constraints:	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,	
Applicant:	Partridge Homes (Cotswolds) Ltd	
Expiry Date:	10th January 2012	
Case Officer:	Andy Pegler	

DECISION PERMIT with the following conditions:

1 The development there by permitted shall commence by the 1st. April 2013.

Reason: In accordance with Condition 1 attached to planning permission 07/01598/FUL; and as required by Section 91 of the Town and Country Planning Act 1990.

2 The development there by permitted shall be carried out in accordance with the following approved plans unless otherwise altered by plans required to comply with the other conditions attached to this permission: Site Location Plan R.0136_06-1, drawings no. 771/1C and 771/100 date stamped 16 July 2010, 771/2A date stamped 11 August 2010 and 771/5D, date stamped 2 September 2010 (clarified by e.mail dated 6 October 2010); and to details submitted by e.mail dated 5 October 2010, 7 December 2010 and 22 December 2010, 771/3, 1635/102 Rev G, R.0136-06-C, and 771/4A.

3 The development shall be carried out in accordance with the submitted details of materials and finishes approved under 10/03408/COND dated 20.12.2010.

4 The development shall be carried out in accordance with the submitted hard and soft landscape scheme approved under 10/03408/COND dated 20.12.2010.

5 All hard and soft landscapeworksshallbecarried out in accordance with the approveddetails and in accordance with the programme of implementationagreedwith the local planning authority. Anytrees or plants indicated in the approvedschemewhich, within a period of five yearsfrom the date of the developmentbeingcompleted, die, are removed or becomeseriouslydamaged or diseasedshallbereplacedduring the nextplantingseasonwithothertrees or plants of a species and size to be first approved in writing by the local planning authority. All hard landscapeworksshallbepermanentlyretained in accordance with the approveddetails.

6 Until the development has been completed the protective fencesapprovedunder 10/03408/COND dated 20.12.2010 shall not beremoved and the protected areas shallbekeptclear of any building, plant, material, debris and trenching, with the existinggroundlevelsmaintained, and thereshallbe no entry to those areas except for approvedarboricultural or landscapeworks.

7 Prior to the commencement of anyform of site works or clearance the local planning authorityshallbegiven not lessthantwoweeks notice in writing of theseworks to ensurethatappropriatemeasures of landscape protection under condition 6 have been implemented in accordance with the approved plans.

8 Notwithstanding the provisions of the Town and Country Planning (General Permitteddevelopment) Order 1995 (or anyorderrevoking and re-enactingthatOrderwith or without modification) no lines, mains, pipes, cables or otherapparatusshallbeinstalled or laid on the site otherthan in accordance with the detailsapprovedunder 10/03408/COND dated 20.12.2010.

9 The developmentsshallbecarried out in accordance with the methodstatementapprovedunder 10/03408/COND dated 20.12.2010, detailing how works to the footway, carriageway and underground services in SouthbourneGardens / Beaufort Villas willbecarried out without harm to adjacent trees and theirrootsystems.

10 No developmentsshall commence until the necessarymeasures to restrict parking at the junction of SouthbourneGardenswith Claremont Road have been confirmed in writing on behalf of the local planning authority and no part of the developmentsshallbeoccupieduntil the works have been implemented.

11 No developmentsshall commence until the works to SouthbourneGardens, including the junction of SouthbourneGardenswith Claremont Road, and the provision of acontinuousfootway on the southernside, have been completed in accordance with the approveddrawing no 1635/102 Rev G.

12 The retaining structures relating to the access road / turningheadshallbecompleted in accordance with the detailsapprovedunder 10/03604/COND dated 20.12.2010 prior to the first occupation of anydwellingherebyapproved.

13 The development hereby permitted shall not be occupied until the emergency access as shown on site layout drawing no 771/1B has been provided and a method statement of control to prevent unauthorised use of it has been submitted to and approved in writing by the local planning authority. The emergency access shall only be operated in accordance with the approved method statement details.

14 The development shall be carried out in accordance with the details of the turning head, including sectional drawings and details of screening, and the surfacing details and gradient for the carriageway, footway, turning head, car parking areas and the pathway to the front of the houses, as approved under 10/03408/COND dated 20.12.2010. The development hereby permitted shall not be occupied until the access together with all the proposed parking and turning areas, screening and pathways have been constructed in accordance with the approved details.

15 The garages hereby approved shall be retained for the garaging of private motor vehicles associated with the dwellings hereby approved and for no other purpose.

16 The development hereby approved shall not be occupied until works for the disposal of sewage and surface water have been provided on site to serve the development in accordance with details first submitted to and approved in writing by the local planning authority.

17 No removal of trees shall take place between 1 March and 31 August unless a survey to assess any nesting bird activity on the site during this period and a scheme to protect the nesting birds has been submitted to and approved in writing by the local planning authority and no trees shall be removed between 1 March and 31 August other than in accordance with the approved nesting bird protection scheme.

18 Prior to the commencement of development a scheme of mitigation works to avoid harm to any reptiles found on the site shall be undertaken in accordance with details approved under 10/03408/COND dated 20.12.2010.

19 The development shall be carried out in accordance with the scheme for the accommodation of badgers on the site, including the establishment of an exclusion zone around the sett(s) from which all building, engineering or other operations and all vehicles and personnel working on the site shall be excluded, and proposals for site and habitat management following completion of the development, as approved under 10/03408/COND dated 20.12.2010.

20 The development shall commence in accordance with the programme of access which will be afforded to named archaeologist(s) to observe and record all ground disturbed during construction (such works to include any geological trial pits, foundations and service trenches) as approved under 10/03408/COND dated 20.12.2010.

21 The development shall be carried out in accordance with the construction management plan approved under 10/03604/COND dated 20.12.2010.

PLANS LIST:This decision relates to the Site Location Plan, and drawing no. 1635/102 Revision G date stamped 15th.November 2011.

REASONS FOR GRANTING APPROVAL

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

A. Local Plan Policies T.24 and BH.6

BATH AND NORTH EAST SOMERSET COUNCIL

Development Control Committee

14 March 2012

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

ITEM 12

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
01	10/04475/FUL	Sainsburys Supermarkets Ltd, Green Park Station, Green Park, Bath

CONSULTATION RESPONSES AND REPRESENTATIONS

Further correspondence has been received from the **Environment Agency** (EA), in which they maintain their earlier Objection, as a result of the Applicants not providing them with additional information regarding Flood Risk issues. In particular, the EA requires clarification of the specific measures to be taken in conjunction with surface water drainage within the site, and also of the proposed extension to prevent water ingress into the structure. However, the EA make it clear that their objection will be withdrawn once satisfactory information has been received.

The Agents have written to the EA confirming their intentions to submit the information required, but seeking the EA's agreement to these matters being dealt with by means of appropriately worded Conditions. The EA has acknowledged that correspondence, but a formal response is still awaited.

Your Officers consider that as the application is already the subject of a "Delegate to Permit" recommendation, then these additional outstanding issues can be simply incorporated into the formal Recommendation. The agreement of the EA can thus be sought whilst the necessary S106 Agreement is being finalised, and based upon the Agents' correspondence with the EA, it is likely that these matters will be fully resolved in the very near future.

An **Objection** has been received from Agents acting on behalf of the **Co-Operative Group**. The objectors are concerned regarding the impact of the current retail proposals, including the proposed Sainsbury's extension, upon the trading position of the Co-Operative store within the Moorland Road Local Shopping Centre. The letter argues that there will be a significant negative cumulative impact upon the Co-Operative store as a result of the currently-proposed Sainsbury's extension, together with the Sainsbury's store at Odd

Down, the proposed extension to Waitrose within the Podium shopping centre, and the proposed Lidl store in Lower Bristol Road. This will in turn be to the detriment of the vitality and viability of the Moorland Road Local Shopping Centre. The letter urges the Committee to refuse the current Sainsbury's application.

An additional **Objection** has been received from a resident of Green Park. This raises concerns regarding the loss of the triangle of green space proposed to be occupied by the extension. This is considered to be an important green space that can never be replaced. The resident considers that the proposed extension is not needed, and that additional servicing demands will adversely affect local residents.

CONCLUSIONS

Officers consider that the form of the Recommendation should remain unchanged, as the matters raised in the additional Objections have already been taken into account in the assessment of the scheme in the main agenda report. In particular, the conclusions reached by GVA are set out in some detail, and these address the potential impact upon Moorland Road Local Shopping Centre.

The current EA position can be addressed by simply amending the Recommendation wording in order to refer to the outstanding issues raised by the EA, as follows:

RECOMMENDATION

The formal Recommendation is amended as follows:

“(A): Authorise the Planning and Environmental Law Manager to secure an agreement under S106 of the Town and Country Planning Act 1990 to secure a strategic transport contribution of £302,721.00.

(B): Upon completion of the Agreement authorise the Development Manager to PERMIT the application subject to the Environment Agency confirming its satisfaction regarding the manner in which its concerns regarding surface water drainage and construction details are being addressed, and subject to the following conditions:”

Item No.	Application No.	Address
02	10/03380/EFUL	The Bath Press, Lower Bristol Road, Bath

Since the main agenda report additional representations have been received.

However, as of Monday afternoon 12 March 2012 Officers have received written confirmation from the applicants that this application has been

“withdrawn with immediate effect”. As a result the item will not be reported on and there can be no debate on the merits of the scheme.

Item No.	Application No.	Address
03	12/00207/FUL	The Galleries Shop, Freshford Lane, Freshford

Representations

2 further comments have been received.

1 objection comment which can be summarised as follows:

- Development will overturn the original intent of maintaining the building as a community shop, by increasing the overall area for the café area.
- Change of purpose may have a detrimental impact upon the plans for the village
- Stakeholder engagement has been poor
- Capacity in the village hall which could be used
- Original concept for the shop has been eroded with it now being an electricity generating station and potentially a café

2 supporting comments which can be summarised as follows:

- This application deserves to be approved for the same reason the original shop & café were – namely very special circumstances (essential community use) which outweigh the greenbelt considerations
- The café is not intended as a separate unit – the café area will remain part of the shop, all in the same continuous space
- The café space will still only amount to 30% of the shop building (up from currently 16.5%) and max 30% of the turnover (currently 11%)
- The café activity, with its naturally higher profit margin, will help ensure the financial viability of the shop, should the pool of volunteers begin to diminish
- There is wholehearted support for the extension from the community
- The shop and cafe have brought great changes to the local community especially for more vulnerable groups such as the elderly and young families who find it difficult to get into Bath to shop or to socialise

Planning Officer Response

The supporting comments have been taken into account but do not outweigh the identified harm referred to in the officer report. Although it is cited that the development will help ensure the financial viability of the shop, detailed figures have not been put forward to demonstrate the need for the extension in terms of the viability of the community shop. Overall it is not considered that very special circumstances have been put forward which outweigh the

usual policies of restraint. It should be recognised, as laid out in PPG2 – Green Belts, that it is for applicant to show why permission should be granted.

Item No	Application No	Address
05	12/00389/FUL	Fountain Buildings, Bath

Comments have been received from the Development and Major Projects Team in support of the application (date received 02/03/12):

Economic Strategy

The Strategy refers to the ‘Digital Britain’ report 2009 which sets out the importance of high broadband speeds for the development of knowledge-based businesses. Access to broadband within the district is patchy especially in some rural areas so it is important that easy access broadband is established throughout the district to ensure firms look to grow in Bath and North East Somerset.

Core Strategy

The document highlights that access to Broadband is key in rural areas and this is a recognised knowledge gap. Some of the Broadband applications are located on the outskirts of Bath this could potentially make superfast broadband in rural areas the next progressive step.

Economic Aspiration

The economic aspiration of the district is to ensure that high speed broadband.

Additional Comment

This location services a diverse mix of small business that benefit from broadband upload capacity to maximise e-commerce opportunities and support economic viability and growth.

Planning Officer Response:

The comments have been taken into account but do not outweigh the identified harm referred to the officer report, the proposal therefore is recommended for refusal.

Item No.	Application No.	Address
09	12/00658/AR	Bathwick Hill Roundabout, Pulteney Road, Bath

In respect of application 12/00658/AR for the display of 4 No. sponsorship advertisements on Bathwick Roundabout, formal comments have been received from the **Highways Development Officer**. In summary, No Objections are raised subject to detailed requirements associated with the height and locations of the proposed signs.

These matters are already dealt with by the recommended Condition 2, and so the Recommendation set out in the main agenda report remains unchanged.

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BATH AND NORTH EAST SOMERSET COUNCIL

DEVELOPMENT CONTROL COMMITTEE

14th March 2012

DECISIONS

Item No:	01	
Application No:	10/04475/FUL	
Site Location:	Sainsburys Supermarkets Limited Green Park Station, Green Park Road, City Centre, Bath	
Ward: Kingsmead	Parish: N/A	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of extension to foodstore to provide additional retail floorspace and warehouse floorspace. Alterations to car park layout and engineering works to the southern bank of the River Avon to provide flood storage compensation.	
Constraints:	Agric Land Class 3b,4,5, Article 4, British Waterways, Conservation Area, Cycle Route, Floodplain Protection, Flood Zone 2, Flood Zone 3, Flood Zone 3, Forest of Avon, General Development Site, Hotspring Protection, Listed Building, Sites of Nature Conservation Imp (SN), Sustainable Transport, World Heritage Site,	
Applicant:	Sainsbury's Supermarket Ltd	
Expiry Date:	4th February 2011	
Case Officer:	Geoff Webber	

DECISION

(A): Authorise the Planning and Environmental Law Manager to secure an agreement under S106 of the Town and Country Planning Act 1990 to secure a strategic transport contribution of £302,721.00.

(B): Upon completion of the Agreement authorise the Development Manager to PERMIT the application subject to the Environment Agency confirming its satisfaction regarding the manner in which its concerns regarding surface water drainage and construction details are being addressed, and subject to the following conditions:

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

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

2 No development shall commence until additional drawings at a scale of not less than 1:50 showing details (including sections) of the external walls and fenestration of the proposed extension and of the alterations to the elevations of the existing building have

been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: In the interests of the appearance of the development and the character and appearance of the surrounding part of the Conservation Area and World Heritage Site.

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

Reason: In the interests of the appearance of the development and the character and appearance of the surrounding part of the Conservation Area and World Heritage Site.

4 No development, including site preparation work, shall commence until a Construction Management Plan including but not limited to details of working methods and hours, deliveries (including storage arrangements and timings), contractor parking and traffic management has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved Construction Management Plan.

Reason: To safeguard the amenities of adjoining residential properties and ensure the safe operation of the highway.

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

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

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

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

7 Notwithstanding the information submitted with the application, no development shall take place until an Arboricultural Method Statement with a tree protection plan identifying measures to protect the trees to be retained has been submitted to and approved in writing by the Local Planning Authority. The statement shall include proposed tree protection measures during site preparation, construction and landscaping operations. The statement should also include the control of potentially harmful operations such as the position of service runs and soakaways, storage, handling and mixing of materials on site, location of compound and movement of people and machinery.

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

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

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

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

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

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

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

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

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

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

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health,
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - adjoining land,
 - groundwaters and surface waters,
 - ecological systems,
 - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposed preferred option(s).

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

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

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

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

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

demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

15 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 13, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 14.

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

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

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

17 The development hereby permitted shall not be constructed other than in accordance with a Construction Management Plan, including management of development traffic, deliveries, parking of associated contractors vehicles and travel of contractors personnel to and from the site, That shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety and operation.

18 The development hereby permitted shall not be occupied or used until a Servicing Management Plan, including management of delivery vehicles visiting the store has been submitted to and approved in writing by the Local Planning Authority. The store shall

thereafter not be serviced other than in accordance with the approved Servicing Management Plan unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of highway safety and operation and of the amenities of nearby residents.

19 The development hereby permitted shall not be occupied until a Staff Travel Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the site shall not be occupied other than in accordance with the provisions of the approved Travel Plan.

Reason: In the interests of sustainable travel and the operation of the public highway.

20 The development hereby permitted shall not be occupied until improved access has been afforded between the site and the existing riverside cycle path, and safe, secure cycle parking facilities are available for use by staff and customers, in order to encourage increased travel to and from the site by sustainable means. Notwithstanding the information shown on the plans submitted as part of the application, no work shall commence on site until further detailed plans of the new cycle and pedestrian facilities, to include appropriate measures to provide safety for pedestrians and cyclists using the riverside cycle path, have been submitted to and approved in writing by the local planning authority.

Reason: In the interests of sustainable travel and the operation of the public highway, to ensure the safety of cyclists and pedestrians having regard to the proximity of the development to the river, and to ensure that the details of the proposed works are satisfactory.

21 The proposed extension shall not be brought into use until the car parking facilities for the store have been provided in accordance with the approved plans.

Reason: In order to ensure that adequate parking provision is retained in connection with the proposed extended store.

22 There shall be no more than 4,020 sq. metres of net sales area within the extended food store at any time and no more than 20% of the total net sales area shall be used for the sale of non-food goods.

Reason: To safeguard the vitality and viability of existing retail centres in accordance with Policy S4 of the Bath and North East Somerset Local Plan.

23 Further Conditions as may be required by the Environment Agency in connection with Flood Protection matters.

24 The Plans List and Reasons for Granting Permission will be finalised at the time of issue of the decision notice.

Informatives:

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

2. The developer shall comply with the BRE Code of Practice to control dust from construction and demolition activities (ISBN No. 1860816126). The requirements of the Code shall apply to all work on the site, access roads and adjacent roads.
3. The requirements of the Council's Code of Practice to Control noise from construction sites shall be fully complied with during demolition and construction of the new extension. (copy attached).

Item No:	02
Application No:	10/03380/EFUL
Site Location:	The Bath Press, Lower Bristol Road, Westmoreland, Bath
Ward: Westmoreland	Parish: N/A LB Grade: N/A
Application Type:	Full Application with an EIA attached
Proposal:	Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,610sqm of offices (Class B1), 220sqm of community space (Class D1/D2), 10 residential houses, car park, landscape and access (including realignment of Brook Road)
Constraints:	Agric Land Class 3b,4,5, British Waterways, Flood Zone 2, Forest of Avon, Hazards & Pipelines, Hotspring Protection, Tree Preservation Order, World Heritage Site,
Applicant:	St James's Investments Limited & Tesco Stores Limited
Expiry Date:	9th December 2010
Case Officer:	Sarah James

DECISION Application Withdrawn

Item No:	03
Application No:	12/00207/FUL
Site Location:	The Galleries Shop, Freshford Lane, Freshford, Bath
Ward: Bathavon South	Parish: Freshford LB Grade: N/A
Application Type:	Full Application
Proposal:	Erection of extension to Freshford Shop to increase cafe area and decking
Constraints:	Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Area of Outstanding Natural Beauty, Greenbelt, Public Right of Way,
Applicant:	Galleries Ltd
Expiry Date:	12th March 2012
Case Officer:	Tessa Hampden

DECISION

Defer consideration to allow time to advertise the application as a Departure and to give the applicant the opportunity to demonstrate very special circumstances to allow for a departure from the usual policies of constraint.

Item No:	04	
Application No:	10/01175/FUL	
Site Location:	Lady Farm Cottage, Lady Farm Cottage Road, Chelwood, Bristol	
Ward: Clutton	Parish: Chelwood	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of new dwelling to regularise part built works (retrospective)	
Constraints:	Agric Land Class 1,2,3a, Coal fields, Forest of Avon, Greenbelt,	
Applicant:	Mr M Pearce	
Expiry Date:	26th May 2010	
Case Officer:	Victoria Griffin	

DECISION Delegate to PERMIT

Authorise the Development Manager to PERMIT subject to referral to the Secretary of State and re-consultation with neighbours on revised plans, as the proposal includes a porch and first floor balcony to the front elevation. If any new objections relating to the porch or the balcony are received the case will be referred back to Committee for members to consider.

Item No:	05	
Application No:	12/00389/TEL	
Site Location:	Fountain Buildings, City Centre, Bath	
Ward: Abbey	Parish: N/A	LB Grade: N/A
Application Type:	Telecommunications Application	
Proposal:	Installation of Superfast fibre optic broadband cabinet (PCP 012) at Fountain Buildings, S/O 1 Alfred Street	
Constraints:	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,	
Applicant:	Openreach	
Expiry Date:	21st March 2012	
Case Officer:	Victoria Griffin	

DECISION APPROVE

PLANS LIST: Cabinet Location plan date received 26/01/12.

Informative: The applicant is advised to contact the Local Planning Authority concerning the colour of the cabinet.

Item No:	06
Application No:	12/00012/REG04
Site Location:	Queen Square, City Centre, Bath
Ward: Abbey	Parish: N/A LB Grade: N/A
Application Type:	Regulation 4 Application
Proposal:	Creation of two pedestrian access points to east and west of Queen Square Gardens and insertion of two gateway piers within the existing boundary railings to the north side of Queen Square
Constraints:	Agric Land Class 3b,4,5, Article 4, Bath Core Office Area, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,
Applicant:	Bath And North East Somerset Council
Expiry Date:	29th February 2012
Case Officer:	Suzanne D'Arcy

DECISION PERMIT with the following conditions:

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

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

2 The gate piers hereby approved shall match those on the south entrance to the Square in terms of materials, detail and design.

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

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

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

PLANS LIST: This decision relates to drawings numbered 1118/01a, /02a Rev B, 03a Rev B, /04a rev A, /05a, /06a, /07a, 01 and 02 and related Design and Access Statement, received by the Council on 4th January 2012 and 1118-10A A date 7 March 2012

REASONS FOR GRANTING APPROVAL

1. The proposed development will more closely reflect the intended plan form of Queen Square and will preserve the setting of the Conservation Area and listed buildings. There will be no highway safety implications from the gate piers.
2. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the Policies set out below at A.

A.

D.2, D.4, BH.1, BH.2, BH.6 and T.24 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

The applicant should note that this Notice of Decision does not grant approval with regards either the detail of, or the carrying out of works within the limits for the public highway for which the consent and technical approval of the Council's Highways Service is required.

Item No:	07	
Application No:	11/05310/FUL	
Site Location:	Stables, Butcombe Lane, Nempnett Thrubwell, Bristol	
Ward: Chew Valley South	Parish: Nempnett Thrubwell	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Retention of stable block, field shelter, hay store, hard-standing, lean-to and secure tack room and tractor, trailer, horsebox, creation of feed/storage area, incorporating a change of use of the land to equestrian (Resubmission)	
Constraints:	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Forest of Avon, Greenbelt, Public Right of Way, Water Source Areas,	
Applicant:	Mr James Livingstone	
Expiry Date:	5th March 2012	
Case Officer:	Richard Stott	

DECISION PERMIT with the following conditions:

1 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no ménage or other hardstanding associated with the equestrian use of the land shall be constructed without a further planning permission having first been applied for and approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity and character of the green belt and this part of the Mendip Hills Area of Outstanding Natural Beauty.

2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no jumps or other equestrian associated paraphernalia shall be erected or used on this site without a further planning permission having first been applied for and approved in writing by the Local Planning Authority.

Reason: In the interests of the visual amenity and character of the green belt and this part of the Mendip Hills Area of Outstanding Natural Beauty.

3 Within three months of the date of this permission, the works to improve the appearance of the existing buildings, including the use of timber cladding and steel profile sheeting as specified in the Design and Access Statement and shown on the drawings hereby approved shall be carried out.

Reason: in the interest of the appearance of the site and the visual amenities of the wider Area of Outstanding Natural Beauty

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

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

PLANS LIST: This decision relates to the Design and Access Statement, Site Location Plan and to drawings S4935/001 and 100B date stamped 12th December 2011 by the Council

REASONS FOR GRANTING APPROVAL

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

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

3. The proposed retention of the existing stables and equestrian buildings on this site, along with the change of use of the land to equestrian is acceptable and in accordance with National Policy as set out in PPG.2 and PPS.7 and local Policy GB.1 of the Bath & North East Somerset Local Plan, including minerals and waste policies, October 2007 and Policy CP8 of the Submission Core Strategy, May 2011.

4. The proposed retention of the existing stables and equestrian buildings on this site, along with the change of use of the land to equestrian, by reason of the siting, location, local topography and surrounding vegetation preserves the openness of this part of the Green Belt and maintains the local rural character of the Mendip Hills Area of Outstanding Natural Beauty, in accordance with Policies GB.2 and NE.2 of the Bath & North East Somerset Local Plan, including minerals and waste policies, October 2007 which are saved policies in the Submission Core Strategy, May 2011.

5. The proposed access is to a satisfactory standard, maintaining the safety of highway users, in accordance with Policy T.24 of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007 which is a saved policy in the Submission Core Strategy, May 2011.

A

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

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

NE.2 Area of Outstanding Natural Beauty

GB.1 Green Belt

GB.2 Openness of the Green Belt

T.24 Access

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

CP8 Green belt

Policies T.24, NE.2, GB.2, D.2 and D.4 are Saved Local Plan Policies

SUPPLEMENTARY PLANNING GUIDANCE

Mendip Hills Area of Outstanding Natural Beauty Supplementary Planning Guidance: Guidelines for Horse Related Development

NATIONAL POLICY

PPG.2 Green Belts

PPS.7 Sustainable Development in Rural Areas

DRAFT NATIONAL PLANNING POLICY FRAMEWORK

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

Planning Minister Greg Clark has said that ministers are committed to publishing the final version of the NPPF by 30 March 2012.

INFORMATIVE:

Public Right of Way CL4/27 runs through the middle of the application site. The line and width of the path must not be altered or obstructed during or after the change of use. No gates or other furniture are to be erected on the line of the footpath.

Item No:	08
Application No:	11/05349/AR
Site Location:	Bath Urban Area, Various Streets
Ward: Newbridge	Parish: N/A LB Grade: N/A
Application Type:	Advertisement Consent
Proposal:	Display of 60 no. freestanding feather flags (30 Olympics branding + 30 Paralympics branding), bunting on railings and around lamp-posts and fence scrim on railings
Constraints:	Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Agric Land Class 3b,4,5, Scheduled Ancient Monument SAM, Area of Outstanding Natural Beauty, Article 4, Bath Core Office Area, British Waterways, City/Town Centre Shopping Areas, Coal - Standing Advice Area, Conservation Area, Cycle Route, Flood Zone 2, Flood Zone 3, Forest of Avon, General Development Site, Greenbelt, Hazards & Pipelines, Historic Parks and Gardens, Hotspring Protection, Listed Building, Local Shops, Major Existing Dev Site, Overland Flood Route, Protected Recreational, Primary School Purpose, Prime Shop Front, Public Right of Way, Railway, Sites of Nature Conservation Imp (SN), Safeguarded Roads, Sustainable Transport, Tree Preservation Order, World Heritage Site,
Applicant:	Bath & North East Somerset Council
Expiry Date:	9th April 2012
Case Officer:	Geoff Webber

DECISION CONSENT with the following conditions:

1 No advertisement the subject of this consent shall be displayed other than in accordance with further details showing the appearance of the proposed advertisement and in accordance with a Display Strategy setting out details of the locations and display programme under which advertisements are to be displayed, both of which shall first have been submitted to and approved in writing by the local planning authority. The submitted Display Strategy shall also specify the actions that will be taken in the event that any advertisement the subject of this consent becomes damaged or defaced.

Reason: In order to ensure that the appearance of and locations for the proposed advertisements are acceptable in accordance with the provisions of Local Plan Policy BH.17 and will not significantly prejudice amenity or public safety.

2 Notwithstanding the provisions of Condition 1 no advertisement the subject of this consent shall be displayed prior to 1st May 2012, and all advertisements displayed under the provisions of this consent shall be removed no later than 30th September 2012.

Reason: The proposed advertisements are only acceptable on a temporary basis in accordance with the submitted details, having regard to the provisions of Local Plan Policy BH.17.

3 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below, and/or such additional plans and details as may be submitted and approved pursuant to the Conditions attached to this consent.

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

PLANS LIST: Site Location Plan; Illustrative details of proposed advertisements, bunting and scrim; Design and Access Statement 141211, all dated 14th December 2011

The granting of planning permission does not convey other consents that may be required under other legislation. The applicant is advised that the formal consent of the Highway Authority is required under the Highways Act for anyone to erect a signs or similar structure within the limits of, or which overhang the highway or are attached to any street furniture, and this may be obtained from the Highway Maintenance Team who can be contacted on 01225 394337 who will need to agree the siting of each item comprising the proposed development.

Item No:	09	
Application No:	12/00658/AR	
Site Location:	Street Record, Pulteney Road, Bathwick, Bath	
Ward: Bathwick	Parish: N/A	LB Grade: N/A
Application Type:	Advertisement Consent	
Proposal:	Erection of 4 non-illuminated signs on Bathwick Hill roundabout	
Constraints:	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,	
Applicant:	Bath And North East Somerset Council	
Expiry Date:	9th April 2012	
Case Officer:	Geoff Webber	

DECISION CONSENT with the following conditions:

1 No advertisement the subject of this consent shall be displayed prior to 1st May 2012, and all advertisements displayed under the provisions of this consent shall be removed no later than 30th September 2012.

Reason: The proposed advertisements are only acceptable on a temporary basis in accordance with the submitted details, having regard to the provisions of Local Plan Policy BH.17.

2 The proposed advertisements shall not be displayed until a more detailed plan showing their exact location and alignment in relation to other features and road traffic signs has been submitted to and approved in writing by the local planning authority.

Reason: In order to ensure that the details of the proposed displays do not prejudice public safety at this busy road junction.

3 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below, and any additional details approved pursuant to the Conditions attached to this Consent.

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

PLANS LIST: Site Location Plan; Roundabout Sign Specification; Design and Access Statement; all received on 13th February 2012

The granting of planning permission does not convey other consents that may be required under other legislation. The applicant is advised that the formal consent of the Highway Authority is required under the Highways Act for anyone to erect a signs or similar structure within the limits of, or which overhang the highway or are attached to any street furniture, and this may be obtained from the Highway Maintenance Team who can be contacted on 01225 394337 who will need to agree the siting of each item comprising the proposed development.

Item No:	10	
Application No:	11/05423/LBA	
Site Location:	8A Cavendish Crescent, Lansdown, Bath, Bath And North East Somerset	
Ward: Lansdown	Parish: N/A	LB Grade: II
Application Type:	Listed Building Consent (Alts/exts)	
Proposal:	Internal and external alterations (Part Regularisation)	
Constraints:	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, World Heritage Site,	
Applicant:	Mr & Mrs Mike & Elizabeth Curnow	
Expiry Date:	14th February 2012	
Case Officer:	Adrian Neilson	

DECISION CONSENT with the following conditions:

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

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

2 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.

3 Prior to the commencement of installation of the new stone floor in the vaults a sample of the proposed natural limestone shall be provided for the inspection and approval in writing of the Local Planning Authority. The works shall be carried out in accordance with the approved detail.

Reason: In order to safeguard the special architectural and historic interest of the listed building.

PLANS LIST: Drawings: Location Plan, No.s 06, 09, 10 and Heritage Statement and Design and Access Statement date stamped 20 December 2012.

The decision to grant consent has been made in accordance with the Government's Planning (Listed Buildings and Conservation Areas) Act 1990 and Planning Policy Statement 5: Planning for the Historic Environment. The Council regards that the proposals because of their location, design, detailing, use of materials, will preserve the building, its setting and its features of special architectural or historic interest and will enhance the setting of the Conservation Area and this part of the World Heritage Site.

SAINSBURY'S – GREEN PARK STATION, BATH
Planning Application 10/04475/FUL
Additional Update for DC Committee, 14th March 2012

English Heritage yesterday made further written comments on this application. In their letter, they assess the merits of the revisions to the originally submitted scheme, and conclude that the changes are in their view only a minor improvement to the overall character of the Sainsbury's store.

Your Officers' view is that the package of enhancements that has resulted from negotiations with the Applicants' Agents is the best that can realistically be secured in connection with a proposal for an Extension to the existing store. The improvements to the external appearance of the entire store building in views from the south and east (ie from the River and from Midland Bridge Road) are valuable enhancements to the benefit of the community and to the character and appearance of this part of the Conservation Area and World Heritage Site.

English Heritage's letter concludes that the proposed Extension constitutes "less than substantial harm to heritage assets", but advises that a decision on this application should have regard to Policy HE9.4 of PPS5 on the Historic Environment. This Policy recognises that permission can be granted for developments that do not result in substantial harm to heritage assets in cases where the scheme as a whole incorporates aspects of public benefit.

Your Officers have considered the views of English Heritage and can advise members that we are satisfied that having regard to the scheme as a whole – including the enhancements to the overall appearance of the existing store, the provision of improved accessibility between the river towpath and cycle route and the site, the provision of cycle access and parking facilities, the provision of new landscaping works and the enhancement of the amenities of the area between the river and the store building – the proposals do fall within the provisions of Policy HE9.4 of PPS5.

If the Committee supports the proposals, then this matter will be included in the Reasons for Granting Permission in due course.

Geoff Webber
Senior Professional – Major Developments

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	11th April 2012
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)
TITLE:	APPLICATIONS FOR PLANNING PERMISSION
WARDS:	ALL
BACKGROUND PAPERS:	
AN OPEN PUBLIC ITEM	

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.

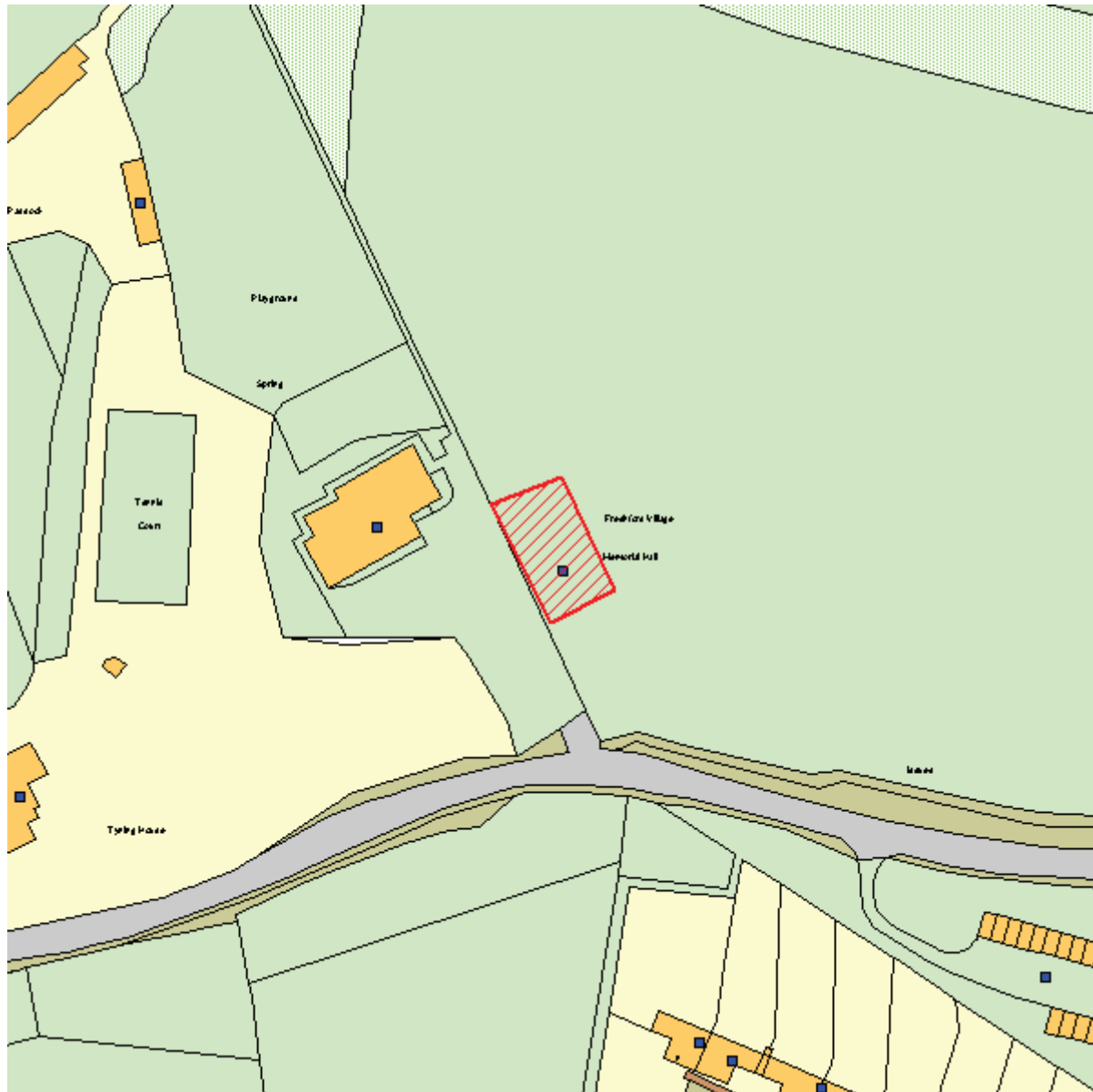
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting 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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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	12/00207/FUL 12 March 2012	Galleries Ltd The Galleries Shop, Freshford Lane, Freshford, Bath, Bath And North East Somerset Erection of extension to Freshford Shop to increase cafe area and decking	Bathavon South	Tessa Hampden	PERMIT
02	10/04399/FUL 16 February 2011	Avon Wildlife Trust Folly Farm, Folly Lane, Stowey, Bristol, Bath And North East Somerset Change of use from Class C2 to Mixed Use combining Classes C2/ D2 for residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities (Retrospective)	Chew Valley South	Andy Pegler	PERMIT
03	11/04808/VAR 13 February 2012	Sainsbury's Supermarkets Ltd Sainsbury's Supermarket Limited, 170 Frome Road, Odd Down, Bath, BA2 5RF Variation of condition 29 of application 09/02389/OUT to allow deliveries from 06:00 to 23:00 seven days a week including bank holidays (Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout, and scale reserved for future consideration on this part.)	Lyncombe	Jonathan Fletcher	PERMIT
04	12/00351/FUL 15 March 2012	Mr Stephen Gardner Land Adjacent To Kingswell, Eckweek Lane, Peasedown St. John, Bath, Erection of 2no. dwellings (Resubmission)	Peasedown St John	Rebecca Roberts	REFUSE

05	11/04754/FUL 23 February 2012	Mr & Mrs Philip Honey Parcel 9015, Rowley Farm Lane, Combe Hay, Bath, Installation of 250 solar PV panels in a ground mounted array.	Bathavon West	Suzanne D'Arcy	REFUSE
06	12/00495/FUL 29 March 2012	Mr Justin Braithwaite Bath Urban Area, Various Streets Erection of 15 temporary plinths with name plaques in various locations (for the display of temporary public art works) (01/05/2012 - 01/11/2012)	Newbridge	Richard Stott	PERMIT

Item No: 01
Application No: 12/00207/FUL
Site Location: The Galleries Shop, Freshford Lane, Freshford, Bath



Ward: Bathavon South

Parish: Freshford

LB Grade: N/A

Ward Members: Councillor Neil Butters

Application Type: Full Application

Proposal: Erection of extension to Freshford Shop to increase cafe area and decking

Constraints: Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Area of Outstanding Natural Beauty, Greenbelt, Public Right of Way,

Applicant: Galleries Ltd

Expiry Date: 12th March 2012

Case Officer: Tessa Hampden

REPORT

REASON FOR REFERRING APPLICATION TO COMMITTEE:

This application was deferred from the March Development Control Committee to allow time for the application to be advertised as a Departure and to give the applicants the opportunity to demonstrate very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness.

DESCRIPTION OF SITE AND APPLICATION:

The application relates to the Galleries Shop which is a community shop built in 2009. The site is located off Freshford Lane, adjacent to the Village Hall but outside of the defined Freshford settlement boundary. The Site is located within the designated Green Belt and the Cotswold Area of Outstanding Natural Beauty.

The application seeks planning permission for the erection of an extension to increase the cafe and decking area. The cafe extension is 22sqm which is sized to accommodate 4 cafe tables to provide seating for an additional 16 customers. The new deck is 44sqm and the overall space can be separated from the shop area with double doors when required.

Since this application was discussed at the previous Development Control Committee, the agent has submitted additional information, in the form of a letter of support from the Director of the Galleries Shop. This puts forward what the applicant believes are very special circumstances to allow for a departure from the usual policies of constraint. Further, this letter provides additional supporting information following the publication of the first committee report.

RELEVANT PLANNING HISTORY:

DC - 07/03529/OUT - Approve - 21 May 2008 - Erection of new timber building for use as a community shop

DC - 08/02993/RES - Permit - 11 November 2008 - Erection of new timber building for use as a community shop (Reserved matters for outline application 07/03529/OUT)

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAY DEVELOPMENT - The relatively modest extension would give rise to an increase of 3 spaces in the parking requirement. However having observed the operations in busy periods, the various community uses were accommodated successfully with room to spare. There are therefore no highway objections to the development.

Cllr Butters - requests that the application is heard at Committee if the application is to be refused.

FRESHFORD PARISH COUNCIL: supports the planning application for the following reasons:

- A greater proportion of the building can be given over to A3 (café) use;
- Since the shop and café has opened the community benefit of both has been enormous;
- The primary reasons for supporting the original application for the shop were those relating to the very special circumstances associated with community benefit;

- The development will enable the community benefit to be considerably enhanced whilst the main use of the development will continue to remain as a shop.

REPRESENTATIONS:

3 third party comments have been received, 2 objecting to the development and 1 making general comments. The comments can be summarised as follows:

- Further build would mean additional use of Green Belt land
- Visual outlook from neighbouring property would be impaired
- Overlooking issues from new building and decking
- Consideration of new planting if consent is granted
- Development will overturn the original intent of maintaining the building as a community shop, by increasing the overall area for the café area.
- Change of purpose may have a detrimental impact upon the plans for the village
- Stakeholder engagement has been poor
- Capacity in the village hall which could be used
- Original concept for the shop has been eroded with it now being an electricity generating station and potentially a café.

POLICIES/LEGISLATION

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

D2 - Design and public realm

D4 - Townscape

SC1 - Settlement classification

ET7 – Non-agricultural development on agricultural land

S4 Retail development outside of the identified shopping centres

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

GB1 - Control of development in the Green Belt

GB2 - Visual amenities of the Green Belt

NE1 - Landscape character

NE2 - Areas of outstanding natural beauty

NE5 - Forest of Avon

NE16 - Protection of best and most versatile agricultural land

BH6 - Development within or affecting Conservation Areas

T1 - Overarching access policy

T24 - General development control and access policy

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 D2, D4, T1, T24, CP8, GB2, SC1, ET7, S4, S9, NE1, NE2, NE16, BH6.

The National Planning Policy Framework was published on 27th March 2012. This document has significant weight in the consideration of this planning application as some of its' policies have a direct implication on a number of the Local Plan policies referred to above, in particular GB1, GB2, S4 and S9 of the Local Plan and CP8, GB2, S4 and S9 of the Core Strategy.

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT:

GREEN BELT: This site and all of the surrounding land is located within the Bath/Bristol Green Belt where strict controls over development exist. Development is only acceptable if it falls into specified categories of 'appropriate development' or if very special circumstances exist to allow a departure from the usual policies of restraint.

The National Policy Planning Framework, which was published on 27th March 2012, outlines the forms of the development, which need not form inappropriate development. This replaces Planning Policy Guidance 2 - Green Belts, which the relevant policies of the Local Plan and the emerging Core Strategy are based upon. The wording of the exceptions to inappropriate development has been amended from that contained within PPG2. The NPPF cites that exceptions include:

'The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.

PPG 2 referred to additions over and above the size of the original dwelling. This change in wording to introduce reference to 'building' results in the proposed development now being considered as 'appropriate' within the Green Belt, providing the development does not result in a disproportionate addition to the original building. The extension (including the decking area) represents approximately a 23 % increase in volume over the original building. This can be considered to be a proportionate addition in volume terms. Further due to the subservient design of the development, the proposals can also be considered to be a proportionate addition in visual terms and neither does it adversely affect the openness of the Green Belt.

The development is not therefore considered to represent inappropriate development in the Green Belt and it is now not necessary for very special circumstances to be demonstrated.

EXTENSION TO RETAIL UNIT: Policy S4 of the Local Plan deals with retail development outside of the shopping centres identified in Policy S1 of the Local Plan. The criterion of this policy is subject to Policy S9 of the Local Plan. Policy S9 deals with the development of new small scale shops outside of the identified centres but a requisite of this policy is that the development must be within the settlements as defined in policy SC1. The settlement boundary of Freshford is located a considerable distance to the east of the application site. The site itself does not therefore form part of the identified settlement of Freshford. The extension of this retail unit, away from the settlement of Freshford would not therefore accord with Policy S4 or S9 of the Local Plan.

However the NPPF offers further advice on development in rural areas and promotes supporting a prosperous rural economy. Paragraph 25 cites that the sequential test (as referred to in Policy S4 of the Local Plan) should not be applied to applications for small scale rural offices or other small scale rural development. Further paragraph 28 states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. It advises that to promote a strong rural economy, local plans should, support the sustainable growth

and expansion of all types of businesses in rural areas, both through conversion and well designed new buildings. Further it cites that local plans should promote the retention and development of local services and community facilities in villages such as local shops, meeting places etc.

Whilst it is noted that the application site is located outside of the defined village boundary, the NPPF gives significant weight to supporting sustainable growth and expansion of businesses in the rural areas. The applicant has stated that the café and shop unit will work as one unit, with the café and shop continuing to promote each other. Further no objections have been made by the Highway Development Team with regards to the location of the development in terms of its siting outside of the village boundary. On balance therefore, given the above, there is considered to be no objection in principle to the expansion of this small scale village facility.

CHARACTER AND APPEARANCE: The building is located in a prominent location, readily visible from Freshford Lane and the surrounding area. The extension, due to its appropriate design and scale will appear as a subservient addition to the host building. It will be built in materials to match the existing building which will ensure that the development integrate successfully with this existing development. The extension to the decking area, due to the topography of the site is built up above natural ground level. This results in the decking area having a relatively bulky appearance and increases the prominence of the development particularly from Freshford Lane. However, on balance, given the fact that the decking area will be viewed in context of the main building, it is not considered to result in harm to a level as to warrant a refusal.

On balance therefore there is not considered to be any significant harm to the character of the building, the immediate area or the Area of Outstanding Natural Beauty in which the site is set.

HIGHWAY SAFETY: The parking needs of the shop and adjacent village hall are met by the shared car park which has space to accommodate approximately 30 cars. During most normal store opening hours, adequate space is available to users. At the beginning and end of the school day additional use is made of the store and car park as parents take and collect their children to/from the village school. Use of the car park is encouraged by the school governors as a means of easing congestion in the centre of the village. The operation of the car park at those periods has been observed and it is recognised that the various uses were accommodated successfully with room to spare. There is therefore no highway objection to this development.

RESIDENTIAL AMENITY: The site is set a sufficient distance away from any neighbouring properties to ensure that the development will not have an adverse impact upon the residential amenity of these occupiers.

OTHER ISSUES/CONCLUSION

The publication of the NPPF has amended the exceptions to 'inappropriate development' within the Green Belt. Therefore, as the extension/decking is considered to represent a proportionate addition to the original building, the development is not considered to result in inappropriate development in the Green Belt. Further the NPPF places significant weight on supporting a prosperous rural economy, and with this in mind, there are no

objections to the development in principle. There is not considered to be significant harm to the character and appearance of the building, or the rural character of the area. The development would not result in any undue harm to highway safety or to the residential amenity currently enjoyed by the neighbouring occupiers.

No other significant issues have arisen as a result of this planning application and for the reasons stated above this application is recommended for approval.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

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

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

2 The materials to be used for the external surfaces of the extension shall match those of the existing building.

Reason: In the interest of the character and appearance of the building and the surrounding area.

3 No more than 46m² of the total floorspace of the building hereby approved shall be used for A3 purposes.

Reason: In order to ensure that the main use of the development remains as a shop.

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

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

PLANS LIST: 426/S/01-05 and 426/P/01-04 date stamped 16th January 2012

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.

A

D.2, D.4, SC1, ET7, S4, S9, GB1, GB2, NE1, NE2, NE5, NE16, BH6, T1 and T24 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted October 2007.

The NPPF was published on the 27th March 2012 and the impact of this on the above policies has been fully considered in the assessment of the planning application.

2. As the extension/decking is considered to represent a proportionate addition to the original building, the development is not considered to result in inappropriate development in the Green Belt or adversely affect openness. Further the NPPF places significant weight on supporting a prosperous rural economy, and with this in mind, there are no objections to the development in principle. There is not considered to be significant harm to the character and appearance of the building, or the rural character of the area. The development would not result in any undue harm to highway safety or to the residential amenity currently enjoyed by the neighbouring occupiers.

Item No: 02
Application No: 10/04399/FUL
Site Location: Folly Farm, Folly Lane, Stowey, Bristol



Ward: Chew Valley South

Parish: Stowey Sutton

LB Grade: N/A

Ward Members:	Councillor V L Pritchard
Application Type:	Full Application
Proposal:	Change of use from Class C2 to Mixed Use combining Classes C2/D2 for residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities (Retrospective)
Constraints:	Agric Land Class 1,2,3a, Agric Land Class 1,2,3a, Coal fields, Forest of Avon, Greenbelt, Sites of Nature Conservation Imp (SN), Water Source Areas,
Applicant:	Avon Wildlife Trust
Expiry Date:	16th February 2011
Case Officer:	Andy Pegler

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: The application has been referred back to Committee due to the fact that interested third parties had not received notification of the meeting held on the 15 February 2012, therefore denying parties the opportunity to make representation.

DESCRIPTION OF SITE AND APPLICATION: Folly Farm is remotely situated some 1.5km to the north of Stowey. It is accessed from the A368 via Folly Lane and a track which continues beyond. The authorised use of the farm, operated by Avon Wildlife Trust, is as a residential education centre, with ancillary facilities. The site is within the Green Belt; and is designated as a Local Nature Reserve and (in part) a Site of Special Scientific Interest.

The nearest residential neighbours are situated at the western end of Folly Lane, and at Lyde's Farm to the south-west.

The application is retrospective, and attempts to regularise the currently unauthorised use of the complex as a wedding venue by seeking planning permission for a mixed use, combining Use Classes C2 and D2. The application refers to weekend wedding facilities, with guests arriving on a Friday and departing on the Sunday, although the enterprise currently offers both weekend and weekday facilities. Wedding events are currently restricted to a total of 35 per year. Hours of operation are proposed as 9.00am-2.00am, Monday to Friday and 9.00am-23.00pm, Sundays and Bank Holidays. The application includes a planning statement and transport and noise assessments, amended and updated in response to issues which have been raised, and an ecological assessment.

RELEVANT PLANNING HISTORY: Planning permission was granted, in 2006, for the use of the farm complex as a residential education centre with ancillary café and teaching and workshop facilities (05/03279/FUL).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAY DEVELOPMENT OFFICER: Is satisfied that the visibility at the junction of Folly Lane with the A368 is of a satisfactory standard; and that the level of traffic generated by the proposed use would not be significantly greater than that generated by the current permitted use. A passing bay has been completed at the eastern end of Folly Lane, in accordance with the requirements of a Section 106 Agreement relating to a previous

planning application. While passing opportunities remain limited, the occasions when conflict might occur are unlikely to be significant. Conditions are suggested in the event of planning permission being granted.

ECOLOGICAL OFFICER: Is satisfied that, with appropriate mitigation measures, there would be no harm to ecological interests.

ENVIRONMENTAL HEALTH OFFICER: Is satisfied that the (updated) acoustic report correctly asserts that noise from activities on the site are likely to be inaudible at the nearest noise sensitive premises. Suggests that an appropriate noise management plan could be secured by condition.

OTHER REPRESENTATIONS / THIRD PARTIES:

Letters of objection have been received from, or on behalf of, the 3 neighbouring occupiers. They express the following concerns:

- the visibility and stopping distances at the junction of Folly Lane and the A368 are grossly inadequate (attention is drawn to highway concerns in relation to previous applications);
- traffic generated by Folly Farm exceeds the figures presented with the previous application, in 2006;
- no account has been taken of traffic generated by related services and staff, nor the potential for resident guests to travel to and from the site during the course of their stay;
- uncontrolled activity could further increase in the future;
- previous applications relating to premises on Folly Lane have previously been refused, and dismissed on appeal;
- disturbance by late night / early morning music;
- functions throughout a significant part of the year;
- noise disturbance by traffic late at night / early morning; and
- regular conflict involving 2 way traffic along the lane.

10 letters of support have been received from service providers to, and users of, Folly Farm as a wedding venue. They describe the benefits to local businesses/employers, and the attractive nature of the facility.

POLICIES/LEGISLATION

POLICY CONTEXT:

NATIONAL POLICY:

National Planning Policy Framework as published on the 27th March 2012

DEVELOPMENT PLAN: Bath and North East Somerset Local Plan (including Minerals and Waste Policies) 2007. Relevant policies:

- GB.1: Control of development in the Green Belt;
- GB.2: Visual amenities of the Green Belt;
- NE.8: Nationally important wildlife sites;
- NE.9: Locally important wildlife sites;
- NE.11: Locally important species and habitats;
- ET.9: Re-use of rural buildings;
- ES.12: Noise and vibration;

- D.2: General design and public realm considerations; and
- T.24: General development control and access policy.

The Council's Submission Core Strategy (May 2011) is out at inspection stage and therefore will be given only limited weight for development control purposes.

OFFICER ASSESSMENT

PRINCIPLE OF PROPOSED USE: The existing authorised use of the site was approved following referral to the Secretary of State, and in the face of Green Belt and Highway concerns, on the basis that the (then) proposal entailed a very worthwhile residential educational establishment, and that very special circumstances applied. The scheme was portrayed as being of low intensity, with tightly controlled and limited vehicle activity; and consistent with this tranquil environment. Activity to, from and at the site is not however restricted by condition.

Representations have expressed concern that the impact of the current (and proposed) uses far exceed that which was initially envisaged. Whilst that may be so, the approved use is unfettered in this regard, and the current proposal falls to be considered on its individual merits. Any assertion however that the use of Folly Farm for wedding functions is comparable with its use for conferences is considered unreasonable. The likely nature of activity generated by a conference associated with this education centre is likely to be significantly different to that generated by a wedding function.

GREEN BELT: The proposed additional use would, for the most part, utilise existing buildings and car park areas, and the applicant is prepared to accept a condition relating to marquees and temporary structures. Accordingly, the proposal - resulting in an extended mixed use - would not represent inappropriate development since it would maintain the openness of the Green Belt and would not conflict with the purposes of including land in it.

HIGHWAYS: The junction of Folly Lane with the A368 has been re-assessed against the current criteria and has been found to be of a satisfactory standard. The submitted Transport Statement and Update Report assess the traffic generated by the proposed use, including surveys of wedding events which took place during April and May of 2011. Whilst the figures appear not to include service at staff vehicles, the level of traffic generated by the proposed use and the likely incidence of conflict resulting from 2-way traffic within the lane would not be of such significance to warrant refusal on the grounds of highway safety.

Regard has been had to a previous decision of a Planning Inspector in dismissing an appeal against the Council's refusal of planning permission in respect of an application for retail sales at a nursery also served by Folly Lane - the Inspector determined that the lane was unsuitable for the likely level of traffic that would result. The current proposal however would generate traffic outside of peak hours and, furthermore, the movement would tend to be 'tidal'.

A planning condition had been suggested by the Highway Development Officer to limit the number of guests and events to be held at the venue. The applicants have however demonstrated that the number of guests to the venue has been fairly stable over a two year period. The size of the buildings on site and the limitations on guest numbers as part

of the wedding license also act as self-regulatory controls in this regard. A condition is not considered to be necessary in this instance and a condition may ultimately also prove difficult to enforce. The Highway Development Officer has therefore withdrawn his request in this regard.

RESIDENTIAL AMENITY: The applicants have sought to demonstrate that the proposal will have little or no impact upon the amenities of neighbours, who are some distance away from the farm complex. Measures have been installed within the main reception building in order to reduce the potential for disturbance from amplified music, etc. Further measures have been implemented in order to reduce the noise generated by vehicles moving over a cattle grid within the access drive. Further acoustic assessments have been undertaken which adequately demonstrate that it would be unlikely that the proposal would cause harm to the amenities of neighbouring residential properties. A noise management plan, to include the above measures, should be secured by condition.

The proposed use will generate traffic along Folly Lane, which runs adjacent to residential properties, at a level and time of day which would not reasonably be expected as a consequence of the currently approved use of Folly Farm. The submitted evidence suggests however that vehicle activity in the area - where residential properties are situated close to the main road - will not be significantly increased to the detriment of residential amenity.

WILDLIFE: An ecological assessment including proposed mitigation measures has been submitted in response to initial concerns regarding a lack of survey data. Such mitigation measures would be the subject of appropriate conditions if this application was found to be acceptable in principle.

SUSTAINABILITY: The Folly Farm Centre has been established employing low impact building techniques. No further operational development is proposed in association with the current proposal, which might otherwise raise issues relating to sustainability. Whilst the applicant has sought to implement sustainable transport measures in relation to the use as an education centre, the proposed additional use is likely to be largely reliant on private transport.

CHANGES TO PLANNING POLICY: Since this item was last considered by the Development Control Committee on the 15th February 2012 the National Planning Policy Framework (NPPF) has been released and brought into force. This document has replaced a number of national documents which were considered to be relevant to the determination of this planning application including PPS 1, PPG 2, PPS 4, PPS 7 and PPG 24. The NPPF guidance in respect of the issues which this particular application raises does not differ significantly from that offered in the now replaced national PPGs and PPSs referred to in the previous Development Control Committee report. Accordingly the application continues to be recommended for approval by your Officers.

OTHER MATTERS: It is clear from the representations received that the (unauthorised) use of the centre is welcomed by various service providers. Local employment benefits weigh in favour of the proposal, as do the benefits resulting from the contribution towards the conservation work of the Avon Wildlife Trust.

It became apparent during the consideration of this application when it was previously heard at the Development Control Committee that several planning conditions were inadvertently omitted from the report. These have now been added to this revised report and condition 4 which deals with hours of operation has been amended to correct an error in the suggested hours of operation. The condition now requires that the use for wedding ceremonies and receptions shall not take place outside of the hours of 09:00-02:00 Monday-Saturday rather than requesting such uses to cease at 20:00 on these days.

CONCLUSION:

The proposed, mixed, use involves no operational development and utilises existing buildings and areas of car park. With appropriate conditions, the proposal will maintain the openness of the Green Belt and would not therefore represent inappropriate development. The suggested benefits to the educational / conservation enterprise and the local economy weigh in favour of the development.

Notwithstanding the concerns of neighbours, the proposal raises no sustainable objections on grounds of highway safety. The junction of Folly Lane is of a satisfactory standard; and the additional traffic generated by the proposed use would be likely to occur outside of peak hours.

Whilst the proposed wedding facility would generate vehicle activity during the late night / early morning period, the impact upon the amenities of neighbouring residential properties would not be significant, having particular regard to the proximity of the properties to the main road.

Noise emanating from the proposed use would, with appropriate conditions and mitigation measures, cause no significant harm to residential amenities.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 The residential accommodation and café hereby permitted shall only be occupied or used ancillary to and in connection with the use of the site authorised by this planning permission and shall not be occupied or used independently or separately for any other purposes.

Reason: To prevent an over-intensive use of the site and to restrict additional traffic generation.

2 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, (or any order revoking and re-enacting that Order with or without modification) the premises shall be used only for the purposes specified in the application and for no other purpose.

Reason: The approved use only has been found to be acceptable in this location and other uses may require further detailed consideration by the Local Planning Authority.

3 The development hereby approved shall operate in accordance with a Noise Management Plan which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the surrounding area.

4 The use of the site for wedding ceremonies and receptions hereby approved shall not operate outside the hours of 09:00 to 02:00 Monday to Saturday and 09:00 to 23:00 Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers.

5 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no marquees or other free standing buildings shall be erected within the curtilage of Folly Farm, unless a further planning permission has been granted by the Local Planning Authority.

Reason: To safeguard the openness of the Green Belt

6 Within three months of the date of permission and notwithstanding the currently submitted details the applicant shall submit;

(i) A document 'Wildlife Protection Guidance and Procedures at Folly Farm Centre' providing supplementary guidance to centre users, staff and managers for prevention of harm to bats and bat activity, and protection of other wildlife including nesting birds and great crested newts, to be adhered to at all times by all parties

(ii) A programme of implementation of the recommendations for changes to lighting as set out in the 'Bat Roost Inspection and Activity Survey, Folly Farm Centre Buildings' Craig Stenson AWT Consultancy August 2011, and implementation of recommendations of the 'Protected Species and Potential Impacts of Weddings at Folly Farm: Assessment, recommendations, actions' AWT September 2011

(iii) Evidence of implementation and completion of the lighting changes referenced at point (ii)

All uses at Folly Farm Centre shall thereafter operate in accordance with the approved Guidance and Procedure unless otherwise first approved in writing by the local planning authority

Reason: In order to safeguard protected species at and around the site.

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

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

PLANS LIST: This decision relates to the following drawings: 634/PL/101A date stamped 19 October 2010; and 634/BR.2D, 634/BR.3C and AWTF 001 date stamped 17 November 2010.

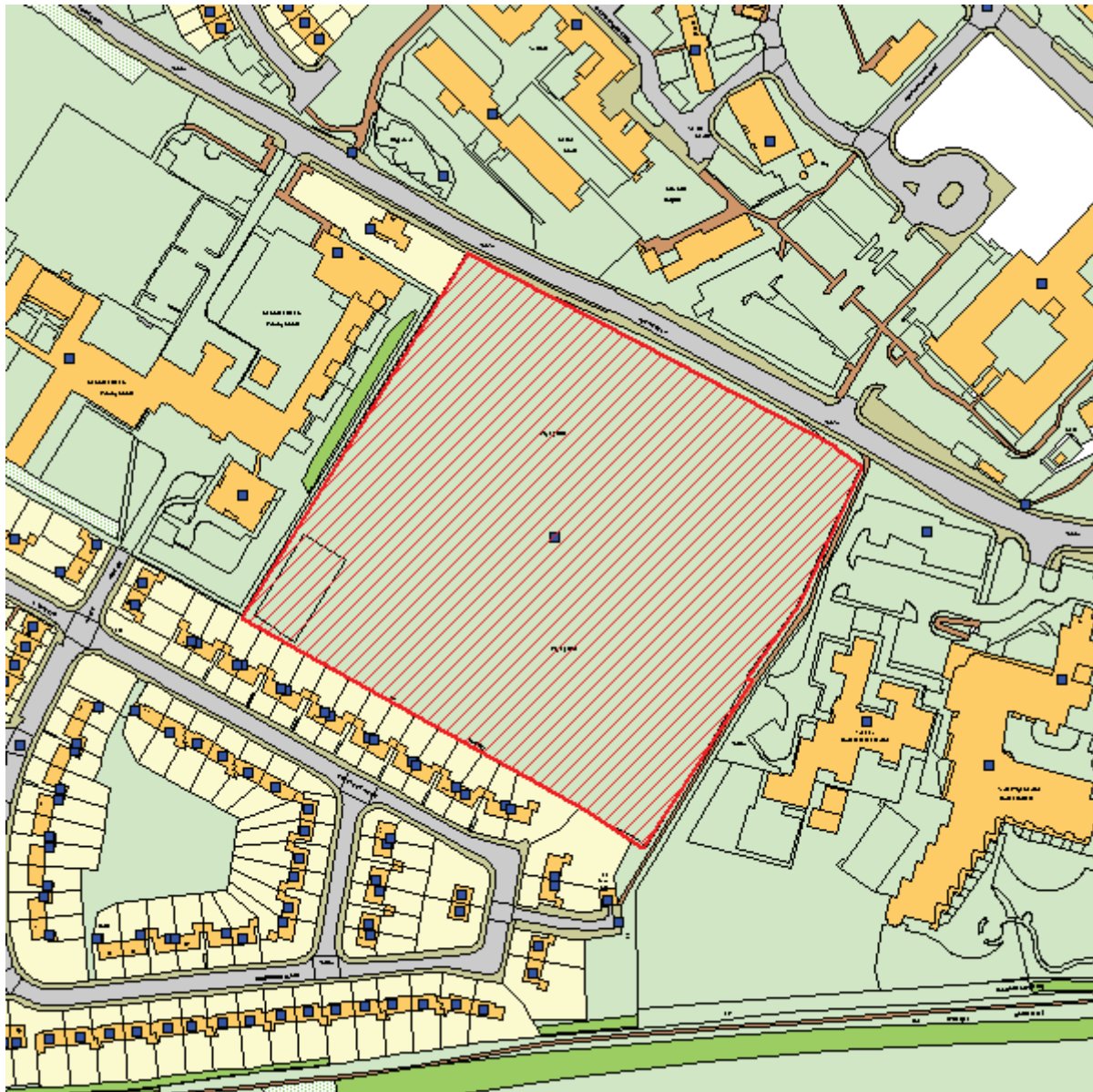
REASONS FOR APPROVAL

The application which is made retrospectively is to change the use of the site to allow a mixed use combining classes C2/D2 to allow residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities. The proposed use would for the most part utilise existing buildings and car park areas and subject to a condition to restrict the erection of marquees or other temporary structures then the development will not harm the openness of the green belt or conflict with the purposes of including land within the green belt. The Highway Department's advice is that the level of traffic generated from this proposal and the likely incidence of conflict resulting from 2-way traffic within the lane would not be of such significance to justify refusal of the application on highway grounds. Large amounts of traffic would be generated outside of peak hours and movements would tend to be tidal in their nature.

In respect of neighbouring amenity it is noted that residents are located some distance from the complex. Measures have been installed within the main reception building in order to reduce the potential for disturbance from amplified noise. Further measures have also been employed to minimise noise of cars crossing a cattle grid. A noise management plan is to be required by planning condition. It is accepted that cars will pass residential properties on the lane during late hours however these properties are located close to the main road and refusal of planning permission cannot be justified in this respect. The implications of the development on wildlife has been considered and a condition is recommended in this regard.

The decision to grant approval has taken account of the Development Plan and any approved Supplementary Planning Documents. The proposal is in accordance with Policies GB.1, GB.2, NE.8, NE.9, NE.11, ET.9, ES.12, D.2 and T.24 of the Bath & North East Somerset Local Plan (including Minerals and Waste Policies) 2007.

Item No: 03
Application No: 11/04808/VAR
Site Location: Sainsbury's Supermarket Limited, 170 Frome Road, Odd Down, Bath



Ward: Lyncombe **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Katie Hall Councillor D F Bellotti

Application Type: Application for Variation of Condition

Proposal: Variation of condition 29 of application 09/02389/OUT to allow deliveries from 06:00 to 23:00 seven days a week including bank holidays (Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout, and scale reserved for future consideration on this part.)

Constraints:	Agric Land Class 3b,4,5, Forest of Avon, General Development Site, Hotspring Protection, World Heritage Site,
Applicant:	Sainsbury's Supermarkets Ltd
Expiry Date:	13th February 2012
Case Officer:	Jonathan Fletcher

REPORT

REASON FOR REPORTING THE APPLICATION TO COMMITTEE:

A request has been submitted by Councillor Nigel Roberts for the application to be referred to the Development Control Committee if officers are minded to approve as concern is raised in relation to the impact of the changes to the delivery hours on residential amenity of adjoining occupiers.

DESCRIPTION OF SITE AND APPLICATION:

The application relates to a new supermarket located within the Bath World Heritage Site. The site is bounded by a mixture of residential and community facility uses. The application seeks a variation of condition 29 of planning permission 09/02389/OUT to allow deliveries between 06:00 - 23:00 seven days a week. The original planning permission currently restricts the delivery hours to between 07:00 - 22:00 Mondays to Fridays and 08:00 - 23:00 on Saturdays, Sundays and Bank Holidays. The original application was for a mixed use development comprising a supermarket and a residential development including a care home and retirement apartments.

RELEVANT HISTORY:

DC - 09/02389/OUT - APP - 21 July 2010 - Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout, and scale reserved for future consideration on this part).

DC - 10/04497/VAR - PERMIT - 17 January 2011 - Variation of condition 39 of application 09/02389/OUT in order to vary the plans list (Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout, and scale reserved for future consideration on this part).)

DC - 11/01432/COND - DISCHG - 24 June 2011 - Discharge of conditions 15, 17, 18, 27, 28, 29 and 37 of application 09/02389/OUT (Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout and scale reserved for future consideration on this part).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

ENVIRONMENTAL HEALTH OFFICER: It is considered that deliveries can be made to the store within the proposed hours without unreasonable disturbance to adjoining occupiers however a temporary planning permission is recommended.

HIGHWAY DEVELOPMENT OFFICER: No objection is raised to the application.

THIRD PARTIES: Two letters have been received in objection to the application which raise concern in relation to the disturbance from noise which would be generated by the deliveries.

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

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

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

Consideration has also been given to 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.

National Planning Policy Framework - March 2012

NB: The National Planning Policy Framework was published on 27 March 2012 and has been considered in relation to this application. The NPPF guidance in respect of the issues which this particular application raises does not differ significantly from that offered in the now replaced national PPGs and PPSs. Accordingly the application continues to be recommended for approval by your Officers. The preservation of the residential amenity of all existing and future occupants of land and buildings is confirmed as a core planning principle at paragraph 17. Paragraph 123 also confirms that planning policies and decisions should seek to avoid adverse impacts on health and quality of life from noise. This is in accordance with policy D.2 of the Local Plan.

OFFICER ASSESSMENT

INTRODUCTION: The application relates to a new supermarket which is located on the former Hayesfield School playing field. The application site is bounded by residential properties on Cranmore Place to the south and a single dwelling on Frome Road to the north. The application proposes changes to the delivery hours under section 73 of the Town and Country Planning Act 1990 (as amended). The extant planning permission granted under applications 09/02389/OUT and 10/04497/VAR is a key material planning consideration in terms of the issues affecting the development as a whole. The primary issue to consider when determining this application relates to the impact of the revised delivery hours on the residential amenity of the adjoining occupiers.

RESIDENTIAL AMENITY: The delivery area of the supermarket is located to the rear (south) elevation of the building adjacent to the east boundary. The delivery vehicles

access the site from Frome Road and must travel adjacent to the rear boundary to arrive at the delivery area. The access road is located approximately 24 metres from the rear elevation of properties on Cranmore Place.

The application has been submitted with a noise report to evaluate the impact on the adjoining residential properties. The report concludes that quiet out of hours deliveries can be supported on the basis of the Department for Transport's recent publication 'QDDS consortium Quiet Deliveries Demonstration Scheme - Final Report.' (June, 2011). The noise levels during the daytime and night-time are predicted to be in accordance with the relevant noise intrusion criteria. The noise report includes a new solid service yard gate and an undated service yard management plan. A six month trial period is recommended in order to assess the predicted worst case noise levels against background noise levels.

The Council's Environmental Health Officer has provided a consultation response which supports planning permission being granted for a trial period. It is confirmed that the QDDS Report does illustrate the benefits of out of hours deliveries and it has been concluded that a trial period would allow the applicant to demonstrate that the development can be carried out in accordance with relevant principles.

In light of the points set out above, a temporary planning permission is deemed to be acceptable in order to safeguard the residential amenity of adjoining occupiers. An extension to the delivery hours on a temporary basis would allow the delivery hours to be restored to the times specified under the extant planning permission if unacceptable levels of disturbance occur.

CONCLUSION

The proposed variation of the planning permission to allow deliveries between 06:00 - 23:00 for a temporary period of 6 months is considered to be acceptable and is recommended for approval. This decision would have the effect of creating a new planning permission and therefore it is essential that the requirements set out in the conditions attached to the extant planning permission are retained. Although the supermarket has now been completed and the relevant conditions have been discharged, the conditions also relate to the outline planning permission for a care home which has not been commenced. Therefore, these conditions will need to be addressed by subsequent applications for reserved matters and discharge of conditions relating to the proposals for the care home. Condition 3 has been reformulated to ensure that the relevant time limit imposed for the residential development would not be changed as a result of this application. It should be noted that no changes are required to the S106 Agreement as there is a clause which confirms that the provisions of the Agreement will also apply when a planning application is approved for a 'substantially similar' scheme.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

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

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

2 Details to be submitted for approval of reserved matters in respect of the residential development shall indicate buildings of no more than two storeys in height and the development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory form of development.

3 The residential development hereby approved shall be begun either before the expiration of three years from 17 January 2010, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the latest.

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

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

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

5 No development shall commence to implement the residential development hereby permitted until a sample panel of all external walling materials, to be used in the construction of that use, has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed.

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

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

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

7 All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a

period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

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

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

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

9 Prior to the commencement of any form of site works or clearance in the relation to the residential development hereby permitted, the Local Planning Authority shall be given not less than two weeks notice in writing of these works to ensure that appropriate measures of landscape protection required under condition No.10 have been implemented in accordance with the approved plans or conditions.

Reason: To ensure that adequate protection is given to the areas to be landscaped and the existing trees and planting to be retained within the site.

10 The proposed access roads, footways, footpaths, verges, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, access gradients, car parking and street furniture relating to the residential development hereby permitted shall be constructed and laid out in accordance with details to be submitted to and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

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

11 The residential development hereby permitted shall not be occupied until the proposed works to Frome Road together with the parking, service yard, roads, footways and junctions serving/forming part of the development hereby permitted, including bus stop provision, crossing facilities and traffic regulation orders, have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12 The roads and footways serving the residential development hereby permitted shall not be designed or constructed other than in accordance with the standard requirements and specifications of the Council as the Highway Authority.

Reason: In the interests of highway safety.

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

Reason: In the interests of amenity and highway safety.

14 The foodstore development shall be carried out in accordance with the Travel Plan approved under application ref: 11/01432/COND unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

15 The foodstore car park shall be operated strictly in accordance with the Management Plan approved under application ref: 11/01432/COND unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

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

- (a) a survey of the extent, scale and nature of contamination;
- (b) an assessment of the potential risks to:
 - (c) human health,
 - (d) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
 - (e) adjoining land,
 - (f) groundwaters and surface waters,
 - (g) ecological systems,
 - (h) archaeological sites and ancient monuments;

(i) an appraisal of remedial options, and proposal of the preferred option(s).

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

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

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

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

18 The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

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

19 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 17, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 18, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with Condition 19.

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

20 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

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

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

21 No development or remediation work shall commence in relation to the residential development hereby permitted until a dust control monitoring and management plan has been submitted to and approved in writing by the Local Planning Authority. The dust monitoring and management works shall be implemented in accordance with the approved plan.

Reason: To ensure satisfactory measures for the control of dust in the interests of health and safety.

22 No development shall be commenced in relation to the residential development hereby permitted until a surface water run-off limitation scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall clarify the intended future ownership and maintenance provision for all drainage works serving the site. The approved scheme shall be implemented in accordance with the approved programme and details.

Reason: To prevent the increased risk of flooding.

23 Prior to the commencement of the residential development hereby permitted, details of a Construction Management Plan for all works of construction and demolition shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall comply with the guidance contained in the Council's Code of Construction Site Noise practice note and the BRE Code of Practice on the control of dust from construction and demolition activities. The Plan shall also include details of hours of operation, construction access, traffic generation and vehicle movements, and the location of parking

provision, site compounds and material stores. The details so approved shall be fully complied with during the construction of the development.

Reason: In the interests of highway safety and the amenities of adjacent residential properties.

24 The residential development hereby permitted shall not be occupied until full details of the siting and design of all fixed plant and equipment have been submitted to and approved in writing by the Local Planning Authority. The plant and equipment shall be installed strictly in accordance with the approved details.

Reason: To safeguard the amenity of nearby occupiers.

25 Any plant or equipment serving the development shall be attenuated to ensure that the noise level at locations R1, R2 and R6 on drawing number SK02 is at least 5dB below the background noise level as determined in Table 22 of the Noise Assessment undertaken by WYG Environmental dated November 2009. Prior to fixed plant and equipment serving the development coming into operation, a scheme of noise control shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall subsequently be implemented as approved.

Reason: To safeguard the amenity of nearby occupiers.

26 The foodstore development hereby permitted shall be carried out in accordance with the details of the Service Yard Management Plan included within Appendix B of the Noise Report received 10 November 2011. No deliveries shall take place outside of the hours of 06:00 to 23:00 seven days a week for a period of 6 months from the date of this decision. Thereafter, no deliveries shall take place outside of the hours of 07:00 to 22:00 Mondays to Fridays and 08:00 to 23:00 on Saturdays, Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to give the altered delivery hours a trial run and to safeguard the amenity of nearby occupiers

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

Reason: To ensure satisfactory internal noise levels.

28 No removal of trees/shrubs shall take place between 1st March and 31st August unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority and no tree/shrub shall be removed between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.

Reason: In order to protect nesting birds.

29 No development shall commence in relation to the residential development hereby permitted until details of a mitigation plan for great crested newts has been submitted to and approved in writing by the Local Planning Authority, to include details of the proposed pond enhancement at St Martin's School. The development shall be carried out only in accordance with the approved scheme or any amendment to the scheme as approved in writing by the Local Planning Authority.

Reason: In order to prevent harm to the protected species.

30 The residential development hereby permitted shall be carried out only in accordance with an approved ecological enhancement scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall include inter alia:

- i) details of native planting around the perimeters and other areas on site;
- ii) details of perimeter vegetation to be retained and fenced off during site works;
- iii) evidence of a protected green buffer zone around the site perimeter suitable for use by badgers;
- iv) locations of bird nesting and bat boxes;
- v) reptile and great crested newt hibernaculae.

The supermarket development hereby permitted shall be carried out in accordance with the ecological enhancement scheme approved under application ref: 10/03516/COND unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of nature conservation.

31 No development shall commence in relation to the residential development hereby permitted until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- i) define areas that shall be completely unlit and demonstrate that these areas will not be affected by light spillage or ambient lighting from the site;
- ii) provide details of the management of lighting with particular regard to hours of operation;
- iii) minimise the risk of light spillage beyond the operational areas and into the sky;
- iv) demonstrate how potential effects on bats will be minimised by reference to current best practice guidance.

The development shall be implemented in accordance with the approved lighting scheme and there shall be no external illumination of the site other than in accordance with the approved scheme.

Reason: In the interests of the amenities of the area and to mitigate the impact of the development on bats.

32 No development shall commence in relation to the residential development hereby permitted until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written

scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work shall provide a field evaluation of the site to determine the date, extent, and significance of any archaeological deposits or features, and shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of potential archaeological interest and to enable the significance and extent of any archaeological remains to be evaluated.

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

Reason: The site is within an area of potential archaeological interest and to enable any archaeological remains to be recorded and protected.

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

Reason: The site may produce significant archaeological findings and to enable the results to be published.

35 No development including enabling and construction works shall commence in relation to the residential development hereby permitted until a Dust Control Monitoring and Management Plan has been submitted to and approved by the Local Planning Authority. The dust monitoring and management measures shall be implemented in accordance with the approved plan.

Reason: In order to control dust emissions from the development.

36 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: CHQ.09.8579 - PL200, -PL201, - PL202E, - PL203B, - PL204, - PL205A, - PL206A, - PL207, - PL208, - PL209A, - PL210B, - PL211B, - PL212A, 686 - 01, 686 - 02A and 686 - 03B.

REASONS FOR GRANTING APPROVAL

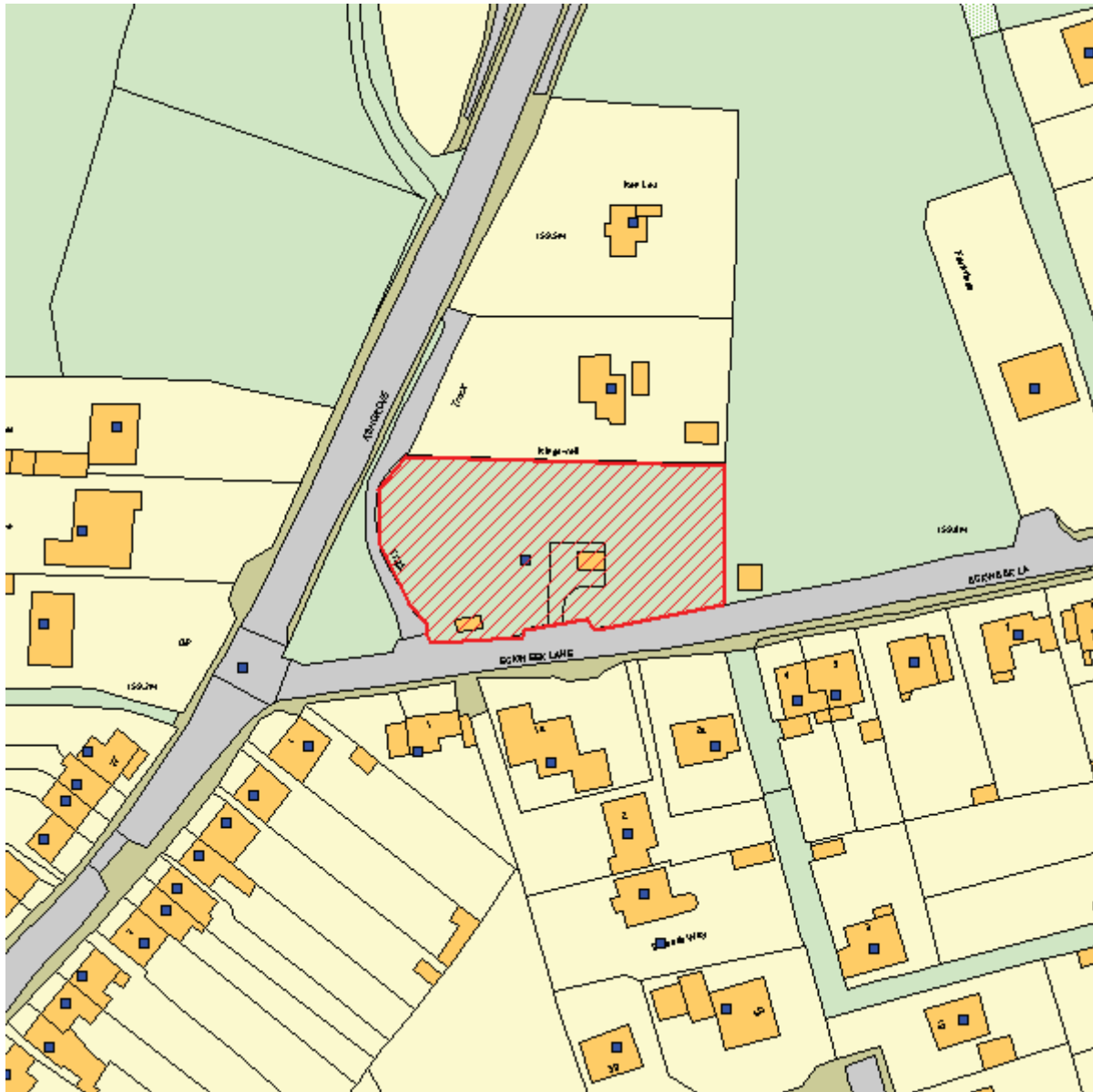
1. The proposed variation of condition 29 to allow deliveries between the hours of 06:00 and 23:00 for a temporary period of 6 months would not unduly affect the residential amenity of occupiers adjoining the application site.

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

A

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

Item No: 04
Application No: 12/00351/FUL
Site Location: Land Adjacent To Kingswell, Eckweek Lane, Peasedown St. John, Bath



Ward: Peasedown St John

Parish: Peasedown St John

LB

Grade: N/A

Ward Members: Councillor S F Bevan Councillor N L R L Hartley

Application Type: Full Application

Proposal: Erection of 2no. dwellings (Resubmission)

Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon,

Applicant: Mr Stephen Gardner

Expiry Date: 15th March 2012

Case Officer: Rebecca Roberts

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

Recommendation contrary to Parish Council comments. Chair referred to committee.

DESCRIPTION OF SITE AND APPLICATION:

The application site is located on the northern fringe of the Peasedown Settlement and lies outside of the Housing Development Boundary within the designated Forest of Avon. The site relates to a parcel of land located on the corner of Eckweek Lane and Ash Grove. The site is well maintained with two small outbuildings dotted around the site. There are two access points into the site, a gated access recessed from the roadside of Eckweek Lane where a hardstanding has been constructed and a second access closer to the junction with Ash Grove, this is a shared right of way which provides access to two dwellings to the North of the site known as Kingswell and Ken Lea.

This locality displays a mix of dwelling styles and layout that results in no clear uniformity. The area linked closely with the site is the two to the north of the site which are characterised by large detached dwellings set in large plots and well separated and are enclosed by a mature hedge which acts as a natural screen along the roadside.

The application is a resubmission of a previously withdrawn application (11/02775/FUL) which proposes the erection of two detached two storey dwellings in a linear layout perpendicular to Eckweek lane. The dwellings will accommodate four bedrooms per unit and follows a simple design with pitched roof and low eaves to minimise the overall bulk of the dwelling with full dormer features above the windows on both the rear and front elevations. The front access will be recessed to create a porch. It is proposed to finish the property in recon Bath Stone and concrete brown tiles.

RELEVANT PLANNING HISTORY:

11/02775/FUL - Withdrawn - 16 August 2011 - Erection of 2no dwellings

The application has resolved the highways issues raised in the 11/02775/FUL application by altering the access into the site. Originally it proposed to use the existing shared access point close to the T-junction. It is now proposed to create a new access immediately adjacent to the existing gated access where a small layby exists. This will provide a private access point into the site and will provide two spaces per dwelling and turning provisions.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

PEASEDOWN ST JOHN PARISH COUNCIL - Support. No comments provided.

HIGHWAYS - No objection subject to conditions. The revised access position, when compared to the previous application for the site (11/02775/FUL), affords greatly improved access whilst affording the ability for casual visitor parking and service vehicles to use the layby on the site frontage, thus reducing the risk of obstruction to the highway. Parking provision is considered adequate for the scale of development proposed and affords the ability for vehicles to turn within the site.

HIGHWAYS DRAINAGE - Request that details of surface water disposal be submitted for approval. - The proposed drainage scheme should follow sustainable drainage principles. If the applicant proposes to discharge surface water to soakaways, infiltration testing to

BRE Digest 365 should be carried out to ensure a feasible soakaway design is possible. If soakaways are unfeasible the applicant will need to attenuate surface water onsite to the greenfield run-off rate.

ENVIRONMENTAL PROTECTION - would draw the applicants attention to the council code of practice for minimising noise during construction.

OTHER REPRESENTATIONS - 1x comment. There is no information on the plans regarding sewage. The existing pipe is privately owned by the two neighbouring properties. Although there is an old sewer pipe connection on the site the two new houses should not be connected to this.

POLICIES/LEGISLATION

LOCAL PLAN POLICY

At the meeting of the Council on the 18th October 2007, the Bath and North East Somerset Local Plan (including minerals and waste policies) was adopted. The following policies are material considerations

D.2 - General Design and public realm considerations

D.4 - Townscape considerations

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

NE.1 - Landscape character

T.24 - General development control and access policy

T.26 - on-site parking and servicing provision

of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

SUBMISSION CORE STRATEGY

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:

D.2, D.4, HG.10, NE.1, T.24 and T.26 of the local plan are proposed as saved policies within the submission core strategy.

NATIONAL PLANNING POLICY FRAMEWORK

National Planning Policy Framework (March 2012) can be awarded significant weight however at present this proposes little change to the policies of the Local Plan that are relevant to this application particularly as the Council considers that an adequate supply of housing land has been demonstrated for the district. There is therefore no need for additional market housing to warrant development outside of the existing housing development boundary.

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT: The site is located outside of the housing development boundary of Peasedown St John and therefore proposed housing developments outside of this area in principle are considered inappropriate as defined in policy HG.10. Given this consideration the proposal would be contrary to national and local planning policies aimed at protecting the countryside from development.

Local Planning Policies HG.9 and HG.10 make provision for affordable housing sites and other houses outside of the housing development boundary. The proposed development proposes market housing and therefore the development is not considered to be a rural exception site and is contrary to Policy HG.9. Policy HG.10 makes provision for new dwellings outside settlements that are essential for agricultural or forestry workers. As this is not the case for this development, it is contrary to this policy.

ACCESSIBILITY: The site is located outside of the housing development boundary, however it lies on the edge of Peasedown St John village which offers a range of facilities that provide for the general needs of local residents, and also provides access to a wider range of services and employment opportunities locally. The village benefits from a regular bus service between Bath and Radstock.

In view of this, the site is considered to be in a sustainable location in accordance with the key aims of PPG13, which seeks to reduce growth in the length and number of motorised journeys.

CHARACTER, APPEARANCE AND SITE LAYOUT: It is proposed to align the new dwellings with that of Kingswell to the north of the site at both the front and rear building lines which will provide each dwelling with an elongated plot with ample amenity space to the front and rear of the dwelling. The simple design of the dwellings will not compete with the existing character of the locality, however it is considered that two large dwellings will appear cramped within this site. This part of the local area is characterised by spacious plots which allows each dwelling to be well separated from its neighbour the proposed dwellings would encroach upon the boundaries of the site and would be located less than 5 metres apart. A single dwelling would fit more comfortably within the site and respond more positively to the local context.

RESIDENTIAL AMENITY: Due to the encroachment towards the neighbouring boundaries the proposed development has the potential to cause an overbearing impact resulting in loss of privacy to the amenity of neighbouring residents. However given the open nature of the sites to the east and west and the large amenity spaces provided the potential harm is not considered significant enough to warrant a reason for refusal.

HIGHWAYS: The application has addressed the concerns raised by the highways officer in the previous application and altered the access which is considered acceptable and meets the parking requirements set out within the local plan. The access and parking provisions will allow on-site turning for vehicles to exit the site in a forward gear as the layby acts as a secondary parking space or pull in, in addition to increased visibility up Ecweek Lane.

CONCLUSION:

The development is located outside the housing development boundary and, as such the development is considered to be inappropriate. The scale and proposed market housing mean the site cannot be considered as a rural exception site in terms of Policy HG.9. The proposed development is contrary to Policy HG.10, which restricts new dwellings outside of settlements to essential for agricultural or forestry workers.

The scale and layout of the proposed development would result in a cramped form which is detrimental to the character and appearance of this locality and does not positively respond to the local context.

In light of the above however, it is considered that the proposed development would represent a departure from the adopted Development Plan and there are no planning merits that outweigh the conflicts with the Development Plan Policies. The application is accordingly recommended for refusal.

RECOMMENDATION

REFUSE

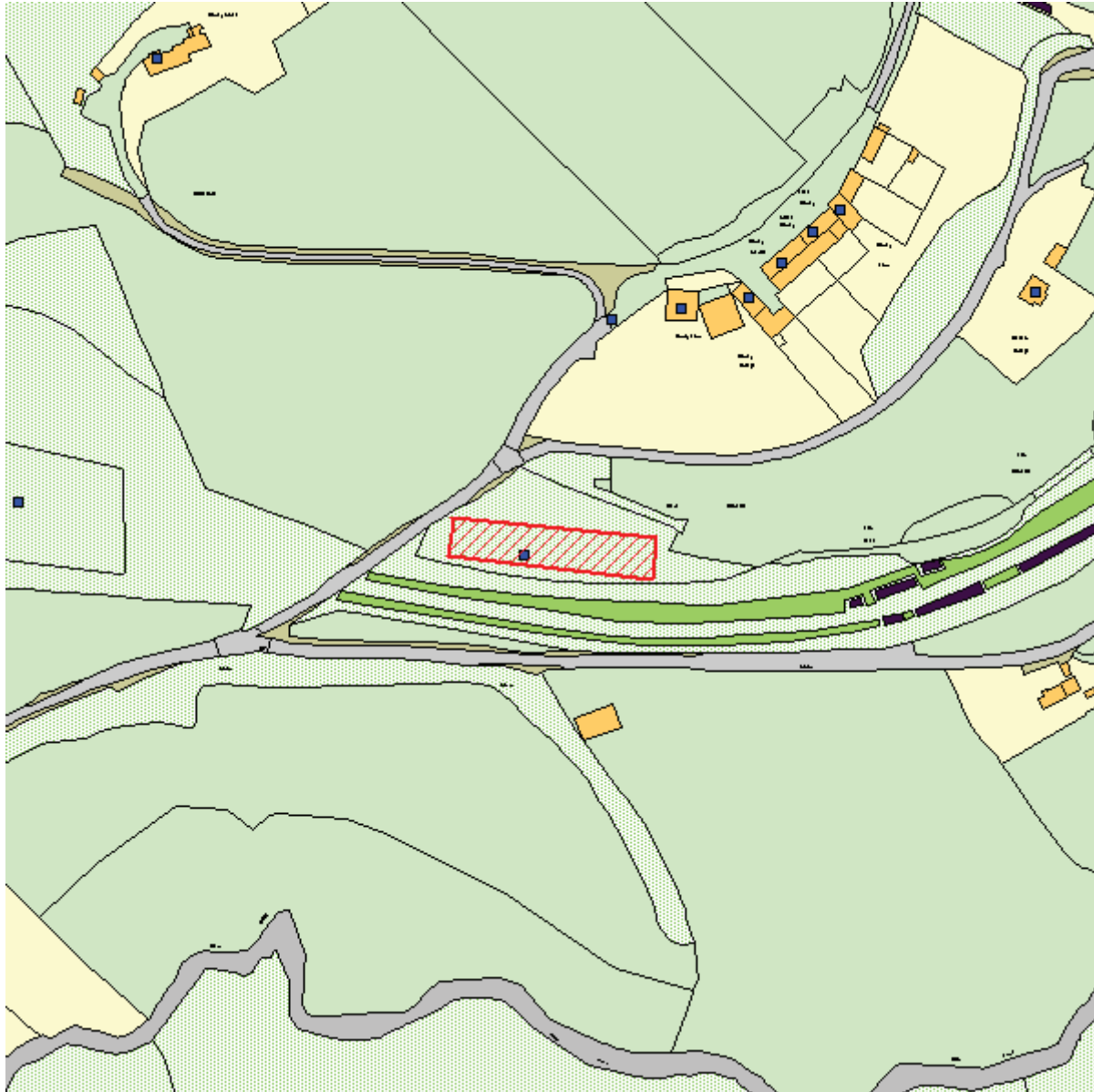
REASON(S) FOR REFUSAL

1 The proposed residential development of this site located in the countryside outside of any housing development boundary, is not considered to be a rural a rural exception site and is therefore contrary to Policies HG.9 and HG.10 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

2 Due to the scale and layout of the proposed development, it would result in a cramped built form which is detrimental to the character and appearance of this locality and does not reflect the the local context contrary to policy D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

PLANS LIST: This decision relates to drawing no's 7083/16419, 7083/16366/B and the design and access statement date stamped 19th January 2012.

Item No: 05
Application No: 11/04754/FUL
Site Location: Parcel 9015, Rowley Farm Lane, Combe Hay, Bath



Ward: Bathavon West **Parish:** Combe Hay **LB Grade:** II
Ward Members: Councillor David John Veale
Application Type: Full Application
Proposal: Installation of 250 solar PV panels in a ground mounted array.
Constraints: Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt, Regionally Important Geological Site RIG, Sites of Nature Conservation Imp (SN),
Applicant: Mr & Mrs Philip Honey
Expiry Date: 23rd February 2012
Case Officer: Suzanne D'Arcy

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: The application has been supported by Combe Hay Parish Council, contrary to Officer recommendation. The Parish Council support the proposal advising that it would not be harmful to the openness of the Green Belt or natural beauty of the AONB and does not conflict with other planning policies.

DESCRIPTION OF SITE AND APPLICATION: Parcel 9015, Rowley Farm Lane is a parcel of land sited within the Green Belt and Cotswold Area of Outstanding Natural Beauty (AONB). The site is bounded by Rowley Farm Lane and Anchor Lane to the south. The site is an open area, which slopes down towards Anchor Lane. The Somersetshire Coal Canal Locks, which are Grade II listed are adjacent to the site.

This is a full application for the installation of 250 solar PV cells in a ground mounted array. The proposed solar panels will be sited in two arrays, measuring 29m and 74m wide, which will be sited approx. 10m apart. The proposed panels will be mounted on a stand and set at a 35 degree angle. The maximum height from the ground will be 2.3m.

No Very Special Circumstances have been advanced as part of the submission.

RELEVANT HISTORY: None relevant

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

COMBE HAY PARISH COUNCIL: Support the proposal, with the following comments;

- Character of the nearby public realm will be maintained
- Amenity of neighbours would be preserved, subject to appropriate screening
- Proposed materials would be satisfactory provided the panels were non-reflective
- Landscaping would be satisfactory, as long as robust hedgerow screening were provided
- Enjoyment of adjacent right of way would not be diminished
- Would not conflict with other planning policies
- Not significantly degrade the openness of the Green Belt
- Screening would result in it not being visually detrimental to the Green Belt
- Not adversely affect the natural beauty of the AONB
- Not adversely affect ecology or nature conservation value
- Screening would not result in adverse impact on the Somersetshire Coal Canal
- Not prejudice the use of the former railway line
- Would request conditions for screening and non-reflective panels.

LANDSCAPE ARCHITECT: Objects to the proposal and raises the following points;

- Setting is a tranquil rural valley, which includes 3 listed structures, and is within the Green Belt.
- Concerned with regard to the visual impact and the impact on the character of the setting of the disused locks.
- Would also impact the enjoyment of the Limestone Link
- PV arrays are in straight lines but this is a sloping and gently curving site.
- The arrays will be 2.3m tall and will cover a significant area.
- They will be reasonably prominent in this tranquil valley and will have an unacceptable and detrimental impact.

- Whilst I support the use of renewable energy, they need to be erected in the correct location.
- There may be some benefit to the owners but this does not constitute Very Special Circumstances, especially as the electricity is not being provided to a wider area.

ECOLOGICAL OFFICER: No objection, subject to conditions

ARBORICULTURAL OFFICER: No objection

ENVIRONMENTAL HEALTH OFFICER: No comments

COTSWOLD CONSERVATION BOARD: Subject to no objections from the Council's Landscape Architect, the Board support this proposal, which is in accordance with the AONB Management Plan 2008-2013 and the Board's position statement on renewable energy generation in the Cotswold AONB

REPRESENTATIONS: 1 letter of support received, raising the following points;

- No objection to the applicant trying to take economic advantage of his land, on the basis that, once the work is completed, the installation will be quiet and provided it does not spoil the view of his neighbours which would appear to be the case from the plans viewed

POLICIES/LEGISLATION

National Planning Policy Framework (2012)

(Officer note: The National Planning Policy Framework (NPPF) has been released and brought into force. This document has replaced a number of national documents which were considered to be relevant to the determination of this planning application including PPG 2, PPS 5, and PPS 22. The NPPF guidance in respect of the issues which this particular application raises does not differ significantly from that offered in the now replaced national PPGs and PPSs)

D.2: General design and public realm considerations

D.4: Townscape considerations

BH.2: Listed buildings and their settings

GB.1: Control of development in the Green Belt

GB.2: Visual amenities of the Green Belt

NE.1: Landscape character

NE.2: Areas of Outstanding Natural Beauty

NE.4: Trees and woodland conservation

NE.9: Locally important wildlife sites

NE.10: Nationally important species and habitats

ES.1: Renewable energy proposals

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

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

DW1: District wide spatial strategy
CP3: Renewable energy
CP6: Environmental quality
CP8: Green Belt

OFFICER ASSESSMENT

IMPACT ON THE GREEN BELT: The site is located within the Green Belt and as such, strict controls exist to guard against inappropriate development, which by definition is harmful. Local Plan Policy GB.1 reflects the guidance given in NPPF and lists the forms of development which are considered to be not inappropriate. As solar PV arrays do not fall within the specified criteria, it should be considered against the criterion "other development ... which maintain the openness of the Green Belt and do not conflict with the purposes of including land in it." It should be noted that whilst this criterion is in Policy GB.1, it does not feature within the NPPF. Annex 1 of the NPPF relates to implementation of the new policies and states that within 12 months of the date of publication, decision-makers can give full weight to relevant policies adopted since 2004, even if there is limited conflict with the NPPF. As a result, Officers consider it appropriate to consider the scheme against the criterion detailed above. Notwithstanding this, the proposed solar PV arrays will introduce long, straight lines of panels, with a height of 2.3m. The siting and height of the panels will introduce a new and alien feature into the landscape, which is considered to be harmful to the openness of the Green Belt and therefore are considered to be inappropriate development, which by definition is harmful to Green Belt. This is echoed in the guidance given in paragraph 91 of the NPPF, which observes that many renewable energy projects will be considered to be inappropriate development.

Substantial weight must be given to this harm which is caused by the inappropriate development. This should be weighed against any Very Special Circumstances demonstrated by the applicant, and in this case, none have been put forward. In view of this, the proposed solar PV arrays are considered to be inappropriate development in the Green Belt, which is harmful by definition and therefore contrary to Policy GB.1 and the advice contained within the NPPF.

The proposed solar PV cells will be sited on a slope, which is visible from a range of views. There is a public footpath adjacent to the site and the valley side slopes up steeply to the south of Anchor Lane. The proposed solar arrays will be two straight lines across the site, which will juxtapose with its sloping and curving character. The siting of the arrays will not therefore respect the character of the landscape and this will lead to an erosion of the rural character of the site and the natural beauty of this part of the AONB. This will be further exacerbated by the length of the arrays. It is noted that there is some screening provided to the site by existing vegetation and appropriate conditions could be imposed to require further screening, though this has not been offered by the applicant. However, it is considered that this would not be sufficient to mitigate the impact from the wider views into the site nor to adequately mitigate the impact of the siting of the panels themselves. The proposed arrays are therefore considered to be contrary to Policies GB.2 and NE.2 of the Local Plan.

IMPACT ON THE LISTED CANAL LOCKS: English Heritage guidance, The Setting of Heritage Assets, states that "the significance of a heritage asset derives not only from its physical presence and historic fabric but also from its setting - the surroundings from which it is experienced." In this case, the setting of the locks is a tranquil, rural valley.

The NPPF requires the applicants to assess the significance of the asset and provide justification for the impact caused by the proposed development.

The applicants have submitted a Statement of Heritage Significance, which states "[the canal locks] are c.300m from the proposed PV array site and consequently their settings are not affected." As stated in the previous section, it is considered that the proposed arrays will lead to an erosion of the rural character and natural beauty of the area. As this is the character of the area, it forms an important part of the setting of the listed locks, and as such, it is considered that the proposed PV arrays will have an adverse impact on the setting of the listed structures thus being contrary to Local Plan Policy BH.2 and the advice contained within the NPPF.

RESIDENTIAL AMENITY: Due to the relationship with the surrounding neighbouring properties, and the proposed PV arrays being angled away from them, it is not considered that there will be a significant adverse impact on residential amenity.

SUSTAINABILITY AND RENEWABLE ENERGY: Officers recognise that the application will result in benefits to the environment as it will produce renewable energy. The NPPF states that, as discussed above, renewable energy projects often comprise inappropriate development in the Green Belt and it will be for the developers to demonstrate Very Special Circumstances. Very Special Circumstances can include the wider environmental benefits associated with increased production of renewable energy. Paragraph 79 of the NPPF states that the Government attached great importance to the Green Belt. Clearly the proposal will result in benefits for the applicant, but no evidence has been submitted to show the wider benefits of the proposal, for example electricity being provided to a wider area. In view of this, it is not considered that the benefits of the scheme outweigh the harm detailed above.

CONCLUSION:

The proposed solar PV arrays are considered to be inappropriate development, which is harmful by definition to Green Belt. The proposed arrays are set out as long straight rows, which juxtaposes with the landscape character, leading to an erosion of the rural character and natural beauty of the landscape. This will in turn have an adverse impact on the setting of the listed canal locks.

Whilst it is acknowledged that there is no impact on residential amenity and there will be benefit to the applicant in terms of renewable energy generation, it is not considered that this outweighs the harm caused to the Green Belt by the inappropriateness of the development, the character of the landscape and the setting of the listed structures as detailed above.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed solar PV arrays represent inappropriate development in the Green Belt, which is harmful by definition. No Very Special Circumstances have been demonstrated to outweigh the harm caused by the inappropriateness of the development. This is

contrary to Policy GB.1 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the advice contained within the NPPF.

2 The proposed solar PV arrays, by reason of their siting, scale, layout and design, will appear prominent in the landscape introducing alien features thus leading to an erosion of the rural character of the Green Belt and the natural beauty of this part of the AONB. This is contrary to Policies GB.2 and NE.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the advice contained within the NPPF.

3 The proposed solar PV arrays, by reason of their design and siting, would lead to an erosion of the rural character and this is harmful to the setting of the adjacent listed locks. No justification for the impact on this impact has been put forward. This is contrary to Policy BH.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the advice contained within the NPPF.

PLANS LIST: This decision relates to drawings numbered 002 and 100, and related Statement of Heritage Significance, Design and Access Statement, and technical specification, received by the Council on 4th November 2011, 3 Magic Maps, received by the Council on 22nd November 2012, Protected Species Survey, received by the Council on 29th December 2011, drawing numbered 100, received by the Council on 22nd February 2012 and drawing numbered 001, received by the Council on 27th March 2012.

Item No:	06	
Application No:	12/00495/FUL	
Site Location:	Bath Urban Area, Various Streets	
Ward: Newbridge	Parish: N/A	LB Grade: N/A
Ward Members:	Councillor L Morgan-Brinkhurst Councillor C M L Roberts	
Application Type:	Full Application	
Proposal:	Erection of 15 temporary plinths with name plaques in various locations (for the display of temporary public art works) (01/05/2012 - 01/11/2012)	
Constraints:	Agric Land Class 3b,4,5, Scheduled Ancient Monument SAM, Article 4, Bath Core Office Area, City/Town Centre Shopping Areas, Conservation Area, Cycle Route, Flood Zone 2, Flood Zone 3, Forest of Avon, General Development Site, Hotspring Protection, Listed Building, Local Shops, Prime Shop Front, Railway, World Heritage Site,	
Applicant:	Mr Justin Braithwaite	
Expiry Date:	29th March 2012	
Case Officer:	Richard Stott	

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The applicant's agent has a close association with Planning Services.

PROPOSAL:

This application relates to several different locations within Bath City centre and its environs and seeks temporary consent for the installation of arts projects associated with the London 2012 Olympic Games. The individual installations are to be situated on site between the 1st May 2012 and 1st November 2012. Full details of the individual sites will be discussed in this report, however it is intended to secure sculptures of figures carrying out Olympic sporting activities, the proposal will also include a sculpture of the torso of former Olympic swimmer Mark Foster and a wire statue of Olympic runner Jason Gardener, both of whom have connections with the City. The project is part of the wider Olympic celebrations and coincides with an art exhibition being held at the Victoria Art Gallery and is intended to be part of a walking tour around the city.

The original application indicated 15 sites across the city however following concerns raised by officers and requirement changes from the commissioning body the original list has been revised to 7 locations with 3 reserve options in the parks.

The original application as submitted lacked clarification as to the finished dimensions and materials however details have since been submitted clarifying the various installations.

RELEVANT HISTORY

Not applicable

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSULTATION:

HIGHWAY DEVELOPMENT OFFICER: Object for the following reasons:

- Errors on plan miss-referencing sites
- Objects to Site 3 (Green Park) due to lack of information.
- Objects to Sites 12 (The Circus). Concern over the proposed fittings on the cast iron lampposts in The Circus: no details of design or structural calculations, concern in respect of impact on users of the highway.
- Separate highway authority permission would be required for installations on the public highway

ARBORICULTURAL OFFICER: No Comments

ENVIRONMENTAL HEALTH: No Observations

REPRESENTATIONS:

1x Letter of objection received raising the following points:

- Lack of information relating to materials, size and art installation.
- Lack of information as to the materials of the plaques on the plinths
- Concern over certain locations and the impact on the setting of various listed buildings
- Works harmful to Conservation Area and various listed buildings

1x Letter of general comments received raising the following points:

- Questions raised due to the submission of absent and inconsistent information.
- Concern over lacking details of locations and orientation.

POLICIES/LEGISLATION

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

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

BH.1 World Heritage Site

BH.2 Listed Buildings and their Settings

BH.6 Conservation Area

BH.9 Parks and Gardens of Historic Interest

BH.13 Significant Archaeological Remains in Bath

T.24 Development Control and Access

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

B4 World Heritage Site

Policies D.2, D.4, BH.2, BH.6, BH.9, BH.13 and T.24 are Saved Local Plan Policies

SUPPLEMENTARY GUIDANCE AND STRATEGIES

Bath & North East Somerset Public Art Policy and Strategy, 2010

World Heritage Site Management Plan, 2011

Bath Public Realm and Movement Strategy, 2010

NATIONAL PLANNING POLICY FRAMEWORK, 2012

The NPPF came into force on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's)

Chapter 7. Requiring Good Design

Chapter 8. Promoting Healthy Communities

Chapter 12. Conserving and Enhancing the Historic Environment

OFFICER ASSESSMENT

PREAMBLE: This application seeks consent for the erection of temporary art installations around the City of Bath. The original application sought consent for 15 separate locations however this has been reduced to 7 with an option kept open for a location within the Botanic Gardens, Gravel Walk and Green Park, in total 10 sites are under consideration.

The individual structures are bespoke, utilising a range of materials from timber to woven metal, one is to be set on a plinth of carved Bath stone, the rest are to be on ground level mounted platforms.

In principle there is no objection to the scheme following revisions to the site locations and confirmation of the individual installations. It is noted that several of the features will be in prominent locations and many are adjacent to heritage assets within the Conservation Area and World Heritage Site, notwithstanding, the impact and significance of each installation will be localised and the harm generally deemed negligible. Each of these shall be discussed in turn:

CONFIRMED SITES: The following 7 sites have been confirmed by the applicant with specific details of the installations given:

SCULPTURE 1 PARADE GARDENS (Top of Electricity Sub-Station)

This installation features a diver set on top of the electricity substation in Parade Gardens. The installation will be finished in resin and will not exceed 2.5m. Due to its size, although it is set on a structure which exceeds 2m, it is unlikely that the sculpture would project high enough to be seen from road level although it will be seen by pedestrians on the pavement. In the context of Parade Gardens it is noted that there are already several statues and free standing structures including the band stand, Edward VII memorial and King Bladuds statue, in addition there is an annual 3D flower arrangement set on one of the central flower beds. In light of these existing features, an additional temporary statue is unlikely to appear out of place or harmful to the setting of the gardens. The proposed installation in the shown location will not adversely harm the setting of any surrounding listed features and is unlikely to compromise the character and appearance of the Conservation Area or the setting of the World Heritage Site. On balance, the proposed is deemed to be acceptable in this location.

SCULPTURE 2 STALL STREET (Entrance to Southgate)

This installation is the carved torso of former University of Bath trained swimmer Mark Foster. The statue is carved of locally sourced Bath Stone and will be set on a purposefully carved Bath Stone plinth, the total installation measures c.3.4m comprised of a 1.7m high torso set on a 1.7m high plinth. This sculpture forms one of the centrepieces of the whole project.

The sculpture is to be located at the entrance to the Southgate development at the bottom of Stall Street and will be viewed against a back drop of large retail units in an open urban space. Due to the surrounding space the proposed is unlikely to adversely impede pedestrian movement and is unlikely to cause a highway safety issue.

In terms of the setting of the statue, though tall, it is a temporary feature and is unlikely to adversely harm the setting of the street scene in this part of the Conservation Area and World Heritage Site. The proposed is deemed acceptable for the temporary period specified.

SCULPTURE 3 BEAUFORD SQUARE (Rear of Theatre Royal)

This will feature a pair of Judo fighters locked in combat, the statue will feature two interlocked life-size human figures. The installation is to be finished in varnished timber and mounted on a ground level platform and will not exceed 2m in height.

This installation is to be sited on the lawn fronting the rear of the Theatre Royal on Beauford Square set behind the c.1.6m perimeter railings. The principle building is Listed Grade II* however it is considered that the installation will not adversely harm the setting of the heritage asset or compromise the character and appearance of the Conservation Area or World Heritage Site.

Overall the figure in this location is deemed acceptable, adding to the character of the area and enhancing the visual interest of the street scene. The materials, size, scale and mass of the structure is deemed acceptable.

SCULPTURE 4 THE CIRCUS (Appended to Two Lampposts)

This installation relates to two sites within The Circus, one approximately opposite the entrance from Gay Street, the other opposite the entrance from Brock Street. The installations are to be two wire acrobats approximately 2m high and affixed to the upper parts of existing lampposts.

In terms of the impact on the Historic Environment, these fixtures are deemed acceptable and will add some interest to the character of this prominent historical location. The old lampposts form part of the character of the setting of The Circus however are not protected in their own rights, notwithstanding, it is considered that the proposed will not adversely affect the contributions these historic features add to the setting of the surrounding area.

It is noted that no structural calculations have been provided to demonstrate that the structures are safe and secure and unlikely to damage either the lampposts or prejudice highway safety however this should not preclude the granting of Planning Permission. As the lampposts are located on highway land they will require consent from the highway department, in the event that the lighting engineer is not satisfied with the installations or the forthcoming structural calculations, consent may be rejected and the installations may not be erected.

On balance it is considered that the installations in The Circus are acceptable and the proposed materials and dimensions satisfactory.

SCULPTURE 5 SAW CLOSE (Top of Former Kiosk)

This feature is to be a wire statue of Olympic runner Jason Gardener who is from Bath. The installation, c.2m in height will be stood upon the kiosk within the Saw Close car park set on a mounted platform. As with the feature in Parade Gardens, this installation will be in an elevated position (the kiosk being c.3m in height) however as it is of a scaled human figure its overall mass will be low and its wider impact negligible. In terms of the impact on the character and appearance of the street scene and setting of the Conservation Area this installation is unlikely to be harmful or appear unduly out of character.

The installation is to be located in close proximity to Bluecoat House, a Grade II listed former school building however, and again due to its minimal mass and overall bulk, it is not considered to be harmful to the setting of this heritage asset. Ultimately, this installation is to be in place for a short time period and therefore its long-term impact would be negligible.

On balance no objection is raised to this feature in this location.

SCULPTURE 6

BATH STREET (Top of Entrance Canopy to Little Theatre)

This feature is to be a freestanding statue of a gymnast made from wire at c.2m in height and set on top of the entrance canopy to the Little Theatre (to the rear of BHS, opposite the Cross Bath and next to St John's Hospital).

As with the above installation in Saw Close, being a humanoid feature the overall mass and bulk is likely to be minimal thus reducing its actual impact when viewed from the street below. The feature will not be fixed directly into the fabric of the listed building and as due to its size, siting and form is unlikely to harm the setting of the surrounding heritage assets.

Overall no objection is raised to this feature in this location.

SCULPTURE 7

PULTENEY WEIR (Top of Flood Barrier)

This installation will depict a basketball player in mid-air finished in resin. In order to give the figure the appearance of jumping he will be mounted on a semi-circular stainless steel frame; the figure of the man himself will be c.1.8m however the total height of the installation will be 3.5m fixed to the top of the flood barrier.

At 3.5m, this is the tallest installation however will be set in an elevated position above the river, as such, the appearance of the overall size of the installation will be diminished by virtue of the distance from where it will be seen. The installation in this location will not adversely harm the setting of Pulteney Bridge and although prominent, its wider visual impact will be mitigated by the surrounding trees. Overall the basketball player is unlikely to harm the setting of the World Heritage Site or character and appearance of the Conservation Area. The materials, size, scale and mass of the structure is deemed acceptable.

OPTION SITES:

The applicant originally identified three park locations on the periphery of the City however has not yet confirmed any specific installation for these sites. Whilst five of the original submitted locations have been removed from this application the applicant has requested to retain an option on the park sites. This is considered to be acceptable subject to conditions being imposed to restrict the parameters of the individual sculptures. All three of these sites, if occupied, would again feature humanoid characters conducting Olympic activities, and based on the assessments made for the installations featured in more sensitive locations, by virtue of the park settings, no objection is raised to the proposed option sites.

SCULPTURE 8

BOTANICAL GARDENS (Main Lawn, Victoria Park)

This is to be situated on the east side of the Botanic Gardens within Victoria Park, as part of a wider city trail this site could promote walking within the city and would encourage visitors to Bath to venture further afield within the city, promoting out of centre recreation.

No objection is raised in respect of this location as any installation would be absorbed within the wider context of the park and gardens. Subject to the parameters that the total structure (any statue AND plinth) does not exceed 4m in height, the proposed site is deemed acceptable.

SCULPTURE 9 GRAVEL WALK (Front of Royal Crescent)

This site is located 75m to the south of Number 1 Royal Crescent on the edge of the Gravel Walk and Royal Avenue. Whilst there is no objection in principle to the siting of a humanoid figure on what will be part of the Olympic torch relay route, given the proximity to the Crescent it is recommended that any figure should be restricted to 2m high so as not to adversely harm the setting of this principal heritage asset.

SCULPTURE 10 GREEN PARK

This is to be located on the triangle of land adjacent to Green Park, as with the proposed location adjacent to the Botanic Gardens as part of a wider city trail this site could also promote walking within the city and encourage visitors to Bath to venture further afield within the city.

Again, subject to the parameters that the total structure (any statue AND plinth) does not exceed 4m in height, the proposed site is deemed acceptable.

CONCLUSION

Overall the impact of the proposed installations is considered to be localised and minimal within the context of the surroundings. The features are all directly related to the wider Olympic year celebrations and are for a short term period only, to be removed by the 1st November 2012. Given the temporary nature of these features any harm to adjoining heritage assets will be short-lived and will not compromise the setting, fabric or historical importance of these buildings.

Ultimately the benefits of this scheme to the city as a whole as well as visiting tourists in promoting the exploration of the wider city will be both interesting and intriguing, encouraging active engagement with the wider city is supported. Many of the features will be placed near key landmarks, adding to the setting of the wider city and the character and appearance of the Conservation Area and setting of the World Heritage Site. No objection is raised in respect of any of the sites or the installations as proposed.

RECOMMENDATION

For the reasons set out in this report it is recommended that temporary planning permission is given for the installation of the 7 confirmed installations and the 3 option sites with specific conditions imposing parameters on the installations in the parks (for which no specific details have yet been submitted). The concerns raised by the Highway Development Officer have been overcome as further information has been submitted in connection with Site 3 (Green Park) which demonstrates that there will be no highway

hazard and in relation to Site 12 (The Circus) the Council's lighting engineer will need to be satisfied that the work of art will not cause the structural instability of the lamp post.

PERMIT with condition(s)

CONDITIONS

1 This permission shall expire on 1st November 2012, the developments hereby permitted shall be removed and the use hereby permitted discontinued, in the case of installation directly on the land, the ground shall be restored to its former state.

Reason: These installations form part of an art project to coincide with the 2012 Olympics and will no longer be relevant or needed after the Olympics have finished.

2 Sculpture 8 in the Botanical Gardens and Sculpture 10 in Green Park shall be no higher than 4m above ground level and no wider than 3m.

Reason: in the interest of preserving the character and appearance of the Conservation Area and the setting of the World Heritage Site.

3 Sculpture 9 on Gravel Walk shall be no higher than 2m above ground level and no wider than 1.5m.

Reason: in the interest of preserving the character and appearance of this part of the Conservation Area and the setting of the adjacent Royal Crescent.

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

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

PLANS LIST: This decision relates to the Revised Design and Access Statement, and to drawings 1131/01 Rev A, 1131/02 Rev A, 1131/04 Rev A, 1131/05 Rev A, 1131/06 Rev A, 1131/06a, 1131/09 Rev A, 1131/012 Rev A, 1131/013 Rev A, 1131/014 Rev A and 1131/015 Rev A date stamped 30th March 2011

REASONS FOR GRANTING APPROVAL

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

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

3. The proposed installations, forming part of a wider arts project and walking tour associated with the 2012 Olympic Games will promote the exploration of Bath and encourage recreational walking around the city, to the benefit of promoting healthy communities, one of the core objectives of the NPPF, 2012.

4. The proposed installations are carefully sited and designed so as not to adversely harm the setting of the World Heritage Site or character, fabric and setting of the various listed buildings around the city. By reason of their size, shape, mass and positions, the installations will not adversely harm the character of the various streetscapes and will preserve the character and appearance of the wider World Heritage Site.

A

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

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

BH.1 World Heritage Site

BH.2 Listed Buildings and their Settings

BH.6 Conservation Area

BH.9 Parks and Gardens of Historic Interest

BH.13 Significant Archaeological Remains in Bath

T.24 Development Control and Access

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Policies D.2, D.4, BH.2, BH.6, BH.9, BH.13 and T.24 are Saved Local Plan Policies

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Chapter 7. Requiring Good Design

Chapter 8. Promoting Healthy Communities

Chapter 12. Conserving and Enhancing the Historic Environment

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	11 April 2012
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (Land Adjacent to Tesco, Old Mills, Paulton No. 12) Tree Preservation Order 2011
WARD:	Paulton
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <p>Plan of Site</p> <p>Copy of letter of objection to the Tree Preservation Order</p> <p>Copy of correspondence in support of the Tree Preservation Order</p>	

1 THE ISSUE

1.1 An objection has been received on behalf of Tesco Stores Limited following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (Land Adjacent to Tesco, Old Mills, Paulton No. 12) Tree Preservation Order 2011 ("the TPO"), which was provisionally made on the 23 November 2011 to protect a belt of trees (identified as W1 within the TPO) and individual Oak (identified as T1) which make a significant contribution to the landscape and amenity of the area. The objection specifically relates to the section orientated north-south and not to the southern section classified as woodland within the TPO or to T1.

2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (Land Adjacent to Tesco, Old Mills, Paulton No. 12) Tree Preservation Order 2011 without modification.

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 may be able to 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 trees which are the subject of this report make 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 trees when considering any application for development or alterations on the site which might affect the trees.

4 THE REPORT

4.1 Background

4.2 The trees which are the subject of the TPO are a belt of trees to the east and south of the car park serving the Tesco store and one mature Oak growing within the adjacent field to the east, encircled within the black line and marked W1 and T1 respectively on the attached plan.

4.3 A planning application, reference 11/03824/FUL, was received for the erection of an extension to the existing Class 1 retail food store, re-location of the petrol filling station and associated works which included extending the car park to the east which would result in the loss of the eastern part of the belt of trees.

4.4 The trees within the site were assessed and the tree belt to the east and south and the individual Oak were considered to be of sufficient landscape merit to be worthy of a Tree Preservation Order.

4.5 Letter of objection to the Tree Preservation Order

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

4.7 One letter of objection has been received on behalf of Tesco Stores Limited. The Committee are advised to read the letter of objection attached.

4.8 The main objections are identified and summarised below.

- i) The contribution to the local amenity and landscape of the eastern section of the woodland belt is not considered to be significant criteria for the making of the TPO.
- ii) An arboricultural assessment was undertaken to inform the redevelopment proposals and the individual trees within the eastern section were considered to be C category trees as defined within the British Standard BS 5837:2005 (

trees in relation to construction. Recommendations) and B category as a collection.

- iii) The redevelopment proposals made provision for replacement planting to mitigate for the loss of the eastern section of the tree belt.

4.9 The objections to the Tree Preservation Order outlined in section 4.8 above have been considered by Officers and the following comments are made:

- i) The Councils Arboricultural Officer has assessed the trees for amenity value as part of the TPO process and found that the trees were important within the locality. The trees are visible to the general public and are in reasonable condition with an acceptable safe useful life expectancy. In addition, the section of the tree belt which is the subject of the objection contributes towards screening the site and associated artificial lighting. The tree belt is also mentioned within the Ecological Assessment submitted as part of the planning application which states that the belt provides a corridor for foraging opportunities for bats which links to woodland beyond the site.

- ii) The arboricultural survey submitted with the planning application does not conflict with the TPO assessment. Whilst the arboricultural survey may identify the southern and eastern belts with separate reference numbers, the survey results and comments are the same for both within the report. BS 5837:2005 recommends a method of categorising the quality of trees on development sites based on their quality and arboricultural, landscape, cultural and conservation values. The arboricultural survey included within the planning application categorised both the southern and eastern tree belts as B1 and B2 which is defined within the British Standard as trees of moderate landscape and conservation quality. The trees within the eastern belt have been assessed collectively for the purposes of the TPO which is considered appropriate given their proximity to each other and appearance which is considered to be similar to those trees along the southern boundary. This is why the eastern and southern boundary trees have been included as one woodland rather than two sections within the TPO. It is not considered appropriate to TPO individual trees within the belt.

- iii) The tree belt is currently at a sufficient distance from neighbouring properties to allow for future growth in height and spread whilst limiting any adverse impact on adjacent properties. The drawings of the proposed landscaping submitted as part of the planning application indicated that on the most vulnerable corner of the site, near to the south east, replacement planting would be less than half the width of that being removed. In summary, the proposed replacement planting is not considered to adequately mitigate for the loss of the existing eastern tree belt. In addition to the above, The Oak which has been protected by the TPO is currently buffered and protected behind the current tree belt from intensive activities, however, the proposal exposed this tree to increased risk assessments and possibly unsympathetic management.

Correspondence in support of the TPO is attached.

4.10 Relevant History

4.11 11/03824/FUL - Erection of an extension to the existing Class 1 Retail food store, re-location of petrol filling station and associated works - REFUSED

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 the Town and Country Planning Act 1990 and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into effect on 6th April 2012 .

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 Government guidance, and takes account of the visual impact of the trees 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 trees. The TPO was made on 23 November 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'

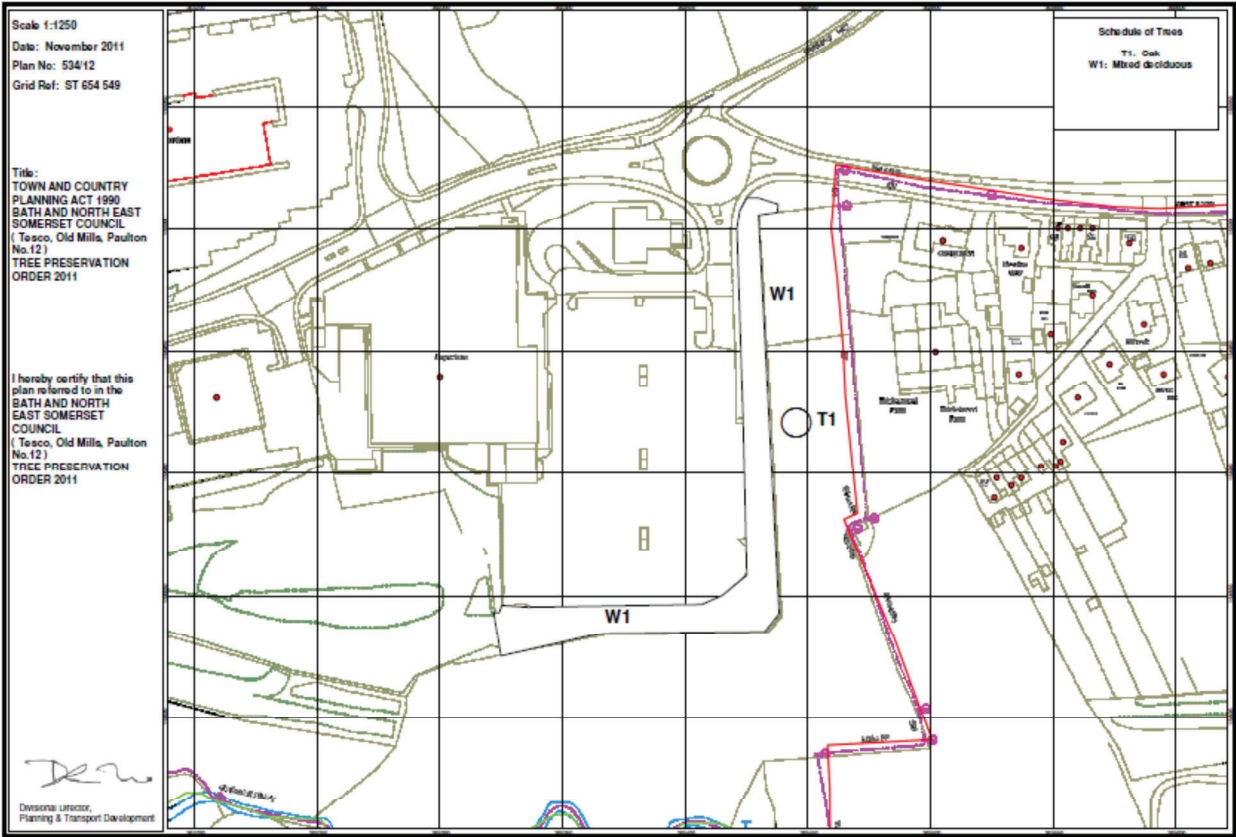
C2.23 'Much of the tree cover in the urban areas is in a critical condition and there is little or no replacement planting for over-mature trees in decline. Infill development has often reduced the space available for planting large tree species. In addition, new tree planting takes many years to mature. 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 trees make a significant contribution to the landscape and amenity of the area.
- 6.2 Confirmation of the TPO would ensure the retention of the trees. Should it be found in the future that it would be unreasonable to retain the trees the Council will then be able to ensure appropriate replacement planting.
- 6.3 In keeping with the Council's commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO without modification.

Contact person	Jane Brewer 01225 477505
Background papers	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.



Date: January 2012

Document Reference: 8115 AA AN 01 (Revision A)

FAO Jane Brewer
 Senior Arboriculturalist
 Bath and North East Somerset Council
 Planning Services
 PO Box 5006
 Bath
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BATH AND NORTHEAST SOMERSET COUNCIL TREE PRESERVATION ORDER 2011,
 TESCO, OLD MILLS, PAULTON NO.12: ARBORICULTURAL OBJECTION

Dear Jane,

On behalf of Tesco Stores Limited and their right to appeal on account of their development interest in land affected by the TPO (ref application no.11/03824/FUL, we wish to object to the Council's decision to confirm the above Order in its current form. Having read and understood TPO No.12 we believe that it is not expedient to make a TPO which includes all of the area identified as W1 on the associated TPO schedule and plan. Our objection explicitly relates to the linear collection of trees within a landscape belt (orientated north-south) representing the eastern extent of W1. We are not objecting to the confirmation of the TPO on the southern belt of W1 or the Oak scheduled as T1. Our objection is based on the following points listed A to C.

A. In justifying TPO No.12, North East Somerset Council suggests that trees within W1 help to 'make a significant contribution to the local amenity and the landscape of the area'. We do not agree that it is reasonable to describe the existing contribution of this part of W1 as 'significant'; the eastern extent of W1 is visible for only short distances along the immediate A362 approach to the existing Tesco Store site, whilst intervening built form and varied topography significantly restrict views of the trees from the wider area and landscape setting.

B. To inform Tesco's proposals for redevelopment of the existing store site, we have undertaken an arboricultural assessment of all trees likely to be influenced by the proposals; this assessment has been consistent with the rhetoric of the British Standard for Trees in

Relation to Construction (5837:2005). Within this assessment the trees within W1's eastern extent have been judged to individually fulfil the criteria of category 'C', i.e. to be of only low arboricultural quality and value. We have nonetheless acknowledged that the belt does provide a degree of containment to the site, and have subsequently conferred a higher rating of category 'B' to the trees as a collection.

Within the proposed context we have concluded that it is not practicable to protect (or integrate) this area of trees within the proposed setting, irrespective of protected status. We have subsequently shown these trees removed to implement development and consider this opinion to be justified from the arboricultural perspective. Our recommendation for removal has been subject to the provision of mitigation replanting.

We have not received any explicit objection to the removal of these trees during previous consultation response with Bath and Northeast Somerset Council (correspondence dated as recently as 07.11.11).

C. The Landscape Supporting Statement for this development states that the provision of a substantial landscape buffer will mitigate for the clearance of W1's eastern extent and fully integrate the development. The proposed landscape buffer ranges from 6m width up to 30m around a retained Oak tree (also subject to the TPO, scheduled as T1) and incorporates a native woodland mix. The proposed woodland mix includes a variety of sizes and heavy standard trees to provide impact from day one and will further mature over time to provide a robust landscape buffer (this is illustrated on the submitted Landscape Masterplan and detailed planting plans). The proposed tree, shrub and woodland structure planting will provide appropriate replacements of improved longer-term potential that will mature, adding to retained key landscape buffers to south and west (including the southern line of W1). These measures will ensure that the high level of containment and separation that is currently afforded to the site is maintained. It is therefore our opinion that the new plantings will ensure that there is no detrimental impact upon residential amenity.

Conclusions:

It is our opinion that the confirmation of TPO No.12 in its current form is not expedient in the interest of amenity. Inclusion of the western extent of the area scheduled as W1 is strongly contested on the grounds that the 'amenity' value assessed for this area of trees is not consistent with the criteria listed within current TPO advice for good practice. The Councils

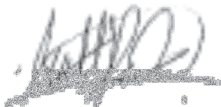
assessment of amenity impact for this area of trees can only be based on the collective public visibility of the trees. The eastern extent of W1 is of limited visibility which should have been reflected in the Council's assessment; moreover public visibility is not sufficient to warrant a TPO in itself (DCLG 2006).

Proposed development has been informed by an arboricultural survey and the subsequent layout has evolved around the retention of a mature free-standing Oak (scheduled as T1 within TPO No.12) and existing boundary tree cover (the southern belt of W1). To implement this development, clearance of W1's eastern extent is considered justified from the arboricultural perspective, subject to mitigation replanting and the retention of the key mature vegetated boundaries.

Substantial replacement landscape planting has been proposed to mitigate the clearance of W1's eastern extent as shown on the previously submitted Landscape Supporting Statement. These measures will ensure that the degree of containment that is currently afforded is retained. It is therefore our opinion that clearance of this area is supportable in terms of landscape and visibility, contrary the Council's own assessment.

We respectfully request that the TPO be revised to not include the eastern extent of W1 as currently shown.

Yours sincerely



Neil Farnsworth, arborist
(01274)

Further Reading and Supporting Material:

British Standards Institution Publication (2010), BS 3895: Recommendations for Tree Work, BSI, London

British Standards Institution Publication (2005), BS 5837: Trees in Relation to Construction, BSI, London

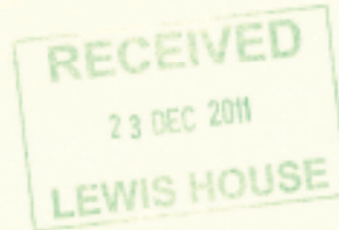
Department for Communities and Local Government (March 2000) Tree Preservation Orders: A guide to the Law and Good Practice, DCLG, London



Mrs J M Plucknett
Clerk to the Parish Council

The Village Hall
Farrington Road
Paulton
Bristol BS39 7LW

Telephone: 01761 413644



Jane Brewer
Senior Arboriculturist
Bath & North East Somerset Council
Planning Services
PO Box 5006
Bath
BA1 1JG

22 December 2011

Dear Jane

Please note that Paulton Parish Council strongly supports the permanent implementation of the Tree Preservation Order 2011 for Tesco, Old Mills, Paulton No 12.

The above statement refers to the Oak tree in a field to the east of the existing Tesco, Old Mills, Paulton and the mixed deciduous woodland located along the southern and eastern boundary of the existing Tesco car park.

Members agree with the statement that the trees make a significant contribution to the local amenity and the landscaping of the area.

Yours sincerely

A handwritten signature in cursive script that reads "Judith Plucknett".

Judith Plucknett
Clerk

Fax: 01761 413679 Email: paultonparishcouncil@btconnect.com
Website: www.yourpaulton.org

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	11 April 2012
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (Gaia, Widcombe Hill, Bath No. 268) Tree Preservation Order 2011
WARD:	Widcombe
AN OPEN PUBLIC ITEM	
List of attachments to this report:	
Plan of Site	
Copy of letter of objection to the Tree Preservation Order	
Copy of correspondence in support of the Tree Preservation Order	

1 THE ISSUE

1.1 An objection has been received from the owners following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (Gaia, Widcombe Hill, Bath No. 268) Tree Preservation Order 2011 (“the TPO”), which was provisionally made on the 15 December 2011 to protect a group of three trees which make a significant contribution to the landscape and amenity of the area.

2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (Gaia, Widcombe Hill, Bath No. 268) Tree Preservation Order 2011 without modification.

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 may be able to 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 trees which are the subject of this report make 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 trees when considering any application for development or alterations on the site which might affect the trees.

4 THE REPORT

4.1 Background

4.2 The trees which are the subject of the TPO are two mature Beech and one mature Sycamore which are within the front garden of Gaia, Widcombe Hill and are encircled within the broken black line and marked G1 on the attached plan.

4.3 A notification, reference 11/04933/TCA, was received for the felling of five trees and the reduction of a sixth which included the three trees which are the subjects of the TPO.

4.4 The trees which were included within the notification were assessed and three trees by the frontage were considered to be of sufficient visual landscape impact to be worthy of a Tree Preservation Order.

4.5 Letter of objection to the Tree Preservation Order

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

4.7 One letter of objection has been received from the tree owners. The Committee are advised to read the letter of objection attached.

4.8 The main objections are identified and summarised below.

- i) The criteria for the making of the TPO are not met.

- ii) There are safety concerns about the current trees
- iii) The TPO prevents the residents from living in alignment with national policies and strategic objectives within the draft Core Strategy and Sustainable Community Strategy
- iv) Implicit consent to the tree works was given when planning consent was given for 11/02874/FUL

4.9 The objections to the Tree Preservation Order outlined in section 4.8 above have been considered by Officers and the following comments are made:

- i) The Councils' Arboricultural Officer has assessed the trees for amenity value as part of the TPO process and found that the trees were important within the locality making a valuable contribution to the conservation area. The trees are readily visible to the general public and are in reasonable condition with an acceptable safe useful life expectancy in excess of 20 years.
- ii) The objection letter and tree surgeons' report concentrates on the negative points relating to the trees and has not considered that trees rarely develop perfect forms and that management options such as surgery and bracing can address structural issues. The supporting information does not justify the need to fell the trees. An application to carry out management to the tree can be made under the TPO. No evidence has been provided to indicate that the trees are dead, dying or dangerous and therefore inappropriate candidates for a TPO.
- iii) The TPO is not considered to conflict with national policies or Bath and North East Somersets' specific policies or strategies. One does not override another and, as with all issues, there is a question of balance. The Council has not objected to previous tree felling proposals within the property which were included within notifications, references 10/04607/TCA; 11/03409/TCA (one Beech tree withdrawn from the proposal which is now included within the TPO) and 11/04933/TCA (included the felling of two other trees which are not within the TPO).
- iv) Implicit consent was not given for the tree works when planning consent was given for 11/02874/FUL. The application form does not refer to the solar array and, therefore, the Case Officer did not consider the solar array was part of the application and made their decision accordingly. In addition, the Design and Access Statement accompanying the application states that the existing trees will be retained and protected and no tree work was associated with the application. Should the owners intend to install the solar array under permitted development they should ensure that the siting minimises its effect on the amenity of the area, in this case the visual amenity afforded by the trees.

The three trees are not directly in front of the property but off centre towards the east. With the felling of other trees within the property it should be possible to position the solar array to reduce the impact of shading.

Letters of objection to the notification and in support of the TPO are attached.

4.10 Relevant History

- 4.11 - 10/04607/TCA - Remove deadwood and one single branch of Ash, remove a group of Holly trees and 1 x Lawson Cypress, crown lift by up to 4m from ground level of dominant Beech, and remove a line of five young Lawson Cypress trees. NO OBJECTION
- 4.12 11/02874/FUL - Erection of a single storey front extension and alterations to external openings to compliment the new internal layout. PERMITTED
- 4.13 11/03409/TCA - Remove 1no. branch from Ash. Felling of one Beech withdrawn from notice. NO OBJECTION
- 4.14 11/04933/TCA – Fell four Beech; fell one Sycamore and reduce height of one Beech. NO OBJECTION IN PART (TPO made on two Beech and one Sycamore).

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 Government guidance, and takes account of the visual impact of the trees 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 trees. The TPO was made on 15 December 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 trees make a significant contribution to the landscape and amenity of this part of the Bath.

6.2 Confirmation of the TPO would ensure the retention of the trees. Should it be found in the future that it would be unreasonable to retain the trees the Council will then be able to ensure that a replacement tree of a similar species is planted.

6.3 In keeping with the Council’s commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO without modification.

Contact person	Jane Brewer 01225 477505
Background papers	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.

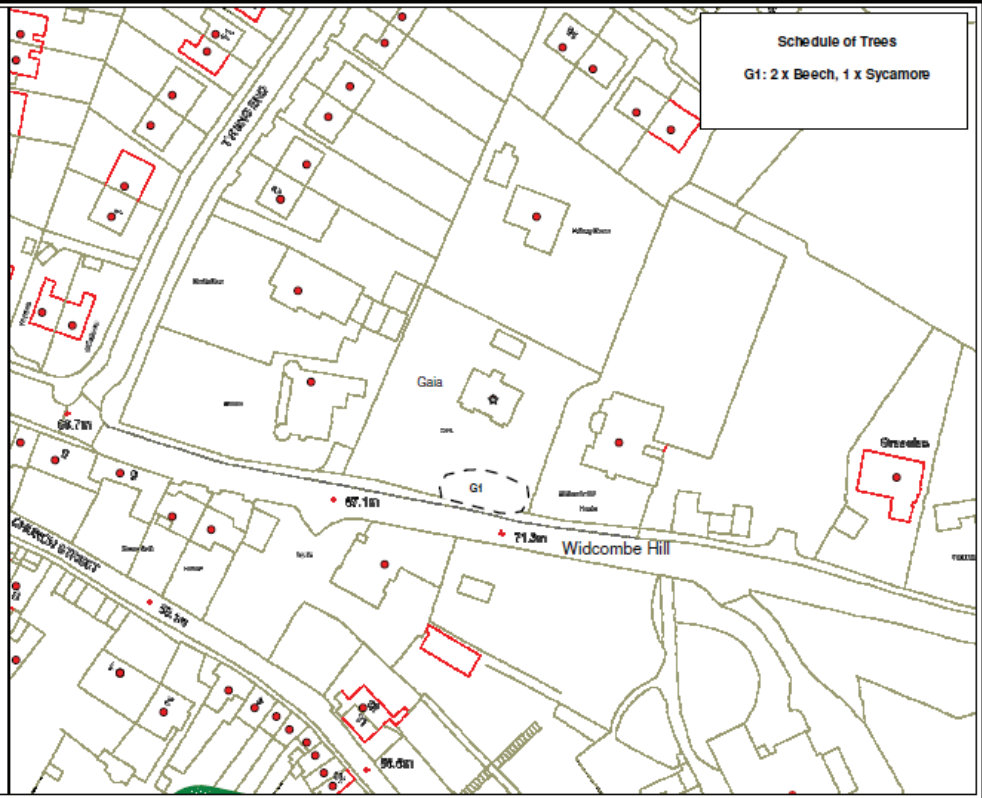
Scale 1:1000
Date: December 2011
Plan No: 500/268
Grid Ref: ST 759 641

Title:
TOWN AND COUNTRY
PLANNING ACT 1990
BATH AND NORTH EAST
SOMERSET COUNCIL
(Gaia, Widcombe Hill,
Bath No. 268)
TREE PRESERVATION
ORDER 2011

I hereby certify that this
plan referred to in the
BATH AND NORTH
EAST SOMERSET
COUNCIL
(Gaia, Widcombe Hill,
Bath No. 268)
TREE PRESERVATION
ORDER 2011



Divisional Director,
Planning & Transport Development



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FOR THE PROMPT ATTENTION OF MISS JANE BAEWA, SENIOR ARBORICULTURIST

We, the under-signed support the objections raised by Mr. & Mrs. Bowers of Halfway House, Wilscombe Hill for permission to remove native woodlands trees at the bottom of the drive, bordering Gaia.

This is a designated conservation area, & as such, should be protected by conservation laws. These trees have been "in situ" for decades.

We confirm that a condition of any applications for removal or trimming of trees should, by law, involve consultation with neighbours or affected parties. We understand that this is not so, at the present time.

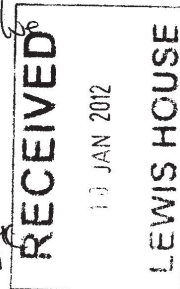
We also confirm that we wish the tree protection orders issued on the mature trees at the front of Gaia to be extended at the end of the six-months specified.

As Wilscombe is a Conservation Area putting particular emphasis on the preservation of trees we do not agree with the proposal to fell 3 trees on the property as detailed. GAIA, Wilscombe Hill Bath.

Unless it is essential - which in this case we do not think applies - we do not agree with felling any trees when the area has an ever increasing level of pollution as the volume of traffic rises. The environment and wildlife must be protected.

M. W. Baker - A. H. Baker

2. Wilscombe Hill
Rd. Bath GAD.



-----Original Message-----

From: Development Control
Sent: 30 November 2011 14:00
To: Ian Gilchrist (Cllr)
Subject: "Application Comments"

(Cllr) Ian Gilchrist, you have been sent this email because you or somebody else has submitted a comment on a Planning Application to Bath and North East Somerset Council using your email address.

A summary of your comments is provided below.

Comments were submitted at 30/11/2011 13:48:30

Application Summary

Application Number:
11/04933/TCA

Address:
Gaia, Widcombe Hill, Widcombe, Bath, BA2 6AE

Proposal:
Various Tree Works

Case Officer:
Jane Brewer

Customer Details

Name:
(Cllr) Ian Gilchrist

Address:
24 Horseshoe Walk
Bath

PostCode:
BA2 6DF

Telephone No.:
01225-334775

ian_gilchrist@bathnes.gov.uk

Comments

Submission Type:

S - Support

Comments:

I have been to see the site at the request of the applicants and would like to support their submission on the grounds that:

1) removal of the trees will enable more (solar PV) electricity to be generated from the roof installation;

2) cultivation of vegetables in the garden is likely to be more successful if the trees are removed.

Both of these points are in line with the Council's stated sustainability aims.

FOR THE PROMPT ATTENTION OF MISS JANE BAWEA, SENIOR ARBORICULTURALIST

We, the under-signed support the objections raised by Mr. & Mrs. Bowers of Halfway House, Widcombe Hill for permission to remove mature woodlands trees at the bottom of the drive, bordering Gaia.

This is a designated conservation area, & as such, should be protected by conservation laws. These trees have been "in situ" for decades.

We confirm that a condition of any applications for removal or trimming of trees should, by law, involve consultation with neighbours or affected parties. We understand that this is not so, at the present time.

We also confirm that we wish the tree protection orders issued on the mature trees at the front of Gaia to be extended at the end of the six-months specified.

It is always regrettable when mature trees are felled, particularly in a conservation area. I do not support the removal of the trees in question. I do however, support the tree protection order on the mature trees at the front of Gaia. The removal of these would greatly disfigure this area of Widcombe Hill

G. N. Lopes

Hillside

Widcombe Hill Bath BA26A

Halfway House,
Widcombe Hill,
BATH
BA1 3LQ

19th January 2012

Jane Brewer,
Senior Arboriculturalist,
BANES Planning Services
PO Box 5006
BA1 1JG

Dear Jane Brewer:

We are writing to express our full support for the Tree Preservation Order which has been issued and notified to us regarding Trees on the land at Gaia, Widcombe Hill (TPO Reference: 2011 Gaia, Widcombe Hill, Bath, No. 268). We would urge the authority to give permanence to the TPO.

The TPO covers a group of trees G1, consisting of 2 Beech and 1 Sycamore within the front garden of Gaia. These are labelled T1, T2 and T3.

These are mature trees and are a long standing feature of the local area. We have been residents at the neighbouring property of Halfway House for over 30 years and these trees have added to the local amenity throughout this time. The trees contribute to the woodland character of the area and the pleasant environment and visual character and attractiveness of this part of Widcombe.

They help to provide shelter and protection from traffic noise and pollution from Widcombe Hill for the surrounding properties in Widcombe Hill and Tynning End.

The trees are very prominent and visible from the surrounding area, with the slopes of Widcombe Hill contributing to the attractions of Bath as a world renowned city. This area lies close to the National Trust Bath Skyline Walk and these trees contribute to the quality of the surrounding vistas. Widcombe Hill is a popular area used for travel and walking by the city's residents, University Students, and visitors alike. Bath is a World Heritage Site and we note that *the green setting of the city within a hollow in the hills* is a key reason for achieving this status. The current management plan for the Bath World Heritage Site (2010-2016) includes *ensuring that landscape and natural elements of the site and its setting are protected, acknowledged, understood and managed*. Bath and North East Somerset have also published a setting study for the site. The protection of trees therefore supports and is necessitated by the World Heritage status. Failing to give permanence to this TPO will therefore be in direct conflict with published Local Authority requirements for the city.

Mature trees of this stature take many decades to grow and these trees are therefore an irreplaceable feature of the local environment. Their loss would have a permanent impact on the environmental and ecological characteristics of the area including loss of habitat and greenery, and an increase in the carbon dioxide footprint.

I note that the applicant for tree work to fell these trees has mentioned intended installation of Solar Panels as a reason for this action. I would therefore like to draw the authority and planning office's attention to the fact that the installation of these Solar Panels formed an explicit part of a planning application which has been granted for building work at Gaia. This application explicitly stated that no supporting tree work is required. (Clearly any such work should have been declared as part of the planning application in response to the explicit question on the application form.) Any argument regarding the need for tree work to support use of Solar Panels is therefore either spurious or fraudulent.

We have separately registered our objection to the Gaia application for tree work which has prompted this TPO. We would like to see the remaining trees (T4, T5 and T6) falling within the Gaia tree work application also protected e.g. via a Tree Preservation Order. This is because these trees also bear similar characteristics and the same reasons for their preservation apply. All trees are in good health and have never presented any problem. We have supporting advice from a qualified Tree specialist based on inspection from our land (The owner of Gaia has refused any request for access for closer inspection). We would therefore also propose the extension of the existing TPO to also include these additional trees.

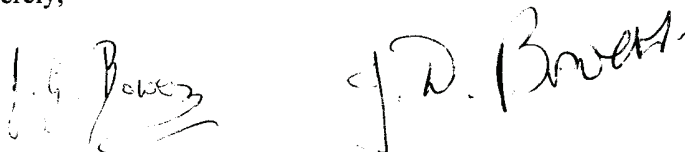
Finally we would like to emphasise again that any loss or cutting of the Trees subject to this Tree Protection Order would have a major impact:

- on individuals in the surrounding properties,
- on the local community,
- and on a world heritage city

We know that many local residents are also supportive of this TPO. We urge you to make the TPO referenced above permanent.

We look forward to a positive response.

Yours sincerely,

The image shows two handwritten signatures in black ink. The signature on the left is 'J.G. Bowers' and the signature on the right is 'J.D. Bowers'. Both are written in a cursive, somewhat stylized hand.

Mr J. D. Bowers and Mrs J. G. Bowers

FOR THE PROMPT ATTENTION OF MISS JANE BAEWEA, SENIOR ARBORICULTURIST

We, the under-signed support the objections raised by Mr. & Mrs. Bowers of Halfway House, Widcombe Hill for permission to remove mature woodlands trees at the bottom of the drive, bordering Gaia.

This is a designated conservation area, & as such, should be protected by conservation laws. These trees have been "in situ" for decades.

We confirm that a condition of any applications for removal or trimming of trees should, by law, involve consultation with neighbours or affected parties. We understand that this is not so, at the present time.

We also confirm that we wish the tree protection orders issued on the mature trees at the front of Gaia to be extended at the end of the six-months specified.

We would not be happy if the trees in question are felled, it seems a shame to fell two healthy mature trees for the reasons given

Mr. and Mrs L. Price

"Greenways"

Widcombe Hill

Bath.



Rear Admiral Austin Lockyer



The Old Malt House
3 Widcombe Hill
Bath BA2 6AD
01225 466815

Friday, 13 January '12

ON LINE REFERENCE 11/04933/RICA

for the attention of Mrs Jane Brewer

My wife and I fully support
the objections raised by Mr and Mrs
Brewer of Halfway House, Widcombe
Hill for permission to remove mature
trees at the bottom of the drive
bordering Gavia your letter of
16 December 2011 (Gavia, Widcombe
Hill, Bath No. 268) refers.

Austin Lockyer

FOR THE PROMPT ATTENTION OF MISS JANE BAWEA, SENIOR ARBORICULTURIST

We, the under-signed support the objections raised by Mr. & Mrs. Bowers of Halfway House, Widcombe Hill for permission to remove native woodlands trees at the bottom of the drive, bordering Gaia.

This is a designated conservation area, & as such, should be protected by conservation laws. These trees have been "in situ" for decades.

We confirm that a condition of any applications for removal or trimming of trees should, by law, involve consultation with neighbours or affected parties. We understand that this is not so, at the present time.

We also confirm that we wish the tree protection orders issued on the mature trees at the front of Gaia to be extended at the end of the six-months specified.

MR. GEORGE
"
MRS. CAROL BARBER
GREENLEA,
WIDCOMBE HILL,
BATH BA2

Jan Bawa
"

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Environment Team
Planning Services
PO Box 5006
Bath BA1 1JG

Gaia
Widcombe Hill
Bath
BA2 6AE
26th January 2012

Dear Ms Brewer,

Formal Objection to Temporary Tree Preservation Order 2011

We write to object to the temporary tree preservation order placed on three trees (T1, T2 and T3) at our home. The reasons for the objection are listed in detail in this letter. They are, in summary:

1. The criteria for making a Tree Preservation Order, as stated in Part VIII of the Town and Country Planning Act 1990, are not met.
2. There are safety concerns about the current trees.
3. The temporary TPOs prevent us as citizens from living in alignment with the Number 1 strategic objective in BANES Core Strategy, its Local Strategic Partnership Sustainable Community Strategy and numerous national policies including the Climate Change Act 2008. The Council is preventing the implementation of its own strategies.
4. The proposed scheme is entirely in line with these strategies in that it maintains the "linkages of green infrastructure" of the area, provides for a net increase in trees, increases amenity, has a positive impact on air borne pollutants, removes the current safety risks and generates a hugely positive environmental gain.
5. Implicit Consent to the tree works was given when the original planning application for the solar array was given.

We understand the importance of visual amenity and have addressed this in our application by committing to replace the three trees with beautiful, blossom producing fruit trees.

We believe passionately that the proposal we submitted enables the creation of a sustainable home which uses solar power and grows its own organic food. Placing TPOs on the trees in question kills this opportunity to create a low impact way of living stone dead.

We are the parents of two young children. Their adult world will be far more affected by climate change than we can even imagine. That is why we must act now to create environmentally sustainable homes and power sources. In our proposal, future generations will be able to enjoy the visual amenity of the fruit trees AND enjoy the organic food they produce AND have carbon-saving power; if the TPOs are retained, they will have a far thinner experience.

We remain committed to engaging with the council to find a positive way forward. We will also take our case to the highest levels possible should this be necessary.

Yours sincerely

Mark and Adrienne Baptist

Objections

Objection 1: The criteria for making a Tree Preservation Order, as stated in Part VIII of the Town and Country Planning Act 1990, are not met.

The following table itemizes the criteria used to validate a TPO, notes government guidance in “Tree Preservation Orders: A Guide to the Law and Good Practice” at <http://www.communities.gov.uk>, articulates why the criteria is not valid in this case and directs the reader to further information provided in the appendix

Tree Preservation Order Criterion	Government Guidance (“Tree Preservation Orders: A Guide to the Law and Good Practice”)	The Trees For Which a Temporary TPO Has Been Made.
Overall Amenity	<p>“TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.”</p> <p>“It would be inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.”</p>	<p>The overall amenity of the area will be improved by the proposal to remove the trees in that:</p> <ol style="list-style-type: none"> 1. planting fruit blossom trees to replace the current trees will provide a beautiful display or flowers and then fruit. Blossom trees are not common in the area and so would add variety as well as aesthetic appeal and biodiversity. 2. the enablement of solar power and heat <ol style="list-style-type: none"> a. provides public amenity in that it addresses community concerns regarding climate change. b. Is at least 1200% better for the environment each year than the retention of the current trees. <p>The tree surgeon who assessed the trees states: “the existing trees provide poor amenity value which will deteriorate over time given their poor form, structure, strength and risk of infection.”</p> <p>These trees have manifest faults which present a safety risk to pedestrians and motorists in the area.</p>
Visibility	<p>If the trees “cannot be seen or are just barely visible from a public place, a TPO might only be justified in exceptional circumstances”.</p>	<p>The trees are not visible at all from the centre of Bath. We include photographs demonstrating that they are either not visible at all or barely visible along most of Widcombe Hill and the areas that face it.</p>
Individual impact	<p>“The mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The LPA should also assess the tree’s particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value as a screen or contribution to the character or appearance of a conservation</p>	<ol style="list-style-type: none"> 1. The trees have poor form. An extract from the tree surgeon’s report states “none of the trees can be said to have good form .. as a group they are all compromised structurally.” 2. The trees do not have future potential as an amenity: <ol style="list-style-type: none"> a. “The structural faults are in major limbs and as such the future amenity they offer is compromised” (Tree Surgeon) b. The proximity of the trees to a large retaining wall (one is only 22cm away) combined with the trunk expansion rate

	area.”	<p>will cause the retaining wall to fail over time. This wall runs alongside Widcombe Hill, which is a major pedestrian route to/from town, the University and local schools. This wall is already showing signs of being put under pressure by the root system of the tree in that it is exhibiting a visible bow which can only worsen over time.</p> <p>3. The trees are not rare – beech and sycamore proliferate in the area.</p>
Wider impact	The significance of the trees in their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.	<p>1. The proposal refers to 3 trees; there are 70 trees within 20 metres of our property and hundreds of others within 100 metres. These trees include Beech and Sycamore, as well as Ash, Yew, and Chestnut.</p> <p>2. The specific trees in question are not locally scarce with others examples nearby.</p> <p>3. They are also not suited to a urban garden and being close to the road - their leaves, know to be slow to rot, creates a slippery surface for pedestrians and motorists autumn</p>

Objection 2: There are safety concerns about the current trees.

There are significant structural and positional weaknesses in the trees that creates the risk of injury and damage to property and persons

T1 double trunked with included bark (a sign of increased weakness) and will become an increasing safety hazard with time

T1 is within 22cm of a 1.6 metre high retaining wall and leans across Widcombe Hill, a thoroughfare used as a key pedestrian route to Bath University, a bus route from the city to Ralph Allen Secondary School and a main artery into the city.





The mortar in the wall is showing evidence of cracking and the wall is exhibiting a visible bow which can only worsen over time.



T2 shows evidence of a weak fork which threatens telephone wires, a telegraph pole and the neighbour's garden. This tree is a Beech known to have poor tensile strength.



T3 is only 1m from the retaining wall and has rubbing trunks which will be a potential future source of infection and the risk of compression building in the tight union is high.



All of the trees, which are already exhibiting signs of strain, will become larger over time increasing the likelihood of damage to persons or property, and certainly within the next 10 years.



We also include a photograph of a recently felled beech that is of similar age and also of structurally poor form which shows clear evidence of “included bark” and the resultant loss in strength.



Objections 3 & 4:

- ***The temporary TPOs prevent us as citizens from living in alignment with the Number 1 strategic objective in BANES Core Strategy, its Local Strategic Partnership Sustainable Community Strategy and numerous national policies including the Climate Change Act 2008. The Council is preventing the implementation of its own strategies.***
- ***The proposed scheme is entirely in line with these strategies in that it maintains the “linkages of green infrastructure” of the area, provides for a net increase in trees, increases amenity, has a positive impact on air borne pollutants, removes the current safety risks and generates a hugely positive environmental gain.***

The No 1 Objective in the B&NES Core Strategy is “to pursue a low carbon and sustainable future in a changing climate”

Climate Change is a Key Strategic Issue that is being addressed by the B&NES Core Strategy and is articulated in the Core Strategy document as follows:

*“There is a need to tackle the causes and effects of climate change through **lower carbon lifestyles; limiting our use of increasingly scarce resources; reducing our dependency on fossil fuels** especially in light of ‘peak oil’ concerns; making sure that our area is resilient to climate change, particularly the potential for flooding. We will need to adopt environmentally friendly practices such as **making buildings more energy efficient, increase the use of renewable energy, reduce car use and grow more local food.** We will also need to ensure that the natural environment is maintained and enhanced to maximise opportunities for mitigation. **This will enable us to contribute to meeting the national, statutory carbon reduction target of 45% by 2020 from 1990 levels.**”*

1. Placing a temporary TPOs on the three trees prevent addressing a significant community concern of climate change

Our current home already has a condensing boiler, is double glazed, cavity wall insulated and loft insulated with a rain water harvesting system in place. We intend to install solar thermal and PV installations to reduce our carbon footprint further.

Placing a temporary TPO on the trees maintains the shading that prevents the alternative energy systems from working efficiently. Replacing the trees will increase the CO₂ saved by a factor of 1200% compared to the CO₂ sequestered by the existing trees. (This has been calculated with help from a local solar expert, the Centre for Alternative Technology and the Woodland trust)

Shading has a disproportionate impact on the efficiency of solar arrays and the whole system will only operate at the efficiency of the lowest performing panel. Therefore reducing shading to a minimum is critical to the success of solar systems

We note that the Council is supportive of low-carbon initiatives including two that have come out of Transition Bath Energy Group of which I am a member and contributor – namely the Bath Homes Fit for the Future (part-funded by B&NES) where Bath homeowners can showcase their energy efficient homes and the Energy Efficient Widcombe (also supported by B&NES) whose purpose is to support the local community in making their homes more efficient.

See Appendix for further details

2. Temporary TPOs on the trees reduce biodiversity and reduce our ability to lower our carbon footprint through more local food production

Our aim is to create an allotment style garden that will enable us to:

- a) Grow a large proportion of our own food so reducing “food miles”, the number of journeys we take in a car to buy food and the wasted packaging in which shop-bought food is shipped. It will also enable us to produce organically grown food and so both increase the nutritional value of each item grown and reduce the family’s exposure to pesticides;
- b) Increase the biodiversity of the site by planting a variety of the flowering plants, fruit trees and vegetable species that will encourage bees, insects and other wildlife;
- c) Increase soil quality by introducing crop rotation with plants such as beans that will “nitrogenise” the soil.

However, the existing trees create a large “dead zone” all around them due to the shade cast by their canopies and the moisture/goodness they suck out of the ground. The soil around them is of poor quality and we have made numerous attempts to grow plants under the canopy but are continually having to replace them. Those that manage to survive grow into poor form specimens.

Having taken advice from a horticulturalist, we have been told that it would be impossible to achieve the allotment style garden we had planned should the particular trees in question remain in situ. Moreover, the current trees would support only a fraction of the biodiversity that would be achieved by an allotment style

We propose working with the council to develop a horticultural plan and tree replanting scheme that will increase the local biodiversity and so increase the wider environmental benefit immediately and for the long term future.

3. Placing temporary TPOs on the three trees is also in conflict with achieving the Local Strategic Partnership Sustainability Community Strategy

See Appendix

4. Placing temporary TPOs on the three trees reduces our contribution to meeting the UK legally binding targets through Climate Change Act 2008

The UK set legally binding framework to tackle the dangers of climate change by setting legally binding targets. Placing temporary TPOs reduces the contribution we collectively can make, to achieving these targets.

Objection 5: Implicit Consent to the tree works was given when the original planning application for the solar array was given.

Our original detailed planning application (Reference: 11/02874/FUL) included PV and Solar Thermal installations on the roof. Given the orientation and the obvious shading of the solar array by the trees, there was implicit consent to fell or do works to the trees in the original planning application.

Appendices

Contents:

1. Detail Underpinning Objections
2. Tree Surgeon Report
3. Original Supporting Letter submitted as part of the original Application for Tree Works

Detail Underpinning Objections

Objection 1

Amenity Value

Safety Risk – please see Objection 2 in main body

Visibility

- The trees in question are difficult to see from any angle and we include photographs taken from all the approaches to the trees in question to support this.
- They are obscured by other trees from almost all points when descending Widcombe Hill and due to the narrowing of that particular section of Widcombe Hill to single lane, provide no visual amenity to drivers who need to focus on safety.





- Coming up Widcombe Hill, they are also obscured by other trees and so once again provide little in the form of amenity



- From Perrymead / Lyncombe Hill, they are subsumed in the other trees surrounding our property



- Walking past the trees on the pavement, the only way to enjoy their amenity is look directly up as they are above and behind a high retaining wall almost 2 metres tall
- The trees are not visible from the city centre due to the contours of the land.

Individual Impact

Extracts from the tree surgeon's report:

"None of the trees can be said to have good form. It is possible that they have re-grown with poor form as a result of damage early in their lives, possibly, in the case of the Beeches, as the result of squirrel damage. As a group they are all compromised structurally. The structural faults are in major limbs and as such the future amenity they offer is compromised"

"T1. This tree is large and leans over the road. Its branches stretch across the road and will require pruning not to become a nuisance to the drivers of high vehicles. It is a Sycamore, when dropped so its leaves are large, slow to rot and slippery. The tree's form is double trunked with the union of the trunks being just above ground level. The union of this fork is not ideal. It is tight and has included bark. The fork is less likely than most unions to stand up well to the tree's future growth as each year's annual growth causes pressure to build up between the tight trunks and the included bark is a potential place for infection to the tree. If this basal union becomes weak, the large trunk which leans over the road may become a danger to traffic. This indicates that the tree has less to offer in future amenity than many trees of similar size."

"T2 has a very tight fork at 6 metres where the tree splits into 2 trunks. There are large bulges in the wood to be seen below the fork. These bulges are clear signs of the tree struggling to cope with a weak fork. One of the trunks of this fork threatens telephone wires, a telegraph pole and the neighbour's garden. This tree is a Beech. Beech wood is known to have poor tensile strength. This tree would require its trunks to be considerably shortened to make them safer. This decreases the future amenity the tree has to offer and it is debatable how worthwhile it is to retain a tree with a major structural fault, especially in view of occupier's liability legislation."

"T3. This tree has poor form. It divides into 3 stems at 4.5 metres height. Two of its trunks rub together above a tight union. This fault could have been corrected early in the tree's life by good pruning but now the size of the wounds made would put the tree at considerable risk of infection from decay at a point in its structure that is critical for strength. The rubbing trunks will be a potential future source of infection and the risk of compression building in the tight union is high. Beech is not a very decay resistant wood since Beech forms no heart wood."

Objection 3 and 4

My wife and I are passionately committed to living in an environmentally sustainable way. To this end we have devoted professional and personal time to furthering this cause: I am a member of Transition Bath and my wife is a former CSR Director for Allied Domecq. I work from home when possible and my wife travels to work by bike. We are also fully supportive of and taking action to help achieve, the Local Strategic Partnership's Sustainable Community Strategy and the draft Core Strategy (currently in consultation).

Our current home has a condensing boiler, is double glazed, cavity wall insulated and loft insulated with a rain water harvesting system in place.

To further improve its environmental credentials, we received planning permission (Reference: 11/02874/FUL) to make changes to our property which will reduce our carbon footprint and make us more sustainable.

These changes include the installation of 4kW PV solar system, a solar thermal system, additional insulation, more efficient appliances and upgraded glazing for solar gain/reducing heat loss. All of these changes will help us to reduce our reliance on fossil fuels.

According to the figures provided by locally based PV installer Ace Energy, the proposed system could save 1855 kg of CO₂/year with no shading. The shading of the existing trees reduces the CO₂ saved by 309kg/year.

According to the Woodland Trust and the Centre for Alternative Technology – and taking a generous view on the level of carbon sequestering by trees – each tree is only contributing to a reduction of 4 kg CO₂ / year.

So the three trees in question are, at best, only saving 12 kg CO₂ / year

Given that the 3 trees are south-facing and produce direct shade it is reasonable to conclude they contribute 80% of impact of shading. Therefore the net CO₂ benefit in the solar thermal and PV arrays by 1200% more than the carbon sequestered by the existing trees.

This figure becomes greater when we take into account our desire to replace the trees with others which will also be sequestering CO₂

Shading has a disproportionate impact on the efficiency of solar arrays and the whole system will only operate at the efficiency of the lowest performing panel

Please note some Relevant extracts from the Local Strategic Partnership Sustainable Community Strategy.

- a. Climate change poses significant and urgent challenges for the area. Changing weather patterns and rising energy prices mean that we are all being forced to consider different choices about how we live our lives.
- b. Working towards a low carbon economy and making sure that our area is resilient to climate change means changing how we think and act now.
- c. The Partnership is committed to tackling the causes of climate change and to help manage the effects. The national, statutory carbon reduction target has recently been increased to 34% by 2020 and 80% by 2050 and so there is an increasing sense of urgency to reduce our carbon emissions.
- d. There is a growing consensus about that fact that we have either already reached or are very close to what is known as 'peak oil', which means that oil supply will dwindle and become increasingly expensive. ...Reducing our dependency on all fossil fuels, through plans to cut carbon emissions will help with this problem and our resilience planning needs to include the impact of peak oil on the supply of goods and services. This Strategy recognises that addressing the causes and effects of climate change cuts across all the themes and priorities.
- e. We are also anticipating that social trends and lifestyle changes will also affect the way we live ...Other environmentally friendly practices such as making homes more energy efficient, the uses of renewable energy, less inefficient car use and growing more local food will become the norm rather than the exception.
- f. (Under Objectives, p20) CO₂ will be reduced and a robust approach to renewable energy will be encouraged.
- g. Plans across B&NES will achieve carbon reduction and make sure that B&NES is equipped to deal with the unavoidable changes that climate change and peak oil will make to day to day lives.
- h. Locality: A low carbon lifestyle is within everyone's reach and will help ensure local prosperity and wellbeing.
- i. We will seek to achieve energy and resource efficiency in all of our buildings, including providing more local services and encouraging initiatives such as home working to reduce the number of miles travelled.
- j. There will be a move towards a low carbon economy through an increased focus on local needs and services and work with communities will take place to prepare for the impact of climate change on local community life.

Tree Surgeon Report

Marshall Tree Services

5 The Close

Gastard

Wiltshire

SN13 9PX

01249 701836

www.trees.uk.com

Bath and North East Somerset Council
The Guildhall
High Street
Bath BA1 5AW

3rd November 2011

Dear Sirs,

This letter is in support of a notification to remove five trees and reduce a sixth one made by Mr Baptist of Gaia, Widcombe Hill, Bath.

Mr Baptist's notification is made because of reasons that are broader than simply arboricultural or visual amenity reasons. However, he appreciates any decision you may reach to make a Tree preservation order or not to make one will be based on current tree protection legislation, which places considerable emphasis on visual amenity and on the present and future condition and safety of trees. For this reason, I am writing this letter to argue that for you to make no objection to Mr Baptist's notification would be a reasonable step under current legislation.

I am a tree surgeon and arboricultural consultant with 8 years of qualified experience in tree surgery and four years experience in arboricultural consultancy. In 2006 I attained the highest marks in the country in the Arboricultural Associations annual examinations for their Tech. Cert. Arbor. A. Qualification.

Section 198(1) of part VIII of the town and country planning act 1990 states that: Local Planning Authorities may make a Tree Preservation Order (TPO) if it appears to them to be "Expedient in the interests of amenity to do so." "Amenity" is not defined, nor are the circumstances in which it may be expedient to make a TPO. This gives Local Planning Authorities considerable discretion and gives room for consideration of the amenity offered by well functioning renewable energy sources.

The Act gives 3 key criteria for assessing amenity value:

- 1 Visibility
- 2 Individual impact
- 3 Wider impact

Under point 1(visibility); these trees are not as visible as many trees. They are behind a high wall on a road which has high walls on either side. One has to be looking up –a direction in which drivers and pedestrians rarely look- in order to see much of any of the trees since they are behind a raised retaining wall. Little of the trees can be seen by

a pedestrian and a driver might be have more pressing priorities than looking at trees at this point in the road where the road is not too wide and there are often parked cars ahead.

Point 2 (Individual impact); some trees are more visible than others. A thorough assessment of each tree's visibility on its own merits may be required to fully grasp the situation, however in brief: Tree 5 has very limited visibility form the road and Tree 2 is almost completely hidden by Tree 1 and Tree 3. No tree has particularly good visibility because of the fact that they are behind a high retaining wall.

“Tree preservation orders: a guide to the law and good practice” -The Stationary Office, 2000, chapter 3.3, page 11, states that “The LPA should also assess the tree's particular importance with reference to its size and form, its future potential as an amenity...” Here there are quite a lot of factors that point towards the trees not offering as good amenity as many other trees.

None of the trees can be said to have good form. It is possible that they have re-grown with poor form as a result of damage early in their lives, possibly, in the case of the Beeches, as the result of squirrel damage. As a group they are all compromised structurally. The structural faults are in major limbs and as such the future amenity they offer is compromised.

Tree 1. This tree is large and leans over the road. Its branches stretch across the road and will require pruning not to become a nuisance to the drivers of high vehicles. It is a Sycamore, when dropped so its leaves are large, slow to rot and slippery. The tree's form is double trunked with the union of the trunks being just above ground level. The union of this fork is not ideal. It is tight and has included bark. The fork is less likely than most unions to stand up well to the tree's future growth as each year's annual growth causes pressure to build up between the tight trunks and the included bark is a potential place for infection to the tree. If this basal union becomes weak, the large trunk which leans over the road may become a danger to traffic. This indicates that the tree has less to offer in future amenity than many trees of similar size.

Tree 2. This tree has a very tight fork at 6 metres where the tree splits into 2 trunks. There are large bulges in the wood to be seen below the fork. These bulges are clear signs of the tree struggling to cope with a weak fork. One of the trunks of this fork threatens telephone wires, a telegraph pole and the neighbour's garden. This tree is a Beech. Beech wood is known to have poor tensile strength. This tree would require its trunks to be considerably shortened to make them safer. This decreases the future amenity the tree has to offer and it is debatable how worthwhile it is to retain a tree with a major structural fault, especially in view of occupier's liability legislation.

Tree3. This tree has poor form. It divides into 3 stems at 4.5 metres height. Two of its trunks rub together above a tight union. This fault could have been corrected early in the tree's life by good pruning but now the size of the wounds made would put the tree at considerable risk of infection from decay at a point in its structure that is critical for strength. The rubbing trunks will be a potential future source of infection and the risk of compression building in the tight union is high.

Tree 4. This tree will always be a problem to the visibility of the nearby street light. Like the other Beeches in this application, it lacks a clear leader and has tight unions. It also has an unusual naturally grafted branch, entirely included into its trunk at 3 metres. This branch

shows signs of considerable decay. Decay at this point in the centre of the tree's trunk will not be good in the long term, especially in a tree that is so close to motorists and the general public.

Tree 5. Once again this Beech tree has tight unions, one of which shows signs of stress (at 3.5 metres). It also has a basal fork between two trunks and another trunk has been removed at ground level, leaving a large wound which shows early signs of decay. Beech is not a very decay resistant wood since Beech forms no heart wood. Decay may well spread to the whole base of the tree in future.

Point 3 (Wider Impact). These trees are not locally scarce. There are other trees of their species within a stone's throw. They are also not ideally suited to their setting, being large trees so close to a main road and shading out a suburban garden. Their leaves are known to be slow to rot and will lie on the highway every autumn.

Tree 6 -the smaller Beech tree- has had its form very much influenced by the presence of its larger neighbours. It has grown rather spindly. If its neighbours are removed, the tree will look unusual and will also be higher than desired for the solar panels. It is prudent to reduce this tree to the height of the nearby Yew and to maintain it at this height.

Overall this is admittedly a one sided case I am making. However, whatever may be said in favour of the trees' contribution to amenity, it is clear that they are suboptimal specimens. They are far from being rare species. They have structural faults that will reduce their future contribution to amenity. They are not of ideal size and form for their setting and their loss would be less significant than the loss of many other trees. Mr Baptist hopes that the council will take into account the sub optimal nature of the trees and their sub optimal contribution to amenity in making an assessment of the expedience of the trees' being protected or not.

Thank you for considering these points.

Yours faithfully,

Paul Marshall BA Hons, Tech. Cert. Arbor A.

Supporting Letter as part of our original Application for Tree Works

Gaia
Widcombe Hill
Bath
BA2 6AE
17th November 2011

Dear Sir/Madam

My wife and I are passionately committed to living in an environmentally sustainable way. To this end we have devoted professional and personal time to furthering this cause: I am a member of Transition Bath and my wife is a former CSR Director for Allied Domecq. I work from home when possible and my wife travels to work by bike. We are also fully supportive of and taking action to help achieve, the Local Strategic Partnership's Sustainable Community Strategy and the draft Core Strategy (currently in consultation). We would like to highlight the extracts from this strategy that pertain most directly to the content of this letter; these are listed in Appendix A.

We moved house in December 2009 with the objective of living in a more environmentally sound house than the Georgian town house we formerly owned. Our current home is double glazed, cavity wall insulated and loft insulated with a rain water harvesting system in place.

To further improve its environmental credentials, we have recently applied for, and received, planning permission (Reference: 11/02874/FUL) to make changes to our property which will reduce our carbon footprint and make us more sustainable.

These changes include the installation of 4kW PV solar system , a Solar Thermal system, additional insulation, more efficient appliances, upgraded glazing for solar gain/reducing heat loss and the installation of a wood burning stove. All of these changes will help us to reduce our reliance on fossil fuels.

When we applied for planning permission, we omitted a request to remove some trees of mixed quality. We decided to make this request now as a result of extensive research into the net environmental benefits of specific trees compared to solar power, the differential effects on biodiversity of a variety of species and the impact on our ability to grow our own food.

The conclusion of this research was that it was hugely beneficial, from a sustainability perspective, to remove some trees to enable the PV Solar and Solar Thermal to work effectively and to increase the home grown food production and biodiversity at the site. Our rationale is as follows:

There are over 70 trees within 20m of our property. Aside from making some contribution to the amenity of the area, we are delighted to have their oxygen generating and CO2 reducing capabilities.

However, 6 of these trees are problematic in that they prevent the proposed environmental measures in the approved planning application being implemented effectively.

Issue 1: hugely reduced efficiency of the PV Solar and Solar Thermal

According to the figures provided by locally based PV installer Ace Energy, the proposed system could save 1855 kg of CO₂/year with no shading.

The shading of the existing trees reduces the CO₂ saved by 309kg/year.

According to the Woodland Trust and the Centre for Alternative Technology – and taking a generous view on the level of carbon sequestering by trees – each tree is only contributing to a reduction of 4 kg CO₂ / year.

So the existing trees (e.g. 5) are, at best, only saving 20 kg CO₂ / year

In conclusion, the *annual benefit* to the environment is 1500% greater by removing the specific trees.

Issue 2: prevention of food production and reduction of biodiversity

Our aim is to create an allotment style garden that will enable us to:

1. grow a large proportion of our own food so reducing “food miles”, the number of journeys we take in a car to buy food and the wasted packaging in which shop-bought food is shipped. It will also enable us to produce organically grown food and so both increase the nutritional value of each item grown and reduce the family’s exposure to pesticides;
2. increase the biodiversity of the site by planting a variety of the flowering plants, fruit trees and vegetable species that will encourage bees, insects and other wildlife;
3. increase soil quality by introducing crop rotation with plants such as beans that will “nitrogenise” the soil.

However, the existing trees create a large “dead zone” all around them due to the shade cast by their canopies and the moisture/goodness they suck out of the ground. The soil around them is of poor quality and we have made numerous attempts to grow plants under the canopy but are continually having to replace them. Those that manage to survive grow into poor form specimens.

Having taken advice from a horticulturalist, we have been told that it would be impossible to achieve the allotment style garden we had planned should the particular trees in question

remain in situ. Moreover, the current trees would support only a fraction of the biodiversity that would be achieved by an allotment style garden.

Please note that we intend to replace any removed trees with fruit trees to allow CO2 sequestering to compensate for any loss from the existing tree removal.

Installing PV and Solar Thermal systems are clearly contributing to both the BaNES's No.1 strategic objective in the Draft Core Strategy to "Pursue a low carbon and sustainable future in a changing climate" as well as The Local Strategic Partnership Sustainable Community Strategy. Aside from the elements listed in Appendix A, we would like highlight the following extracts:

1. P106 "Retrofitting measures to existing buildings to improve their energy efficiency and adaptability to climate change and the appropriate incorporation of micro-renewables will be encouraged".
2. P107 "All planning applications should include evidence that the standards below will be addressed: • Maximising energy efficiency and integrating the use of renewable and low-carbon energy.
3. The emissions from Bath and North East Somerset for 2006 were 1,072,000 tonnes. Of these, 437,000 tonnes was from energy use in homes. By 2020, these emissions need to be reduced by 34% and by 80% by 2050 to meet the statutory national targets¹¹. It is clear from this that significant change in how we live; work and travel will need to take place during the timeframe of this strategy (Sustainable Community Strategy 2009 - 2026).
4. The Sustainable Community Strategy: We provide the leadership to help our communities to help people reduce carbon emissions across the area by 45% by 2026.
5. We develop a Sustainable Energy Strategy for the area to enable the development of clean, local, sustainable energy sources and systems.
6. The new leadership forum will need to identify and resolve perceived and actual conflicts between competing objectives, for example: building preservation vs. energy efficiency; new build costs vs. higher environmental standards; local green energy generation vs. planning objections; thinking local with local markets and shops and less travel vs existing patterns of behaviour.

We are therefore writing to request permission for the removal of four beech trees and one sycamore and the reduction of a fifth beech. (See "Gaia Tree Location" for plan sketch)

To meet with the council's recommendations in the handling of any tree related activity we have sought the professional advice of a tree surgeon in relation to the quality, safety and amenity of the specific trees.

A copy of his advice and recommendation can be found as part of this application and should be read alongside it as professional input to the application. This can be found as a separate document in the on-line application called "tree surgeon report" – pdf

These trees are in a residential garden and therefore not in a suitable setting – i.e. woodland. Given the numbers of trees in the immediate vicinity, there is little overall amenity impact in their removal, and as such would not have a significant adverse effect upon the local environment. Additionally, their removal would help create an uneven age structure for the future.

According to the tree surgeon every one of the trees has a combination of poor structural form, evidence of decay, major faults or poses a risk to traffic.

According to the tree surgeon: "None of the trees can be said to have good form. It is possible that they have re-grown with poor form as a result of damage early in their lives, possibly, in the case of the Beeches, as the result of squirrel damage. As a group they are all compromised structurally. The structural faults are in major limbs and as such the future amenity they offer is compromised.

...they are suboptimal specimens. They are far from being rare species. They have structural faults that will reduce their future contribution to amenity. They are not of ideal size and form for their setting and their loss would be less significant than the loss of many other trees"

As explained above, our request has a directly calculable net environmental benefit of 1500% per annum and has a multitude of additional benefits with respect to increasing biodiversity and sustainable living.

These benefits are directly aligned to and support the achievement of the Bath Core Strategy and The Local Strategic Partnership Sustainable Community Strategy and the plans and targets within them.

In order to approach this matter in a responsible way, we have discussed it with our local Councillor, Ian Gilchrist, who is very supportive of low-carbon and sustainable initiatives in Bath.

We look forward to your response

Best regards

Mark Baptist

Appendix A: Extracts From Bath Sustainable Community Strategy 2009 – 2025

1. Climate change poses significant and urgent challenges for the area. Changing weather patterns and rising energy prices mean that we are all being forced to consider different choices about how we live our lives.
2. Working towards a low carbon economy and making sure that our area is resilient to climate change means changing how we think and act now.
3. The Partnership is committed to tackling the causes of climate change and to help manage the effects. The national, statutory carbon reduction target has recently been increased to 34% by 2020 and 80% by 2050 and so there is an increasing sense of urgency to reduce our carbon emissions.
4. There is a growing consensus about that fact that we have either already reached or are very close to what is known as 'peak oil', which means that oil supply will dwindle and become increasingly expensive. ...Reducing our dependency on all fossil fuels, through plans to cut carbon emissions will help with this problem and our resilience planning needs to include the impact of peak oil on the supply of goods and services. This Strategy recognises that addressing the causes and effects of climate change cuts across all the themes and priorities.
5. We are also anticipating that social trends and lifestyle changes will also affect the way we live ...Other environmentally friendly practices such as making homes more energy efficient, the uses of renewable energy, less inefficient car use and growing more local food will become the norm rather than the exception.
6. (Under Objectives, p20) CO2 will be reduced and a robust approach to renewable energy will be encouraged.
7. Plans across B&NES will achieve carbon reduction and make sure that B&NES is equipped to deal with the unavoidable changes that climate change and peak oil will make to day to day lives.
8. Locality: A low carbon lifestyle is within everyone's reach and will help ensure local prosperity and wellbeing.
9. We will seek to achieve energy and resource efficiency in all of our buildings, including providing more local services and encouraging initiatives such as home working to reduce the number of miles travelled.
10. There will be a move towards a low carbon economy through an increased focus on local needs and services and work with communities will take place to prepare for the impact of climate change on local community life.

Bath & North East Somerset Council		
MEETING:	Development Control Committee	
MEETING DATE:	11 April 2012	AGENDA ITEM NUMBER
TITLE:	Quarterly Performance Report – Oct–Dec 2011	
WARD:	ALL	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
None		

1 THE ISSUE

- 1.1 At the request of Members and as part of our on-going commitment to making service improvements, this report provides Members with performance information across a range of activities within the Development Management function. This report covers the period from 1st Oct – 31st Dec 2011. ***Please note - comparative planning application statistical data with neighbouring authorities is no longer published quarterly by the Department for Communities and Local Government and thus has been removed from this report.***

2 RECOMMENDATION

- 2.1 Members are asked to note the contents of the performance report.

3 THE REPORT

3.1 Commentary

Members' attention is drawn to the fact that as shown in **Table 1** below, performance on 'Major' was above government target during Oct - Dec 2011, an improvement on the previous quarter. 'Minor' and 'Other' were slightly below target during this period.

Performance on determining 'Major' applications within 13 weeks rose to 69% during Oct - Dec 2011. Performance on determining 'Minor' applications within 8 weeks dropped from 73% to 64%. Performance on 'Other' applications within the same target time of 8 weeks fell from 82% to 77%.

Table 1 - Comparison of applications determined within target times

Government target for National Indicator 157	B&NES Jan - Mar 2011	B&NES Apr - Jun 2011	B&NES Jul - Sept 2011	B&NES Oct - Dec 2011
'Major' applications 60%	9/22 (41%)	11/12 (92%)	4/11 (36%)	9/13 (69%)
'Minor' applications 65%	92/137 (67%)	88/122 (72%)	116/159 (73%)	98/152 (64%)
'Other' applications 80%	243/357 (68%)	268/355 (75%)	334/409 (82%)	258/333 (77%)
Number of on hand 'Major' applications (as report was being prepared)				45

Note: An explanation of 'Major', 'Minor' and 'Other' categories are set out below.

<p>'LARGE-SCALE MAJOR' DEVELOPMENTS – <u>Decisions to be made within 13 weeks</u></p> <ul style="list-style-type: none"> • Residential – 200 or more dwellings or site area of 4Ha or more • Other Land Uses – Floor space of more than 10,000 sq. metres or site area of more than 2Ha • Changes of Use (including change of use or subdivision to form residential units) – criteria as above apply
<p>'SMALL-SCALE MAJOR' DEVELOPMENTS – <u>Decisions to be made within 13 weeks</u></p> <ul style="list-style-type: none"> • Residential – 10-199 dwellings or site area of 0.5Ha and less than 4Ha • Other Land Uses – Floor space 1,000 sq. metres and 9,999 sq. metres or site area of 1Ha and less than 2Ha • Changes of Use (including change of use or subdivision to form residential units) – criteria as above apply
<p>'MINOR' DEVELOPMENTS – <u>Decisions to be made within 8 weeks</u></p> <ul style="list-style-type: none"> • Residential – Up to 9 dwellings or site up to 0.5 Ha • Other Land Uses – Floor space less than 1000 sq. metres or site less than 1 Ha
<p>'OTHER' DEVELOPMENTS – <u>Decisions to be made within 8 weeks</u></p> <ul style="list-style-type: none"> • Mineral handling applications (not County Matter applications)

- Changes of Use – All non-Major Changes of Use
- Householder Application (i.e. within the curtilage of an existing dwelling)
- Advertisement Consent
- Listed Building Consent
- Conservation Area Consent
- Certificate of Lawfulness
- Notifications

Table 2 - Recent planning application performance statistics

Application nos.	2010/11				2011/12			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
On hand at start	576	544	562	478	496	550	505	
Received	601	629	499	577	601	605	496	
Withdrawn	59	56	36	43	57	68	40	
Determined	575	555	547	516	489	579	498	
On hand at end	542	562	478	496	551	508	461	
Delegated	557	528	520	502	477	564	492	
% Delegated	96.8	95.1	95.0	97.2	97.5	97.4	98.4	
Refused	99	81	99	71	63	93	73	
% Refused	17.2	14.5	18.0	13.7	12.8	16.0	14.6	

Table 2 above shows numbers and percentages of applications received, determined, together with details of delegated levels and refusal rates.

Due to seasonal variation, quarterly figures in this report are compared with the corresponding quarter in the previous year. During the last three months, the number of new applications received and made valid has fallen by 0.6% when compared with the corresponding quarter last year. This figure is 6% down on the same period two years ago, and 6% down on three years ago. Planning applications received and made valid have fallen by 2% in the last four quarters when compared to the four quarters previous to that.

The current delegation rate is 98% of all decisions being made at officer level against cases referred for committee decision. The last published England average was 90% (year ending Sept 2011).

Table 3 - Planning Appeals summary

	Jan – Mar 2011	Apr – Jun 2011	Jul – Sept 2011	Oct – Dec 2011
Appeals lodged	25	16	29	24
Appeals decided	22	22	26	18
Appeals allowed	5 (28%)	2 (13%)	6 (35%)	4 (31%)
Appeals dismissed	13 (72%)	14 (87%)	11 (65%)	9 (69%)

The figures set out in **Table 3** above indicate the number of appeals lodged for the Oct - Dec 2011 quarter has fallen when compared with the previous quarter. However, total numbers received against the same four quarters a year ago has seen a rise of 25%, and a fall of 7% compared to two years ago.

Members will be aware that the England average for appeals won by appellants (and therefore allowed) is approximately 32%. Because of the relatively small numbers of appeals involved figures will fluctuate slightly each quarter, but the general trend over the last 12 months for Bath & North East Somerset Council is that of the total number of planning appeals decided approximately 27% are allowed against refusals of planning applications, which demonstrates good performance by the authority.

Table 4 - Enforcement Investigations summary

	Jan – Mar 2011	Apr – Jun 2011	Jul – Sept 2011	Oct – Dec 2011
Investigations launched	179	160	131	142
Investigations on hand				255
Investigations closed	177	175	141	143
Enforcement Notices issued	3	0	1	1
Planning Contravention Notices served	9	4	0	4
Breach of Condition Notices served	0	0	0	0

The figures shown in **Table 4** indicate that more investigations were received this quarter, when compared with the previous quarterly figure. Resources continue to be focused on the enforcement of planning control with 5 legal notices having been served during this quarter. In order to strengthen the enforcement team function, two posts have recently been advertised. We are seeking to provide some high level professional expertise and as such a Principal Enforcement Officer and an Implementation Manager post have been advertised and interviews will be held in April. The filling of these posts will assist in providing a more efficient and effective enforcement function which can focus more clearly on communication with customers and Members.

Tables 5 and 6 - Transactions with Customers

The planning service regularly monitors the number and nature of transactions between the Council and its planning customers. This is extremely valuable in providing management information relating to the volume and extent of communications from customers.

It remains a huge challenge to ensure that officers are able to maintain improvements to the speed and quality of determination of planning applications whilst responding to correspondence and increasing numbers of emails the service receives.

Table 5 - Letters

	Apr – Jun 2011	Jul – Sept 2011	Oct – Dec 2011
Number of general planning enquiry letters received	167	126	51

Table 6 - Number of monitored emails

	Apr – Jun 2011	Jul – Sept 2011	Oct – Dec 2011
Number of emails to 'Development Control'	1492	1566	1402
Number of emails to 'Planning Support'	1214	1384	1732
Number of emails to Team Administration within Development Management	2862	3169	3310

The volume of incoming e-mail is now substantial, and is far exceeding the volume of incoming paper-based correspondence. These figures are exclusive of emails that individual officers receive, but all require action just in the same way as hard copy documentation. The overall figure for the Oct - Dec 2011 quarter shows a considerable increase in volume of electronic communications when compared to the previous quarter, and decrease for traditional postal methods, highlighting the continuing shift in modes of communication with the service over the last few years.

Table 7 – Other areas of work

The service not only deals with formal planning applications and general enquiries, but also has formal procedures in place to deal with matters such as pre-application proposals, Householder Development Planning Questionnaires and procedures for discharging conditions on planning permissions. **Table 7** below shows the numbers of these types of procedures that require resource to action and determine.

During the last quarter there has been slight fall in the overall volume of these procedures received in the service.

Table 7

	Apr – Jun 2011	Jul – Sept 2011	Oct – Dec 2011
Number of Household Development Planning Questionnaires	154	147	134

Number of pre-application proposals submitted	177	158	154
Number of 'Discharge of Condition' requests	109	125	106
Number of pre-application proposals submitted through the 'Development Team' process	8	1	2
Applications for Non-material amendments	21	28	12

Table 8 – Works to Trees

Another function that the Planning Service undertakes involves dealing with applications and notifications for works relating to trees. **Table 8** below shows the number and percentage of these applications and notifications determined. The figures show fluctuations in the numbers of applications and notifications received. However, during Oct – Dec 2011, performance on determining applications for works to trees subject to Tree Preservation Orders and performance on dealing with notifications for works to trees within a Conservation Area remained above 85%.

Table 8	Apr – Jun 2011	Jul – Sept 2011	Oct – Dec 2011
Number of applications for works to trees subject to a Tree Preservation Order (TPO)	16	18	20
Percentage of applications for works to trees subject to a TPO determined within 8 weeks	88%	100%	100%
Number of notifications for works to trees within a Conservation Area (CA)	133	169	181
Percentage of notifications for works to trees within a Conservation Area (CA) determined within 6 weeks	91%	97%	88%

Table 9 - Customer transactions using Council Connect

As outlined in previous performance reports, Members will be aware that since 2006, 'Council Connect' has been taking development management related 'Frequently Asked Questions' (FAQs).

Table 9 below shows an extract of volumes of customer transactions for the previous three quarters:

	Apr – Jun 2011	Jul – Sept 2011	Oct – Dec 2011
Total customer transactions to Council Connect	1507	998	1273
Total customer transactions (and percentage) resolved at First Point of Contact	1209 (80%)	696 (70%)	1027 (80%)
Number of Service Requests to Development Management	298	302	246

246 ‘Service Requests’ were made by customer service staff to Planning Information Officers and these types of requests usually relate to more complex matters, which need research in order to provide the customer with complete information. The transactions shown in the table above show a sizable volume of requests to resolve complex planning issues and Council Connect taking development management related FAQs.

Table 10 - Electronic transactions

The Planning Services web pages continue to be amongst the most popular across the whole Council website, particularly ‘View planning applications online’ and ‘Apply for planning permission’. Last winter we replaced our Public Access website that was for viewing planning applications online with a more advanced version of application searching and viewing web facility. Searching by address in particular is much more efficient. Publicity activities surrounding this improved self-service facility included a news item in the winter issue of Connect magazine that was distributed to over 76,000 households throughout the area.

Over 65% of all applications are now submitted online through the Planning Portal link on the Council website, and **Table 10** below shows that the authority received **387 (79%)** Portal applications during the Oct - Dec 2011 quarter, compared with **63%** during the previous quarter. All previous quarterly figures far exceed the current national target of 10%. This provides good evidence of online self-service by the public.

Table 10 - Percentage of planning applications submitted electronically (through the national Planning Portal)

	Government target	Jan – Mar 2011	Apr – Jun 2011	Jul – Sept 2011	Oct – Dec 2011
Percentage of applications submitted online	10%	58%	61%	63%	79%

Table 11 - Scanning and Indexing

As part of the move towards achieving e-government objectives and the cultural shift towards electronic working, the service also scans and indexes all documentation relating to planning and associated applications. Whilst this work is a 'back office' function it is useful to see the volume of work involved. During the Oct - Dec 2011 quarter, the service scanned over 14,000 planning documents and this demonstrates that whilst the cost of printing plans may be reduced for applicants and agents, the service needs to resource scanning and indexing documentation to make them accessible for public viewing through the Council's website.

Table 11

	Jan – Mar 2011	Apr – Jun 2011	Jul – Sep 2011	Oct – Dec 2011
Total number of images scanned	22,129	19,616	18,085	14,167
Total number of images indexed	9,245	6,963	6,415	4,934

Table 12 - Customer Complaints

During the quarter Oct - Dec 2011, the Council has received the following complaints in relation to the planning service. The previous quarter figures are shown for comparison purposes. Further work is currently underway to analyse the nature of complaints received and to implement service delivery improvements where appropriate.

Table 12

Customer Complaints	Apr – Jun 11	Jul – Sept 11	Oct – Dec 11
Complaints brought forward	7	4	2
Complaints received	24	21	28
Complaint upheld	2	2	2
Complaint Not upheld	23	20	17
Complaint Partly upheld	2	1	3
Complaints carried forward	4	2	5

Table 13 - Ombudsman Complaints

The council has a corporate complaints system in place to investigate matters that customers are not happy or satisfied about in relation to the level of service that they have received from

the council. However, there are circumstances where the matter has been subject to investigation by officers within the authority and the customer remains dissatisfied with the outcome of the investigation. When this happens, the customer can take their complaint to the **Local Government Ombudsman** for him to take an independent view. **Table 13** below shows a breakdown of Ombudsman complaints lodged with the Local Government Ombudsman for the previous four quarters.

Table 13

Ombudsman Complaints	Jan – Mar 11	Apr – Jun 11	Jul – Sept 11	Oct – Dec 11
Complaints brought forward	2	4	1	0
Complaints received	4	1	1	6
Complaints upheld			1	0
<i>Local Settlement</i>			1	
<i>Maladministration</i>				
<i>Premature complaint</i>				
Complaints Not upheld	2	4	1	
<i>Local Settlement</i>				
<i>No Maladministration</i>		3		
<i>Ombudsman’s Discretion</i>				
<i>Outside Jurisdiction</i>		1		
<i>Premature complaint</i>	2		1	1
Complaints carried forward	4	1	0	5

Contact person	John Theobald, Data Technician, Planning and Transport Development 01225 477519
Background papers	CLG General Development Control statistical returns PS1 and PS2
Please contact the report author if you need to access this report in an alternative format	

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	11 April 2012
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Control Manager, Planning and Transport Development (Telephone: 01225 477281)
	AGENDA ITEM NUMBER
TITLE:	NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES
WARD:	ALL
BACKGROUND PAPERS:	None
AN OPEN PUBLIC ITEM	

APPEALS LODGED

App. Ref: 11/02193/FUL
Location: Land South Of Orchard View Sleep Lane Whitchurch Bristol
Proposal: Erection of 47no. dwellings with associated car parking, access, landscaping and public open space.
Decision: REFUSE
Decision Date: 6 September 2011
Decision Level: Delegated
Appeal Lodged: 5 March 2012

App. Ref: 11/00082/FUL
Location: Giraffe 8 Dorchester Street Bath BA1 1SS
Proposal: Provision of a new shopfront and use of walkway for the siting of 18no. tables, 42no. chairs and 2no. benches.
Decision: REFUSE
Decision Date: 25 August 2011
Decision Level: Delegated
Appeal Lodged: 6 March 2012

App. Ref: 11/02417/FUL
Location: Weavers Farm High Street Wellow Bath
Proposal: Extension and conversion of existing barn to a holiday let (Resubmission).
Decision: REFUSE
Decision Date: 3 August 2011
Decision Level: Delegated
Appeal Lodged: 8 March 2012

App. Ref: 11/02418/LBA
Location: Weavers Farm High Street Wellow Bath
Proposal: Internal and external alterations for the extension and conversion of existing barn to a holiday let.
Decision: REFUSE
Decision Date: 3 August 2011
Decision Level: Delegated
Appeal Lodged: 8 March 2012

App. Ref: 11/05284/FUL
Location: 15 Pulteney Gardens Widcombe Bath BA2 4HG
Proposal: Change of use from residential home to a six-bedroom boutique bed & breakfast hotel
Decision: REFUSE
Decision Date: 23 February 2012
Decision Level: Delegated
Appeal Lodged: 8 March 2012

App. Ref: 11/05347/FUL
Location: 143 The Hollow Southdown Bath BA2 1NJ
Proposal: Erection of two storey side extension following removal of the existing conservatory and garage (Resubmission)
Decision: REFUSE
Decision Date: 26 January 2012
Decision Level: Delegated
Appeal Lodged: 12 March 2012

App. Ref: 11/04586/FUL
Location: Stantonbury House Wells Road Corston Bath
Proposal: Erection of cattery and alterations to vehicular access
Decision: REFUSE
Decision Date: 25 January 2012
Decision Level: Chair Referral
Appeal Lodged: 15 March 2012

App. Ref: 11/05297/FUL
Location: 6 Fosse Lane Batheaston Bath BA1 7NJ
Proposal: Provision of parking pull-in at front of property.
Decision: REFUSE
Decision Date: 23 January 2012
Decision Level: Chair Referral
Appeal Lodged: 16 March 2012

App. Ref: 11/03987/OUT
Location: 69 Haycombe Drive Southdown Bath BA2 1PG
Proposal: Erection of a detached 2 storey dwelling on land to the rear of 69 Haycombe Drive
Decision: REFUSE
Decision Date: 20 December 2011
Decision Level: Planning Committee
Appeal Lodged: 21 March 2012

App. Ref: 11/04269/FUL
Location: Court Essington Midford Road Midford Bath
Proposal: Erection of replacement loose boxes, fodder store and equipment store
Decision: REFUSE
Decision Date: 21 December 2011
Decision Level: Delegated
Appeal Lodged: 21 March 2012

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