

**Democratic Services**

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Date: 16 October 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, Malcolm Lees, David Martin, Douglas Nicol, Bryan Organ, Martin Veal, David Veale and Brian Webber

**Permanent Substitutes:- Councillors:** Rob Appleyard, Sharon Ball, John Bull, Sarah Bevan, Sally Davis, Dine Romero, Jeremy Sparks and Vic Pritchard

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Development Control Committee: Wednesday, 24th October, 2012**

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 24th October, 2012 at 2.00pm** in the **Brunswick Room - Guildhall, Bath**

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 23<sup>rd</sup> October 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 Bath 01225 - 394414 or by calling at the Riverside Offices Keynsham (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

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

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

Appendices to reports are available for inspection as follows:-

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

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

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

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

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

**Development Control Committee - Wednesday, 24th October, 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

At this point in the meeting declarations of interest are received from Members in any of the agenda items under consideration at the meeting. Members are asked to indicate:

(a) The agenda item number and site in which they have an interest to declare.

(b) The nature of their interest.

(c) Whether their interest is **a disclosable pecuniary interest** *or* **an other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

Any Member who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Monitoring Officer before the meeting to expedite dealing with the item during the meeting.

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: 26TH SEPTEMBER 2012 (Pages 9 - 46)

9. MAJOR DEVELOPMENTS

The Senior Professional – Major Developments to provide an oral update

10. SITE VISIT LIST - APPLICATION FOR PLANNING PERMISSION FOR DETERMINATION BY THE COMMITTEE (Pages 47 - 54)

11. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 55 - 126)

12. TREE PRESERVATION ORDER: HILLSCROFT, BULLS HILL, WELLOW (Pages 127 - 136)

13. TREE PRESERVATION ORDER: 35 WEST HILL GARDENS, RADSTOCK (Pages 137 - 150)

14. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 151 - 158)

To note the report

15. MONTHLY UPDATE ON FORMER FULLERS EARTHWORKS, COMBE HAY, BATH

The appropriate Officer(s) will make an oral report to update Members on progress

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

Delegated List Web Link: <http://www.bathnes.gov.uk/services/planning-and-building-control/view-and-comment-planning-applications/delegated-report>

## **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 21<sup>st</sup> February 2002 to which full reference should be made as appropriate).*

### **1. Declarations of Interest (Disclosable Pecuniary Interest or an Other Interest)**

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

**BATH AND NORTH EAST SOMERSET**

**MINUTES OF DEVELOPMENT CONTROL COMMITTEE**

Wednesday, 26th September, 2012

Present:- Councillor Gerry Curran in the Chair

Councillors Neil Butters, Nicholas Coombes, Liz Hardman, Eleanor Jackson, Les Kew, Malcolm Lees, Bryan Organ, Manda Rigby (In place of David Martin), Caroline Roberts (In place of Doug Nicol), Martin Veal, David Veale and Brian Webber

Also in attendance: Councillors Vic Pritchard, Jeremy Sparks, Geoff Ward and Tim Warren

**52 EMERGENCY EVACUATION PROCEDURE**

The Senior Democratic Services Officer read out the procedure

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

A Vice Chair was not desired

**54 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Councillors David Martin and Doug Nicol and their substitutes were Councillors Manda Rigby and Caroline Roberts respectively

**55 DECLARATIONS OF INTEREST**

Councillor Eleanor Jackson declared an interest in the planning applications at Bath Spa University Campus, Claverton Down, Bath (Items 2&3, Report 10) as she used to work at the University but left under acrimonious circumstances and as a result would not feel impartial – she would therefore leave the meeting for their consideration. Councillor Liz Hardman stated that she used to teach at St Gregory's Catholic College, Combe Hay Lane, Odd Down, Bath (Item 7, Report 10) but considered that she had no personal interest and would therefore speak and vote on the matter.

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

There was none

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

The Senior Democratic Services Officer informed the meeting that there was a member of the public wishing to make a statement on the Tree Preservation Order at 1 Devonshire Place, Bath (Report 12) and that he would be able to do so when that Item was reached on the Agenda. There were also various people wishing to make

statements on planning applications and they would be able to do so when reaching their respective applications in Report 10.

## 58 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There was none

## 59 MINUTES:29TH AUGUST 2012

The Minutes of the meeting held on 29<sup>th</sup> August 2012 were approved as a correct record and signed by the Chair subject to the word “disbenefits” in Item 1 relating to the Town Hall, The Centre, Keynsham, of Minute 49 being replaced by “drawbacks”.

## 60 MAJOR DEVELOPMENTS

The Chair informed the meeting that he had been advised that there were no updates to be reported on major developments but that, if Members had any queries, they could contact the Senior Professional – Major Developments direct

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

The Committee considered:

- a report by the Development Manager on various planning applications
- an Update Report by the Development Manager on Item Nos 5&6, a copy of which is attached as *Appendix 1*
- oral statements by members of the public etc on Item Nos 1-10, the Speakers being attached as *Appendix 2*

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

**Item 1 Stowey Quarry, Stowey Road, Stowey – Restoration of Stowey Quarry by landfilling of Stable Non-Reactive Hazardous Waste (SNRHW) including asbestos and inert wastes and that the application is accompanied by an environmental statement** – The Council’s Consultant reported on this application and the recommendation to refuse permission. He referred to further representations received from Dr Dickerson and the Stowey Sutton Action Group.

The public speakers made their statements on the application. The Development Manager read out a statement from the Environment Agency. Councillors Jeremy Sparks and Tim Warren, Ward Members for Clutton and Mendip respectively, made statements against the proposal. Councillor Vic Pritchard, the Ward Member, made a statement against the proposal and considered that issues raised by the Action Group should be included in the reasons for refusal. The Chair commented on some of the comments made by Members. The Development Manager informed the Committee that the recommended reasons for refusal had been formulated after fully considering the objections. If the applicant appealed against any refusal, the Officers would have to defend the reasons and be able to provide evidence to justify the refusal. Costs could be awarded against the Council if this could not be done.

Councillor Martin Veal opened the debate. He referred to an independent professional evaluation that had been undertaken of Stowey Quarry and local knowledge which he considered to be all encompassing and evidence for refusing permission. He felt that the Environment Agency's objections needed to be supported by local knowledge of the situation. In view of the possibility of an appeal being lodged against a refusal, he moved that the proposal be refused as per the Consultant's recommendation but with the following issues being included, namely: the ruling out of Stowey Quarry in the West of England Joint Waste Core Strategy; Bristol Water Authority's objections on public health grounds; the historical evidence of land slippage linked to water courses and spring lines and ground water protection; the HGV consent never implemented that remained questionable and not proven on noise and congestion grounds alone; the notoriously high levels of noise from a landfill site would destroy the amenity of residents and neighbouring properties; there was no acceptable asbestos dust control measures as any asbestos dust release was lethal; the 10 metre escalation in height to accommodate more waste was detrimental, unacceptable and unmerited in a rural landscape adjacent to the Cotswolds AONB; an Ecology Impact Assessment had not been attempted to gauge the effect on the native crayfish species; and the NPPF required sustainable development to seek positive improvements in the quality of build, natural and historical environment which this application clearly did not. The Chair commented that the additional reasons would dilute the Council's case if an appeal was lodged. Officers agreed and therefore Councillor Veal amended his motion to the reasons recommended by Officers with his comments being minuted. The amended motion was seconded by Councillor Les Kew who felt aggrieved that the correct information had not been provided on the earlier application.

Members debated the motion. Issues of asbestos and leachate contamination were discussed and concerns raised. Members expressed views in support of a refusal. The Chair commented on the proposals and considered that the Council had been let down by the Environment Agency. The motion was then put to the vote and was carried unanimously.

**Items 2&3 Bath Spa University Campus, Claverton Down, Bath – 1) Erection of 9 three storey (third floor in the roof) student residential blocks to provide 561 bed spaces to the southern end of the campus; the erection of an energy centre and single storey Estates and Services facilities buildings; the creation of external spaces for storage of materials and vehicles and for the storage and processing of refuse and recycling and the relocation of the Newton Annexe providing offices and storage for the Estates Team to the south of the Walled Garden; associated access parking, external lighting, drainage, infrastructure and hard/soft landscaping works; demolition of farm buildings to the south of Melancholy Wood, lean-to buildings to the north of the Walled Garden, Newton, Corston and the former Vice Chancellor's Lodge; creation of temporary parking areas during construction (Phase 2 of University Master Plan)(Ref 12/02141/EFUL); and 2) creation of new openings to the Walled Garden at the southern end of the Newton Park Campus; demolition of the adjoining lean-to buildings to the north of the Walled Garden (excluding the Boiler House); external and internal alterations to the western end of the Bothy extension within the Walled Garden to create new changing rooms and the erection of a gate within the open passage to the eastern end of the Bothy; external and internal alterations to provide a new laundry in Sophia and**

**internal alterations to improve the existing changing rooms in the Boiler House; creation of small opening at the base of the northern wall to the Italian garden (Grade II\* Listed) to provide access for Great Crested Newts (Ref 12/02142/LBA)** – The Planning Officer reported on these applications and the recommendations on (1) above to (A) refer the application to the Secretary of State under the Town and Country Planning (Consultation) (England) Direction 2009 and subject to the application not being “called in”; (B) authorise the Planning and Environmental Law Manager to secure an Agreement under S106 of the Town and Country Planning Act 1990 to secure issues relating to programmes of a) demolitions and building relocation; b) restoration of The Walled Garden; and c) removal of car parking spaces; and (C) upon completion of the Agreement, authorise the Development Manager to Permit subject to conditions but deleting Condition 4 (Note: the original (B) in the Report had also been deleted); and on (2) above, to grant consent with conditions. He reported that, following publication of the report a) Heads of Terms of the Agreement had been agreed regarding the parking review mechanism; and b) clarification on the specification for the construction of the netball court on The Walled Garden had been received – in view of this and recommendations from English Heritage, the proposals were acceptable subject to conditions. He also recommended that delegated authority be given to Officers to amend the wording of various conditions. The Vice Chancellor of the University made her statement in support of the proposals.

The Ward Councillor for the site, Councillor David Veale, made a statement supporting the proposals and moved that the Officers’ recommendations be approved. This was seconded by Councillor Bryan Organ.

Members debated the motion. Councillor Nicholas Coombes generally supported the proposals but had some concerns regarding the design including the windows, car parking under and the use of The Walled Garden as a netball pitch. Other Members also expressed concerns regarding car parking. The Chair summed up the debate and expressed his own support for the proposals. He then put the motion to the vote which was 12 in favour and 0 against on the planning application; and 11 in favour and 1 against on the listed building application (Note: Councillor Eleanor Jackson was not present for consideration of these applications).

(Note: At 4.10pm, after consideration of these applications, the Committee adjourned for 10 minutes for a comfort break)

**Item 4 Parcel 0006, Maynard Terrace, Clutton - Erection of 36 dwellings and associated works (Revised resubmission)** – The Case Officer reported on this application and his recommendation that, subject to no new issues arising in respect of the publication affecting the Public Right of Way, it was recommended that Members defer and delegate the decision to the Development Manager to be refused for the reasons set out. He referred to late observations being received from the Campaign Group for Rural Clutton and from the applicants and he commented thereon. The public speakers made their statements on the application which was followed by a statement by the Ward Councillor Jeremy Sparks.

Councillor Les Kew opened the debate and moved the Officer recommendation. He referred to the site being outside the housing boundary and to the issues of sustainability with poor transport links, and lack of shops and services. He stated that there were a number of new affordable houses built in nearby Paulton which had not

been sold. He also questioned the survey undertaken by the applicants to gain support for the development. The motion was seconded by Councillor Eleanor Jackson.

Members debated the motion. Councillor Brian Webber was not in favour of the motion. He considered that the applicants had established that there was a demand for such housing at this time. In addition, employment could not be provided within the village for all its residents and there was public transport on the main road (A37) not far from the site which, in any case, was only just outside the housing boundary. Other Members, however, supported the motion to refuse permission. Councillor Liz Hardman felt that there was need for houses for people to rent; the site was outside the housing boundary and the proposal could not therefore be justified. The Development Manager commented on the policy issues affecting the site and pointed out that the housing boundary would be reviewed in the forthcoming Place Making Plan.

The motion was then put to the vote. Voting: 12 in favour and 1 against. Motion carried.

**Item 5 University of Bath Campus, Claverton Down, Bath – Construction of new academic building to provide general teaching accommodation** – The Case Officer reported on this application and his recommendation to authorise the Development Manager to Permit subject to (i) the prior completion of a legal agreement under S106 of the Town and Country Planning Act 1990 (as amended), on such terms as the Development Manager and the Planning and Environmental Law Manager may determine, to address issues including the management and monitoring of traffic generation and its implications through the medium of an on-going Travel Plan; to secure appropriate contributions or other commitments to the reinforcement of bus and pedestrian services serving the campus; and to provide strategic approaches to the management of trees and ecology within the campus; and (ii) to conditions (together with such other conditions as may be appropriate in the light of the final form and content of the S106 Agreement). The Officer gave a presentation on the main aspects of the University's Master Plan. The Update Report amended Conditions 1-8 and added Informatives. The Senior Highways Development Officer reported on negotiations with the University on a new Travel Plan. The Director of Estates at the University then made a statement in support of the application.

Councillor Nicholas Coombes read out a statement by the Ward Councillor David Martin who was unable to attend this meeting and who supported the proposals subject to conditions. Councillor Nicholas Coombes supported the proposal as it was located within the central area of the campus and retained the open fields surrounding it. However, he had concerns regarding the increased number of car parking spaces being proposed. Councillor Les Kew supported the proposals and moved the Officer recommendation considering that grass cell blocks could be used instead of tarmac to ameliorate the impact of more car parking. The motion was seconded by Councillor Eleanor Jackson. The Officer stated that further conditions may need to be added as a result of considering the S106 Agreement. These would include a Construction Management Plan and conditions which would cover issues raised by the Ecologist Officer such as reduced lighting so as not to affect bats. Councillor Bryan Organ complimented the University on its Master Plan which was supported by other Members.

The motion was put to the vote which was carried 12 in favour and 0 against (Note: Councillor Brian Webber left the meeting during consideration of this Item and consequently was not available to vote).

**Item 6 Automate Bath Ltd, Gloucester Road, Swainswick, Bath – Erection of a single dwelling including a domestic garage and front boundary wall for the adjacent dwelling (Greenacres) and alteration of existing vehicular access following demolition of existing dwellings** – The Case Officer reported on this application and his recommendation to refuse permission. He referred to 1) an error in the Officer Assessment section of the Report as regards land within the ownership of the applicants; and 2) the Update Report which gave his comments on further information received from the applicant regarding entering into a S106 Agreement. The applicants' agent then made a statement in favour of the application which was followed by a statement by the Ward Councillor Geoff Ward supporting the application.

Councillor Martin Veal opened the debate as one of the Ward Members. He stated that the proposal would clean up the site and that most people supported it. He considered that the previous use of the site created a traffic/pedestrian hazard and was unsightly. The applicant had put forward mitigating factors which represented very special circumstances in not causing significant harm to the amenity of existing and future occupiers, it addressed the impact of road traffic noise on local residents and proposed an amenity area for future occupiers. On this basis, he felt that it was appropriate development in the Green Belt as the impact would not be greater than what was currently there and its former use as a second hand car lot with cars parked in and around the site causing danger to traffic and pedestrians alike. The application also complied with policies in the NPPF and would relinquish all commercial uses on the land including the lower yard and returning it to a natural state. On this basis, he moved that the recommendation be overturned and that permission be delegated to Officers for appropriate conditions. This was seconded by Councillor Les Kew.

A Member asked a question regarding Green Belt policy as regards loss of employment. The Development Manager responded that employment was not protected and that it could be constituted as appropriate development if what was being provided was better than the existing or previous use. Members debated the motion and expressed their support considering that that it would be an improvement to the appearance of the Green Belt, it was within the housing boundary and there was generally no objection to the proposal. The Chair pointed out that a S106 Agreement would be required. The mover and seconded agreed that this be incorporated into the motion. The motion was then put to the vote and was carried 11 voting in favour and 0 against with 1 abstention. Motion carried (Note: Councillor Brian Webber was not present for this Item).

(Note: At 6.13pm after consideration of this Item, the Committee adjourned for Tea until 6.30pm.)

**Item 7 St Gregory's Catholic College, Combe Hay Lane, Odd Down, Bath – Erection of 6<sup>th</sup> form building linked to St Gregory's Catholic College with associated highway works and landscaping at Combe Hay Lane** – The Case Officer reported on this application and her recommendation to refer the application

to the Secretary of State under the Town and Country Planning (Consultation) (England) Direction 2009 and, subject to the application not being “called-in”, to Permit subject to conditions (Note: this deleted Recommendation (A) in the report). She pointed out that the site was in Bathavon West Ward and not Odd Down as set out in the Report. There were a number of points raised by Combe Hay Parish Council which were required to be addressed which would require amendment to some conditions and therefore the recommendation would be to delegate to Officers to grant permission accordingly. The public speakers then made their statements in support of the proposal.

Council David Veal (Ward Councillor) fully supported the application and commended it to the Committee. Councillor Les Kew also supported the proposal but raised some concerns regarding a School Travel Plan being required to ensure the safety of students and whether better materials were available instead of the rendered elevation at this prominent location. Officers responded to these comments and stated that they were satisfied with the materials proposed; however, these matters were still up for debate by Members.

Councillor Eleanor Jackson supported the proposal and moved that the Officer’s recommendation be approved. This was seconded by Councillor Bryan Organ. Members debated the motion. Councillor Nicholas Coombes was not in favour of the motion and considered that, although of a good design, valid objections had been raised by South Stoke Parish Council and that a case had not been made for special circumstances in the Green Belt. Other Members supported the motion and considered that the development was acceptable taking into account the special circumstances submitted by the applicants. Councillor Martin Veal supported the proposal and commended the Head Teacher and the students in their statements. Councillor Neil Butters queried whether there could be a conflict of traffic going to the College and to Combe Hay/Wellow. Officers responded that this had been considered and that a problem was not envisaged. The Chair summed up the debate.

The motion was put to the vote. Voting: 12 in favour and 1 against. Motion carried.

(Note: This application was considered first on the list of Items in the Report)

**Item 8 Towerhurst, Wells Road, Westfield, Radstock – Erection of 11 dwellings with garages/parking, landscaping, screening and associated works and erection of 2 detached garages for the existing dwellings** – The Case Officer reported on this application and his recommendation to authorise the Development Manager to Permit subject to 1) the prior completion of a S106 Agreement to secure contributions for highway safety improvements and for early years, primary school and youth provision as set out in the Report; 2) the prior completion of an archaeological field evaluation, including a geophysical survey of the site, followed up if necessary by trial trenching and which finds nothing of significance; and 3) conditions as set out in the Report. He stated that a further condition was recommended regarding no windows to be installed in the roof spaces. A local resident stated that he hadn’t been able to register in time and requested to be able to make a statement against the proposal. The Chair allowed him to speak on this occasion.

Councillor Eleanor Jackson referred to the concerns of the Ward Councillor Rob Appleyard regarding this development which she supported. She therefore moved that the recommendation be overturned and that permission be refused on the grounds of overdevelopment; inappropriate design; and danger to pedestrians due to non-provision of a pedestrian crossing. Councillor Neil Butters supported these concerns and seconded the motion.

Members debated the motion. Views were expressed for and against the proposal. Some Members were of the opinion that the design and housing mix was unsuitable, it was close to existing houses and should reflect the housing style in neighbouring Highfields. Other Members felt that this was a sensible development within the housing boundary and of a reasonable density. The Case Officer responded to some of the points raised and did not agree that this was overdevelopment of the site. The Chair summed up the debate and expressed his approval of the proposal.

The motion was put to the vote. Voting: 6 in favour and 6 against. The Chair exercised his casting vote against the motion. Voting: 6 in favour and 7 against. Motion lost. He therefore moved the Officer recommendation which was seconded by Councillor Les Kew. The motion was put to the vote and was carried 6 in favour and 5 against with 1 abstention (Note: Councillor Brian Webber was not present for this Item).

**Item 9 No 41 Elliston Drive, Southdown, Bath – Erection of dormer window –**

The Case Officer reported on this application and his recommendation to refuse permission. The applicant's agent spoke in favour of the proposal which was followed by a statement by the Ward Councillor Dine Romero in support of the application.

Councillor Les Kew stated that there was a lot of history with this proposal. He supported the Inspector's findings on the appeal and moved the Officer recommendation to refuse permission. Councillor Malcolm Lees stated that this proposal was smaller using acceptable materials and therefore blended in better than previous proposals. Councillor Nicholas Coombes had a similar viewpoint. The motion was seconded by Councillor Eleanor Jackson. Members expressed views for and against the proposal. The Chair stated that he supported the motion which he then put to the vote. Voting: 6 in favour and 6 against. Motion not carried.

The Chair moved that the application be deferred for a Site Visit which was seconded by Councillor Neil Butters. The motion was carried by a substantial majority (Note: Councillor Brian Webber was not present for this Item).

**Item 10 Ivy Cottage, Rectory Lane, Compton Martin – Erection of a two storey extension (Resubmission) –** The Case Officer reported on this application and his recommendation to grant permission subject to conditions. The applicant made a statement in support of the proposal.

Councillor Les Kew supported the application and moved the Officer recommendation which was seconded by Councillor Neil Butters. The motion was put to the vote and was carried unanimously (Note: Councillor Brian Webber was not present for this Item).



**Item 11 Stall Street, Bath – Extension of temporary permission for statue at Stall Street/New Orchard Street from 1 November 2012 to 30 April 2013** – The Case Officer reported on this application and his recommendation to grant temporary permission for the retention of the Mark Foster torso statue subject to conditions.

Councillor Manda Rigby as Ward Member supported the proposal and moved that the Officer's recommendation be approved. The motion was seconded by Councillor Les Kew and on being put to the vote was carried unanimously (Note: Councillor Brian Webber was not present for this Item).

**62 QUARTERLY PERFORMANCE REPORT - APRIL TO JUNE 2012**

The Committee considered a report which provided performance information across a range of activities within the Development Management function for the period April to June 2012.

The report was noted and the Chair on behalf of the Committee extended his thanks to Officers for their hard work in achieving this performance.

**63 TREE PRESERVATION ORDER: BATH AND NORTH EAST SOMERSET COUNCIL ( 1 DEVONSHIRE PLACE, BATH NO. 271 ) TREE PRESERVATION ORDER 2012**

The Committee considered the report of the Senior Arboricultural Officer which 1) informed that an objection had been received following the making of a Tree Preservation Order at 1 Devonshire Place, Bath, which was provisionally made on 3<sup>rd</sup> April 2012 to protect a Sycamore and Lawson Cypress which make a significant contribution to the landscape and amenity of the Conservation Area; and 2) recommended after considering the objection that the Order be confirmed without modification.

The public speaker made his statement in support of the Order being confirmed (see Speakers List in *Appendix 2*).

It was moved by Councillor Eleanor Jackson and seconded by Councillor Les Kew and unanimously **RESOLVED** to confirm the Tree Preservation Order entitled "Bath and North East Somerset Council (1 Devonshire Place, Bath No 271) Tree Preservation Order 2012" without modification.

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

The Committee noted the report

**65 MONTHLY UPDATE ON FORMER FULLERS EARTHWORKS, COMBE HAY, BATH**

The Development Manager reported that statements of case had been submitted and that proofs of evidence would be formulated for the Inquiry in January 2013.

The Committee noted.

The meeting ended at 7.50 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

**BATH AND NORTH EAST SOMERSET COUNCIL**

**Development Control Committee**

**26<sup>th</sup> September**

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

**ITEM 10**

**ITEMS FOR PLANNING PERMISSION**

Item No.	Application No.	Address
05	12/02626/FUL	University of Bath University Of Bath Campus Claverton Down Bath BA2 7PB

Since the preparation of the Main Agenda Report, further comments and information have become available.

Highways Development Officer: The Highways team have been in discussions with the University's representatives, and Heads of Agreement have now been agreed in principle, with the University confirming that it intends to prepare a Draft S.106 Agreement based upon the agreed principles. The Highways Development Officer has confirmed that the Highways elements of the proposed Agreement will cover:

- (i) The preparation, agreement and on-going monitoring of a new Travel Plan to replace the existing document when it expires next year;
- (ii) An on-going commitment to support public transport serving the University; and
- (iii) Contributions towards improvement to the public footpath and other pedestrian facilities in the vicinity of the University.

Members are advised that subject to agreeing the details of the proposed Agreement on the basis of the above, there are no Highways objections to the current application. Details of any necessary Conditions will be agreed as part of this process.

Arboricultural and Landscape Officers: It has been agreed in writing by the University that the S.106 Agreement will also include arrangements for the submission and implementation of a strategic Tree and Landscape Management Plan for the campus. This approach has been welcomed by the Officers concerned, and details of these elements are now under discussion for inclusion in the proposed Agreement. Details of any necessary Conditions will be agreed as part of this process.

Ecological Officer: The Ecological Officer has confirmed that as this site has been cleared, there is unlikely to be any remaining on-site ecology of significance and that “the site has no potential to support European Protected Species.” Accordingly, there is no reason to assume that Natural England will raise any objections regarding the site’s relationship with the nearby Bath & Bradford on Avon Bats SAC.

However, further consideration should be given to ecological matters, and appropriate Conditions are recommended in order to secure a further site assessment and to address potential light disturbance to bats. Furthermore, discussions with the Ecological Officer and Natural England are continuing, and the University has now agreed in writing that the S.106 Agreement will also include arrangements for the submission and implementation of a strategic Ecology Management Plan for the campus. This approach has been welcomed by the Officers concerned, and details of this are now under discussion for inclusion in the proposed Agreement. Details of the necessary Conditions will be agreed as part of this process.

Other matters: The Applicant’s Agents have confirmed that site clearance works are well under way, as the University is aiming to have this building available for occupation at the beginning of the 2013/14 academic year, and a visual inspection last week confirms that there is almost certainly no on-site ecological interest. Because of the tight development timetable, the Agents have requested that a number of the proposed Conditions are slightly amended in order to provide greater flexibility in the timing of their discharge, and this has been agreed in principle by your Officers.

#### Recommendation

In the light of the above, the Recommendation in the Main Agenda Report remains unchanged, but the recommended Conditions are now amended as set out below. Additional Conditions will be added as appropriate in the light of the on-going discussions detailed above.

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

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

2. Notwithstanding the information included with the submitted application, no above ground development shall commence until a final schedule of materials and finishes (supplemented by samples which shall be made available to the local planning authority on request), has 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.

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

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

4. No development shall take place within the site until the applicant, or their agents or successors in title, has implemented the programme of archaeological work in accordance with the submitted written scheme of investigation prepared by Wessex Archaeology (dated August 2012).

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

5. No development activity likely to affect trees or their roots shall commence until a provisional programme of tree works, including supervision and monitoring details, by an Arboricultural Consultant and incorporating the provision of site visit records has been submitted to and approved in writing by the Local Planning Authority.

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

6. No development or other operations likely to affect trees or their roots shall take place until the protective measures as stated in the approved Arboricultural Method Statement provided within the Tree Report submitted with the application are implemented. No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement unless first agreed in writing by the local planning authority.

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

7. No development or other operations likely to affect trees or their roots shall commence unless the local planning authority has been given two weeks' prior written notice 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.

8. 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.

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

## INFORMATIVES:

1. This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.

2. PLANS LIST - This permission relates to the following Plans:

LP(90)001; LP(90)002; LP(90)003; LP(90)004; LP(90)005; P(0)100; P(0)101; P(0)103; P(0)104; P(0)105; P(0)106; P(0)107; P(0)108; P(0)109; P(0)110; P(0)115; P(0)116; P(0)117; P(0)120; P(0)121; P(0)122; P(0)123; and P(0)124 (all received on 18th June 2012); 6186/051/P4 (received on 4th July 2012); and 002/P1 (received on 5th July 2012).

### 3. REASONS FOR GRANTING PLANNING PERMISSION

The proposed development is in accordance with the policies set out in the National Planning Policy Framework published in 2012.

The proposed development is supported by an updated Master Plan as required in Policy GDS.1 (B11) of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007. The Development is broadly in accordance with all relevant saved policies in the Local Plan, and with Draft Policy B5 in the Bath and North East Somerset Draft Core Strategy, published in December 2010.

Subject to appropriate Conditions, the proposed development is unlikely to adversely affect European Protected Species, notwithstanding the proximity of the site to the Bath & Bradford on Avon Bats SAC, and will not adversely affect the character of the setting of the World Heritage Site, or the amenities of the nearby Cotswolds Area of Outstanding Natural Beauty. The proposed development will facilitate the completion of an agreement under S106 of the Town and Country Planning Act 1990 (as amended) that will secure campus-wide plans for the management of traffic generation, tree and landscape, and ecology, and also essential contributions to the maintenance and improvement

**Item No**  
6

**Application No.**  
12/02203/FUL

**Address**  
Automate Bath Limited  
Gloucester Road  
Swainswick  
Bath

Applicant's Agent: The applicant's agent has stated that their intention is to landscape the area edged blue to the south of the site and to restore it as a green area. They think that this could be achieved via a planning condition, but would be willing to enter into a s106 agreement requiring the cessation of its current use and its landscaping.

Planning Officer: A s106 agreement would be necessary, rather than a planning condition, to require the cessation of the commercial garage use of the land to the south.

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**SPEAKERS LIST  
BATH AND NORTH EAST SOMERSET COUNCIL  
MEMBERS OF THE PUBLIC ETC WHO MADE A STATEMENT AT THE  
DEVELOPMENT CONTROL COMMITTEE - WEDNESDAY 26<sup>TH</sup> SEPTEMBER 2012**

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

<b>SITE/REPORT</b>	<b>NAME/REPRESENTING</b>	<b>FOR/AGAINST</b>
<b>PLANS LIST – REPORT 10</b>		
Stowey Quarry, Stowey (Item 1, Pages 35-49)	Dr Phil Hammond <u>AND</u> Gareth Thomas <u>AND</u> Clive English  John Williams, Oaktree Environmental (Applicant's Agents)	Against – To share 6 minutes  For – Up to 6 minutes
Bath Spa University, Newton St Loe (Items 2&3, Pages 50-95)	Professor Christina Slade, Vice Chancellor, Bath Spa University	For – Up to 6 minutes
Parcel 0006, Maynard Terrace, Clutton (Item 4, Pages 96-120)	Ian Myatt (Clutton Parish Council)  Rosemary Naish <u>AND</u> Clive English <u>AND</u> Joe Evans, CPRE  Robert Sawyer, Curo (Applicants) <u>AND</u> James Reed (Curo) <u>AND</u> Andrew Page	Against  Against – To share 6 minutes  For – To share 6 minutes
University of Bath, Claverton Down, Bath (Item 5, Pages 121-133)	Mr Whalley, Director of Estates, University of Bath	For
Automate Bath Ltd, Gloucester Road, Swainswick, Bath (Item 6, Pages 134-141)	Tom Rocke, Turley Associates (Applicants' Agents)	For
St Gregory's Catholic College, Combe Hay Lane, Odd Down, Bath (Item 7, Pages 142-162)	Peter Duppa Miller, Clerk to Combe Hay Parish Council  Raymond Friel (Executive Head Teacher, St Gregory's and St Mark's) <u>AND</u> Samuel Norman (Student St Mark's) <u>AND</u> Hanna Keegan (Student St Gregory's)	For  For – To share 3 minutes
Towerhurst, Wells Road, Westfield, Radstock (Item 8, Pages 163-174)	Philip Martin	Against
41 Elliston Drive, Southdown, Bath (Item 9, Pages 175-179)	Tony Phillips, Thurdleigh Planning Consultancy (Applicant's Agents)	For
Ivy Cottage, Rectory Lane, Compton Martin (Item 10, Pages 180-185)	Giles Barnes (Applicant)	For
<b>TPO REPORT 12</b>		
1 Devonshire Place, Bath	Gavan O'Herlihy	Statement in support of the TPO



**BATH AND NORTH EAST SOMERSET COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**26th September 2012**

**DECISIONS**

<b>Item No:</b>	01	
<b>Application No:</b>	10/05199/EFUL	
<b>Site Location:</b>	Stowey Quarry, Stowey Road, Stowey, Bristol	
<b>Ward:</b> Chew Valley South	<b>Parish:</b> Stowey Sutton	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application with an EIA attached	
<b>Proposal:</b>	Restoration of Stowey Quarry by landfilling of Stable Non Reactive Hazardous Waste (SNRHW) including asbestos and inert wastes and that the application is accompanied by an environmental statement	
<b>Constraints:</b>	Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Existing Mineral Working, Forest of Avon, Mineral Consultation, Water Source Areas,	
<b>Applicant:</b>	Mr Larry Edmunds	
<b>Expiry Date:</b>	2nd May 2011	
<b>Case Officer:</b>	Chris Herbert	

**DECISION Refuse**

1 It has not been demonstrated that this is an appropriate location for the disposal of the non asbestos stable non reactive hazardous waste stream because there is insufficient information on the leachate generation potential of the proposed waste streams, the extent of the unsaturated zone below the quarry floor and the contribution to the flow regime and potential pathways for groundwater discharge from the landfill to determine the likelihood of significant adverse effects on the water and ecology interests of the Chew Valley Reservoir Special Protection Area. The proposed development is therefore contrary to policies 8, 11 and 12 of the West of England Joint Waste Core Strategy and policies NE10 and NE13 of the Bath and North East Somerset Local Plan, including minerals and waste policies, adopted October 2007.

**PLANS LIST:**

205/126/02 rev B date stamped 10 December 2010; 205/126/03 rev A date stamped 6 January 2011; 2055/126/04 rev A date stamped 10 December 2010; 2055/126/05 rev A date stamped 10 December 2010; 2055/126/06 date stamped 10 December 2010; 2055/126/07 rev A date stamped 4 March 2011; 2055/126/08 date stamped 10 December 2010; 2055/126/10 date stamped 6 January 2011; 2055/126/11 dated 17 February 2011; and 2055/126/12 dated 4 March 2011.

<b>Item No:</b>	02
<b>Application No:</b>	12/02141/EFUL
<b>Site Location:</b>	Street Record, Bath Spa University Campus, Newton St. Loe, Bath
<b>Ward:</b> Bathavon West	<b>Parish:</b> Newton St. Loe <b>LB Grade:</b> IISTAR
<b>Application Type:</b>	Full Application with an EIA attached
<b>Proposal:</b>	Erection 9 no. 3 storey (third floor in the roof) student residential blocks to provide 561 bedspaces to the southern end of the campus; the erection of an energy centre and single storey Estates and Services facilities buildings, the creation of external spaces for the storage of materials and vehicles and for the storage and processing of refuse and recycling, and the relocation of Newton Annexe providing offices and storage for the Estates Team to the south of the Walled Garden; associated access, parking, external lighting, drainage, infrastructure and hard/soft landscaping works. Demolition of farm buildings to the south of Melancholy Wood; lean-to buildings to the north of the Walled Garden; Newton; Corston; and the former Vice-Chancellor's Lodge. Creation of temporary car parking areas during construction. (Phase 2 of University Campus Masterplan)
<b>Constraints:</b>	Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Cycle Route, Forest of Avon, Greenbelt, Listed Building, Major Existing Dev Site, Natural Historic Parks and Gardens, Protected Recreational, Public Right of Way,
<b>Applicant:</b>	Carolyn Puddicombe
<b>Expiry Date:</b>	24th August 2012
<b>Case Officer:</b>	Gwilym Jones

## DECISION

**(A)** To refer the application to the Secretary of State under the Town and Country Planning (Consultation)(England) Direction 20098 and subject to the application not being called in

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

(1) Programme of Demolitions and Building Regulation

- Demolition of Newton, Corston and The Vice Chancellors Lodge
- Relocation of Newton Annex

(2) Programme for the Restoration of the Walled Garden

- Demolition of structures on the external wall of the Walled Garden
- Submission of application and completion of works for the restoration of the Glasshouse

(3) Programme for the Removal of Car parking spaces

- Review mechanism for assessing parking demand/provision

- Removal of car parking spaces

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

<b>Item No:</b>	03
<b>Application No:</b>	12/02142/LBA
<b>Site Location:</b>	Street Record, Bath Spa University Campus, Newton St. Loe, Bath
<b>Ward:</b> Bathavon West	<b>Parish:</b> Newton St. Loe <b>LB Grade:</b> IISTAR
<b>Application Type:</b>	Listed Building Consent (Alts/exts)
<b>Proposal:</b>	Creation of new openings to the Walled Garden at the southern end of the Newton Park Campus; demolition of the adjoining lean-to buildings to the north of the Walled Garden (excluding the Boiler House); external and internal alterations to the western end of the Bothy extension within the Walled Garden to create new changing rooms and the erection of gate within the open passage to the eastern end of the Bothy. External and internal alterations to provide a new laundry in Sophia and internal alterations to improve the existing changing rooms in the Boiler House. Creation of small new opening at the base of the northern wall to the Italian Garden (Grade II* Listed) to provide access for Great Crested Newts.
<b>Constraints:</b>	Agric Land Class 1,2,3a, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Cycle Route, Forest of Avon, Greenbelt, Listed Building, Major Existing Dev Site, Natural Historic Parks and Gardens, Protected Recreational, Public Right of Way,
<b>Applicant:</b>	Carolyn Puddicombe
<b>Expiry Date:</b>	29th June 2012
<b>Case Officer:</b>	Caroline Waldron

## DECISION Consent

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 No development shall commence until a Biodiversity Management Plan covering the construction phase of the Phase 2 development and incorporating a Landscape and Habitats Management Plan for the entire campus covering the operational phase has been submitted to and approved in writing by the local planning authority (in consultation with Natural England). The Plan shall include all mitigation specified in the Environmental Statement. The submitted Landscape and Habitats Management Plan shall cover the operational phase for a minimum of ten years following the completion of Phase 2, and shall include a programme of monitoring and annual submission of data to the local planning authority.

Reason: To reduce and mitigate the impacts of construction and operation of the development on the biodiversity on the campus.

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:** Drawings 0001 (site location plan), 0002 (existing site plan), 0003 (scheduled monuments and listed buildings plan), 0210 (existing bothy), 0212 (walled garden existing plans and sections), 0213 (walled garden existing elevations), 0214 (existing walled garden lean-tos), 0215 (existing boiler house), 0220 (existing Sophia), 3000 (demolition/alterations plan), 3010 (existing bothy, boiler house and lean to), 3011 (bothy photographic audit), 3012 (boiler house photographic audit), 3013 (walled garden lean-tos photographic audit), 3020 (Sophia existing plan), 3021 (Sophia photographic audit), 3210 (proposed bothy), 3212 (walled garden proposed - excluding netball court), 3215 (proposed boiler house), 3220 (proposed Sophia), Heritage Statement, Design and Access Statement, Environmental Statement volumes 1-4 and non-technical summary date stamped: 4th May 2012

Reasons for granting consent

The decision to grant consent subject to conditions has been made in accordance with relevant legislation, The National Planning Policy Framework and in light of views of third parties. The Council regards that the proposals because of their location, design, detailing and use of materials, will preserve the building, its setting and its features of special architectural or historic interest

<b>Item No:</b>	04	
<b>Application No:</b>	12/01882/OUT	
<b>Site Location:</b>	Parcel 0006, Maynard Terrace, Clutton, Bristol	
<b>Ward:</b> Clutton	<b>Parish:</b> Clutton	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Outline Application	
<b>Proposal:</b>	Erection of 36no.dwellings and associated works (revised resubmission)	
<b>Constraints:</b>	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Coal - Referral Area, Cycle Route, Flood Zone 2, Flood Zone 3, Forest of Avon, Housing Development Boundary, Public Right of Way,	
<b>Applicant:</b>	Somerset Community Housing Trust	
<b>Expiry Date:</b>	30th July 2012	
<b>Case Officer:</b>	Richard Stott	

**DECISION Refuse**

Subject to no new issues arising in respect of the publication affecting the Public Right of Way Authorise the Development Manager to refuse permission for the following reasons:

The proposed development of this site, located in the countryside outside of any housing development boundary, remote from services and employment opportunities, and poorly served by public transport, is contrary to the principles of sustainable development and would be likely to result in unsustainable transport movements in the private car. Due to the size of the site and the inclusion of market housing, it cannot be classified as a rural exception site. The proposed development is considered to be contrary to Policies T.1, HG.4 and HG.9 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007, Policy 1 of the Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire Joint Replacement Structure Plan, and contrary to the National Planning Policy Framework, which seek to facilitate the use of sustainable modes of transport.

2 Inadequate details have been submitted to enable the Local Planning Authority to fully assess the potential impact on nationally and internationally protected species, locally important species and flora and proposed mitigation, therefore the development is contrary to Policies NE.9 and NE.12 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

**PLANS LIST:** This Decision Relates To The Following Documents: Arboricultural Method Statement, Design & Access Statement, Drainage Strategy, Ecology And Protected Species Survey, Flood Risk Assessment, Housing Statement, Landscape & Visual Report, Phase 1 Geoenvironmental Assessment, Planning Statement, Preliminary Utility Study, Statement Of Community Involvement And The Transport Assessment Date Stamped 30th April 2012, The Transport Assessment Addendum Date Stamped 30th May 2012, The Preliminary Ecological Appraisal Date Stamped 27th June 2012, The Highway Safety Audit Date Stamped 9th July 2012 And The Mining Survey Report Date Stamped 2nd August 2012

This Decision Relates To The Following Drawings:

Site Location Plan, Tree Protection Plan, Proposed Layout Sections And Indicative Street Scenes Date Stamped 30th April 2012 And Drawings 00756 Rev. A - Mining Record Survey And 00758 Rev. A - Mining Record Survey Section A - A Date Stamped 2nd August 2012

<b>Item No:</b>	05
<b>Application No:</b>	12/02626/FUL
<b>Site Location:</b>	University Of Bath, University Of Bath Campus, Claverton Down, Bath
<b>Ward:</b> Bathwick	<b>Parish:</b> N/A <b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Construction of new academic building to provide general teaching accommodation
<b>Constraints:</b>	Agric Land Class 3b,4,5, Forest of Avon, General Development Site, Hotspring Protection, Tree Preservation Order, World Heritage Site,
<b>Applicant:</b>	University Of Bath
<b>Expiry Date:</b>	4th October 2012
<b>Case Officer:</b>	Geoff Webber

**DECISION Authorise the Development Manager to permit subject to a S106 agreement and amendment to conditions**

<b>Item No:</b>	06
<b>Application No:</b>	12/02203/FUL
<b>Site Location:</b>	Automate Bath Limited, Gloucester Road, Swainswick, Bath
<b>Ward:</b> Bathavon North	<b>Parish:</b> Swainswick <b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Erection of a single dwelling, including domestic garage and front boundary wall for the adjacent dwelling (Greenacres) and alteration of existing vehicular access following demolition of existing buildings.
<b>Constraints:</b>	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Article 4, Greenbelt,
<b>Applicant:</b>	Mr A Hudson
<b>Expiry Date:</b>	6th August 2012
<b>Case Officer:</b>	Andrew Strange

**DECISION Authorise the Development Manager to permit subject to a S106 agreement and appropriate conditions.**

**PLANS LIST:** A decision on this application has been made on the basis of the following plans and documents:

Plans List: D3-02 Rev A - Existing Site Plan of Yard; D3-03 - Existing Sections; D03-4 - Existing Block Plan; D3-05 Rev B - Location Plan; D3-20F - Proposed Site Plan; D3-23 Rev A - Ground Floor Plan; D3-24 Rev A - First Floor Plan; D3-25A Rev A - Proposed Sections; D3-26 Rev A - Proposed Elevations; D3-27 Proposed Garage; Planning Statement May 2012; Design and Access Statement dated 18th October 2011; External Noise Assessment dated 10th May 2012



<b>Item No:</b>	07
<b>Application No:</b>	12/02548/REG04
<b>Site Location:</b>	St Gregory's Catholic College, Combe Hay Lane, Odd Down, Bath
<b>Ward:</b> Odd Down	<b>Parish:</b> Combe Hay <b>LB Grade:</b> N/A
<b>Application Type:</b>	Regulation 4 Application
<b>Proposal:</b>	Erection of a sixth form building linked to St Gregory's Catholic College with associated highway works and landscaping at Combe Hay Lane.
<b>Constraints:</b>	Agric Land Class 1,2,3a, Scheduled Ancient Monument SAM, Forest of Avon, Greenbelt, Hotspring Protection, Listed Building, Sites of Nature Conservation Imp (SN), World Heritage Site,
<b>Applicant:</b>	Bath and North East Somerset Council
<b>Expiry Date:</b>	27th September 2012
<b>Case Officer:</b>	Sarah James

**DECISION    Permit subject to referral to SSE**

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

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

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

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

3 The road works, footway works and street furniture shall be constructed and laid out in accordance with details to be submitted to and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate, the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority. The highway works shall be completed prior to the occupation of the development.

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

4 The access, parking and turning areas shall be properly bound and compacted (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. Such parking and turning areas shall be constructed and available for use prior to the occupation of the development.

Reason: In the interest of highway safety

5 Prior to the occupation of the development an updated Travel Plan shall have been approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

6 Prior to the occupation of the development details of the number of cycle spaces, together with the means of shelter, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

7 Prior to the occupation of the development details of the availability of shower and changing facilities for use by cyclists shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

8 Prior to the occupation of the development, an operational statement shall be submitted to and approved in writing by the Local Planning Authority and shall include details of the management of the car and coach parking on the site.

Reason: To ensure the safe operation of the highway.

9 Prior to the occupation of the development details of the provision for off-site parking shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to ensure adequate parking provision can be achieved.

10 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management.

Reason: To ensure the safe operation of the highway.

11 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:

(i) Human health,

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

- (iii) Adjoining land,
- (iv) Ground waters and surface waters,
- (g) Ecological systems,
- (v) Archaeological sites and ancient monuments;
- (vi) 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.

12 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.

13 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.

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 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 no. 11, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition no. 12, 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 no. 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 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.

17 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 on the site, with provision for excavation of any significant deposits or features encountered, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.

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

18 No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The drainage strategy should demonstrate the surface water run-off generated up to and including the 1 in 100 year (30% climate change) critical storm will not exceed the run-off from the undeveloped site following the corresponding rainfall event. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

REASON: To prevent the increased risk of flooding, both on and off site.

19 All hard and soft landscaping works as shown on drawing 6218 D 7101(C)/7201(A) (or any subsequent approved revisions of that drawing) 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.

20 No development activity shall take place until an arboricultural method statement with revised 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 plan shall include the tree numbers and accurate positioning of the trunks of retained trees. The arboricultural method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboriculturalist and provision of site visit records and certificates of completion. The statement shall include proposed tree protection measures during site preparation (including clearance and level changes), during construction and landscaping operations. The statement should also include no-dig construction details as stated in the arboricultural impact assessment, the control of potentially harmful operations such as the position of service runs and soakaways, storage, handling and mixing of materials on site, burning, location of site office and movement of people and machinery. Development and other operations shall thereafter take place in complete accordance with the approved Arboricultural Method Statement unless agreed in writing by the local planning authority.

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

21 No development activity shall commence until the protective measures as stated in the approved Arboricultural Method Statement are implemented as appropriate. 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.

22 The development hereby permitted shall be carried out only in accordance with the approved Ecological Method Statement comprising of the following plans Ornithological Plan dated June 2012,, Phase one Habitat Surveys Dated 2009 and 2012, Reptile Survey dated Spring 2012, Badger Survey March 2010 and Update March 2012, Bat Activity Survey Summer 2010, Bat Assessments March 2012, as approved in writing by the Local Planning Authority.

Reason: To secure adequate ecological protection during the course of development.

23 Prior to the commencement of the works subject of this consent, details of the following matters (in respect of which approval is expressly reserved) shall be submitted and approved in writing by the Local Planning Authority:

- 1) A sample panel of the proposed render which shall be erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed. The panels shall be of a size to be agreed in writing with the local planning authority.
- 2) Detailed sections of the windows and their reveals
- 3) Large scale window details at 1:20 and samples of the windows to show the finish
- 4) Samples of the proposed glazing
- 5) Samples of the proposed coloured finish to be applied to the window reveals.

Development shall thereafter proceed in accordance with the approved details.

Reason: To safeguard the character and appearance of the World Heritage Site and the area.

**PLANS LIST:** This decision relates to drawing no's - 6218 D 0303 A6218 D 03046218 D 0305 6218 D 0306 AL(P)011 B6218 D 0101 D6218 D 0102 D 6218 D 0103 C6218 D 0111 A6218 D 01126218 D 0201 A 6218 D 0202 D 6218 D 0301 A6218 D 0302 A6218 D 0311 A6218 D 0312 A6218 D 7101 C 6218 D 7201 A6218 D 73016218 D 74016218 D 74026218 D 7403136STG/V90/031 T1 0395-003 Rev I

1. The applicant is advised of the need to consult with English Heritage to ensure that scheduled monument Consent is not required for the development.

2. The applicant is advised that four Grade II listed turnpike and boundary marker posts lie to the north-east of the proposed development area on the Foss Way (A367). It is the applicant's responsibility to ensure that these are not harmed as a consequence of and during the construction of the development.

3. Under the terms of the Water Resources Act 1991 and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures in, under, over or within 8.0 metres of the top of the bank of a designated 'main river'. Any impediment to flow in an 'ordinary' watercourse will also require consent under section 23 of the Land Drainage Act 1991. In the event that any new surface water

discharges will be made direct to a watercourse, the sewer/pipe should terminate in a properly constructed

**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) Bath and North East Somerset Local Plan (including Waste and Minerals policies) adopted 2007 Policies SC1, ET7, ES2, ES4, ES5, ES15, GB1, GB2, NE1, NE5, NE10, NE11, BH11, BH12, T24, HG10, CF1, CF2, BH1, BH11, BH12, BH22, D2, D4, IMP1, SR1A, T3, T6, T24, T26

2. The proposed development is considered acceptable in the Green Belt taking account of the very special circumstances submitted. The scheme will make highway improvements, provide a better school environment for students and will provide community benefits. The design of the building is acceptable. The wildlife on the site will be provided for and landscape will be retained and enhanced. The development is not considered to give rise to any adverse harm on any designated assets that are protected by planning or other legislation.

<b>Item No:</b>	08	
<b>Application No:</b>	12/01454/FUL	
<b>Site Location:</b>	Towerhurst, Wells Road, Westfield, Radstock	
<b>Ward:</b> Westfield	<b>Parish:</b> Westfield	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of 11 dwellings with garages/parking, landscaping, screening and associated works and erection of 2 detached garages for the existing dwellings.	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,	
<b>Applicant:</b>	Elan Homes Ltd	
<b>Expiry Date:</b>	27th July 2012	
<b>Case Officer:</b>	Mike Muston	

**DECISION Authorise the Development Manager to permit subject to a S106 agreement**

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 Before any part of the development hereby permitted is first occupied, the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the proposed estate street and points on the carriageway edge 43.0 metres from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 900mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety.

3 The development hereby permitted shall not be occupied until a footway of 2.0 metres minimum width has been provided on either side of the proposed estate street junction, together with pedestrian crossing points across the estate road and extending into the site on either side of that junction and to the limits of the application site frontage to the public highway in either direction, all in accordance with details submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

4 No development shall be commenced until a hard and soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority, such a scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences and other boundary treatment (including details of boundary treatment to minimise overlooking at the rear of plots 9 and 10) 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.

5 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.

6 No development shall take place until a detailed Arboricultural Method Statement with Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority and details within that implemented as appropriate. The final method statement shall incorporate a provisional programme of works, supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, location of site office, service run locations including soakaway locations and movement of people and machinery. 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 trees to be retained are not adversely affected by the development proposals

7 Prior to the commencement of development, a Desk Study and Site Reconnaissance (walkover) survey shall be undertaken to develop a conceptual site model and preliminary risk assessment. Should the Desk Study identify the likely presence of contamination on the site, whether or not it originates on the site, then full characterisation (site investigation) shall be undertaken and where remediation is necessary, it shall be undertaken in accordance with a remediation scheme which is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the current and future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8 In the event that contamination is found at any time when carrying out the approved development, work must be ceased and it must be reported in writing immediately to the Local Planning Authority. The Local Planning Authority Contaminated Land Department shall be consulted to provide advice regarding any further works required. Unexpected contamination may be indicated by unusual colour, odour, texture or containing unexpected foreign material.

Reason: To ensure that risks from land contamination to the current and future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9 No development shall take place until detailed proposals have been submitted to and approved in writing by the local planning authority setting out mitigation measures for wildlife in the retained green spaces within the curtilage of Towerhurst and Sunnyridge, or in such other location as may be agreed. No dwelling shall be occupied until the approved measures have been implemented.

Reason: In the interests of the ecology of the area.

10 No external lighting shall be lit until detailed proposals have been submitted to and approved in writing by the local planning authority setting out the type of lighting to be used. External lighting shall then only be installed and operated in accordance with those approved details.

Reason: In the interests of the ecology of the area.

11 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 windows, roof lights or openings, other than those shown on the

plans hereby approved, shall be formed in the north-eastern (side) elevation of the house on Plot 7.

Reason: In the interests of the living conditions of occupiers of adjacent residential properties.

12 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:** Drawing 9901/RAD/PL01 REV C, received 24 August 2012.

Drawings 9901/RAD/AXB01 A, BEL01 A, BEL02 A, BEL03 A, FEN01 A, GAR01 A, GAR02 A, HAR01 A, HAR02 A, HAR03 A, HAR05 A, LOC/01 A, SE01 A, SOU01 A, WOD01 A, WOD02 A, received 25 April 2012; Drawing 9901/RAD/SCO01 A, received 26 April 2012; Drawing 9901/RAD/PL01 A, received 27 April 2012; Drawing 10547SWG-01, received 2 April 2012

#### REASONS FOR GRANTING APPROVAL:

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

2. There is a need for additional housing in the Bath & North East Somerset Council area and Government policy in the Framework urges the provision of additional housing, as well as approving without delay applications in accordance with the development plan (as this application is). There would be no unacceptable harm caused to highway safety, the character and appearance of the area, ecology or archaeology. It is considered that the limited harm caused to the living conditions of local residents is clearly outweighed by the benefits of providing additional housing within the urban area.

A

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

D.2	General Design and public realm considerations
D.4	Townscape considerations
HG.1	Housing requirements
HG.4	Residential development in urban areas
HG.5	Affordable housing
HG.7	Minimum residential density
T.24	General Development control and access policy
T.26	On-site parking and servicing provision
NE.12	Natural Features
BH.12	Archaeology

<b>Item No:</b>	09
<b>Application No:</b>	12/02970/FUL
<b>Site Location:</b>	41 Elliston Drive, Southdown, Bath, Bath And North East Somerset
<b>Ward:</b> Southdown	<b>Parish:</b> N/A <b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Erection of dormer window
<b>Constraints:</b>	Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, World Heritage Site,
<b>Applicant:</b>	Mr Graham Bradley
<b>Expiry Date:</b>	3rd September 2012
<b>Case Officer:</b>	Andy Pegler

**DECISION    Defer consideration to allow members to visit the site**

<b>Item No:</b>	10
<b>Application No:</b>	12/02743/FUL
<b>Site Location:</b>	Ivy Cottage, Rectory Lane, Compton Martin, Bristol
<b>Ward:</b> Chew Valley South	<b>Parish:</b> Compton Martin <b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Erection of a two storey extension (Resubmission)
<b>Constraints:</b>	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Conservation Area, Housing Development Boundary, Water Source Areas,
<b>Applicant:</b>	Mr & Mrs Giles Barnes
<b>Expiry Date:</b>	20th August 2012
<b>Case Officer:</b>	Richard Stott

**DECISION    PERMIT**

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

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

2 Notwithstanding the 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 windows, roof lights or openings, other than those shown on the plans hereby approved, shall be formed in the north elevation at any time unless a further planning permission has been granted.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy.

3 All external walling and roofing materials to be used shall match those of the existing building in respect of type, size, colour, pointing, coursing, jointing, profile and texture.

Reason: In the interests of the development, the character and appearance of this part of the Conservation Area and the setting of the 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 and Site Photos and to Drawings 59.473-1 and 95.473-5 dated 25th June 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.

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 revised size, scale, mass and design of the extension is considered to be proportionate and subservient, retaining and maintaining the appearance of the host dwelling and built in appropriate matching materials.

4. By reason of its location set within existing mature vegetation and seen against the backdrop of existing residential properties, the proposed is unlikely to adversely harm the rural setting of the Area of Outstanding Natural Beauty or harm the character and appearance of this part of the Compton Martin Conservation Area.

5. By reason of its size, scale and mass, the orientation of the application site in respect of the adjoining dwelling to the south and the intervening existing vegetation the proposed development and the presence of the proposed balcony is unlikely to adversely harm residential amenity.

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.6 Conservation Area

NE.2 Area of Outstanding Natural Beauty

DRAFT CORE STRATEGY, MAY 2011 (The Draft Core Strategy is a material consideration but at this stage it has limited weight)  
Policies D.2, D.4, BH.6 and NE.2 are all saved.

#### LEGAL FRAMEWORK

Town and Country Planning Act, 1990

#### NATIONAL PLANNING POLICY FRAMEWORK

The NPPF has been considered in light of this application but does not raise any issues that conflict with the aforementioned local policies which remain extant.

<b>Item No:</b>	11
<b>Application No:</b>	12/03184/REG03
<b>Site Location:</b>	Street Record, Stall Street, City Centre, Bath
<b>Ward:</b> Abbey	<b>Parish:</b> N/A <b>LB Grade:</b> N/A
<b>Application Type:</b>	Regulation 3 Application
<b>Proposal:</b>	Extension of temporary permission for statue at Stall Street/New Orchard Street from 1 November 2012 to 30 April 2013
<b>Constraints:</b>	Agric Land Class 3b,4,5, Article 4, Bath Core Office Area, City/Town Centre Shopping Areas, Conservation Area, Flood Zone 2, Forest of Avon, General Development Site, Hotspring Protection, World Heritage Site,
<b>Applicant:</b>	BANES Council, Tourism Leisure and Culture
<b>Expiry Date:</b>	3rd October 2012
<b>Case Officer:</b>	Richard Stott

#### DECISION PERMIT

1 This permission shall expire on 31st March 2013 after which time the development hereby permitted shall be removed, the use hereby permitted discontinued and the ground shall be restored to its former state.

Reason: A six month extension to the current permission is deemed to be sufficient time to allow the applicant to resolve a permanent solution for the siting of this statue as part of the Olympic Legacy programme.

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

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

**PLANS LIST:** This decision relates to the Design and Access Statement and to drawings 1132/01 1132/02, 1132/03 date stamped 21st July 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.

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 retention of this art installation which is currently in situ has been 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 its size, shape, mass and positions, the installation does not adversely harm the character of the streetscape and preserves the character and appearance of the wider Conservation Area.

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

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 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

<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	<b>24th October 2012</b>
<b>RESPONSIBLE OFFICER:</b>	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)
<b>TITLE:</b>	<b>SITE INSPECTION APPLICATIONS</b>
<b>WARDS:</b>	ALL
<b>BACKGROUND PAPERS:</b>	
<b>AN OPEN PUBLIC ITEM</b>	

AGENDA  
ITEM  
NUMBER

### BACKGROUND PAPERS

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

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

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

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

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

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

## INDEX

01	12/02970/FUL 3 September 2012	Mr Graham Bradley 41 Elliston Drive, Southdown, Bath, Bath And North East Somerset, BA2 1LU Erection of dormer window	Southdown	Andy Pegler	REFUSE
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**Item No:** 01  
**Application No:** 12/02970/FUL  
**Site Location:** 41 Elliston Drive, Southdown, Bath, Bath And North East Somerset



**Ward:** Southdown      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor P N Crossley      Councillor D M Romero  
**Application Type:** Full Application  
**Proposal:** Erection of dormer window  
**Constraints:** Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, World Heritage Site,  
**Applicant:** Mr Graham Bradley  
**Expiry Date:** 3rd September 2012

## **REPORT**

### Reasons for Reporting Application to Committee:

Cllrs. Romero and Crossley have requested that the application be referred to committee if the recommendation is to refuse. Cllr. Romero refers to the complex and lengthy planning history, and the interest of absolute transparency on decision making; and points out that the proposal is significantly reduced from that which was previously refused. Cllr. Crossley considers that the latest application addresses the questions that were posed with previous submissions, and that the applicant should have the opportunity to address any concerns directly with the committee.

This application was deferred at the last meeting of the Committee to allow Members to view the property.

### Description of the Site and Application:

The property is situated on the north side of Elliston Drive and is one of 3 (originally) identical townhouses arranged over 3 floors. Recent alterations to the property comprise the raising of the ridge height of the roof; and the introduction of rooflights to the front. The land on which the group of properties stand is steeply sloping. Consequently, the neighbouring houses to the east and west are, respectively, higher and lower. The property backs onto neighbouring properties on The Hollow which are set at a higher level.

The application proposes the erection of a dormer window, facilitating access to a roof conversion. The submitted drawings describe the face of the dormer corresponding with the rear face of the building, and the ridge (of the dormer) corresponding with that of the main roof. A 'half-hipped' roof form is proposed. The dormer sides are proposed to be tile-hung, and the roof tiled to match the main roof. The window would be obscure-glazed, and non-opening.

### Relevant Planning History:

06/03135/FUL - RF - 7 November 2006 - Loft conversion with rear dormer extension (resubmission)

07/00427/FUL - RF - 3 July 2007 - Alterations to roof slope to alter pitch and raise ridge and the provision of a rear dormer (Retrospective application)

07/00093/ENFAPL - DISMIS - 22 January 2008 - Appeal against Enforcement Notice

08/00887/CLPU - RF - 1 May 2008 - Provision of loft with rear dormer

08/02704/FUL - RF - 26 September 2008 - Alterations to roof slope to alter pitch and raise ridge and erection of a rear dormer (Retrospective)

08/02725/CLPU - RF - 22 September 2008 - Provision of dormer on rear roof slope (resubmission)

09/00150/FUL - RF - 25 March 2009 - Installation of rear dormer (Retrospective) (Resubmission)

09/04029/FUL - RF - 18 February 2010 - Construction of rear dormer window and raising of roof (Part retrospective)

10/00025/CLPU - RF - Provision of loft with rear dormer

10/00048/ENFAPL - DISMIS - 19 April 2011 - Without the benefit of Planning Permission, the unauthorised development comprising of the raising of the roof ridge of the dwelling and the installation of a rear dormer roof extension

10/01163/FUL - RF - 10 February 2011 -Construction of rear dormer window and raising of roof (Part retrospective) (Resubmission)

10/04009/FUL - PER - 10 February 2011 - Raising of roof of dwelling (Retrospective)

Members attention is drawn, in particular, to the appeal against an Enforcement Notice which, having been dismissed in April 2011, resulted in the removal of an unauthorised dormer roof extension which had been constructed in 2007.

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

The occupier of a neighbouring property, to the rear, has expressed concern at any suggestion that overlooking is not an issue; and points out that, unlike the existing windows, those at roof level are clearly visible. The harmful impact of a previous dormer and the present state of the building are referred to; and it is suggested that the interests of neighbours are not being properly considered. A site visit is suggested to be necessary.

### **POLICIES/LEGISLATION**

The Development Plan comprises, inter alia, the Bath and North East Somerset Local Plan, including minerals and waste policies, 2007 (the Local Plan). Of particular relevance are Policies D.2 and D.4. which relate, respectively, to Design & the public realm, and Townscape.

The National Planning Policy Framework (NPPF) was published in March 2012 and is therefore recognised as a material consideration.

There is no conflict between the relevant policies of the Local Plan and the NPPF. The presumptions are in favour of sustainable development, having regard to economic, social and environmental aspects.

### **OFFICER ASSESSMENT**

The application raises 2 principal issues. Firstly, the extent to which the proposed dormer window respects and reflects the prevailing character and appearance of the host property and the group of which it forms a part; secondly, the impact of the proposal upon the amenities of neighbouring residential occupiers.

Character and appearance:

In determining the appeal in 2011, the Inspector opined that the property was viewed from a significant number of neighbouring properties to the rear and would therefore be appreciated as part of the character of the area in which the occupants reside. The Inspector also noted that there are very few dormers visible and the predominant character and appearance of the area is therefore of a roofscape largely uninterrupted by dormer additions; and that this is especially true of the immediate group of dwellings that includes the application property and which is closest to those living to the rear (on The Hollow). The Inspector noted that the previous dormer was particularly incongruous in its setting. The dormer covered a substantial area of the rear roof slope acting to dominate the roofscape. The Inspector concluded that the dormer failed to maintain the character of the public realm and did not respond adequately to the local context contrary to policies D.2 and D.4 of the Local Plan.

The scale and position of the proposed dormer appear to be determined by the need to provide headroom above a (modified) internal staircase. As a consequence (and contrary to the suggestion by the applicant's agent) the dormer is set well forward in the roof slope, and its ridge corresponds closely with that of the main roof. The result is a structure of undue prominence. An attempt has been made to reduce the scale of the dormer by utilising a half-hipped roof form. Such a detail is however incongruous in the context of the surroundings which comprises an uninterrupted and simple roofscape. The design is overly contrived, and results in a proposal which fails to respect and reflect the prevailing character of the host property and the group of which it forms a part.

It is recognised that the current proposal is smaller than the previous dormer in terms of its width and a half-hipped roof is proposed instead of a flat roof. However, whilst acknowledging this and noting that the proposal incorporates more sympathetic materials, it continues to be harmful to the overall character and appearance of the area and the harm which was previously identified both by the Council and the Inspector has not been overcome.

Regard has been had to other dormer roof extensions in the locality, to which the applicant has drawn attention; and also to the perceived benefits relating to the resulting accommodation. In the circumstances however these factors do not serve to outweigh the harm identified above. Personal circumstances can rarely, if at all, be given weight in any assessment of planning merits.

#### Residential Amenity:

A previous Planning Inspector described the relationship between the application property and its neighbours as "...a relatively intimate area of gardens...". In response to concerns relating to overbearing and overlooking (or perceived overlooking) the applicant has sought to reduce the apparent scale of the dormer, and has introduced obscure glazing and non-opening windows. On balance, and with appropriate conditions, the proposal would have no significant adverse impact upon the amenities of neighbouring residential occupiers.

#### Conclusion:

The proposal fails to respect and reflect the prevailing character of the host property and the group of which it forms a part. Whilst it would, with appropriate conditions, have no significant adverse impact upon the amenities of neighbouring residential occupiers, such findings do not outweigh the harm identified above in respect of character and appearance.

## **RECOMMENDATION**

Refuse

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

1 The proposed dormer roof extension, by reason of its overall scale, design and situation, would appear as a discordant and obtrusive feature, to the detriment of the character and appearance of the dwelling and the group of which it forms a part, and contrary to Policies D.2 and D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies) 2007.

## **PLANS LIST:**

This decision relates to drawings no. 003 and 005, received 9th.July 2012.

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<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	<b>24th October 2012</b>
<b>RESPONSIBLE OFFICER:</b>	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)
<b>TITLE:</b>	<b>APPLICATIONS FOR PLANNING PERMISSION</b>
<b>WARDS:</b>	ALL
<b>BACKGROUND PAPERS:</b>	
<b>AN OPEN PUBLIC ITEM</b>	

AGENDA  
ITEM  
NUMBER

**BACKGROUND PAPERS**

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

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

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

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

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

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

## INDEX

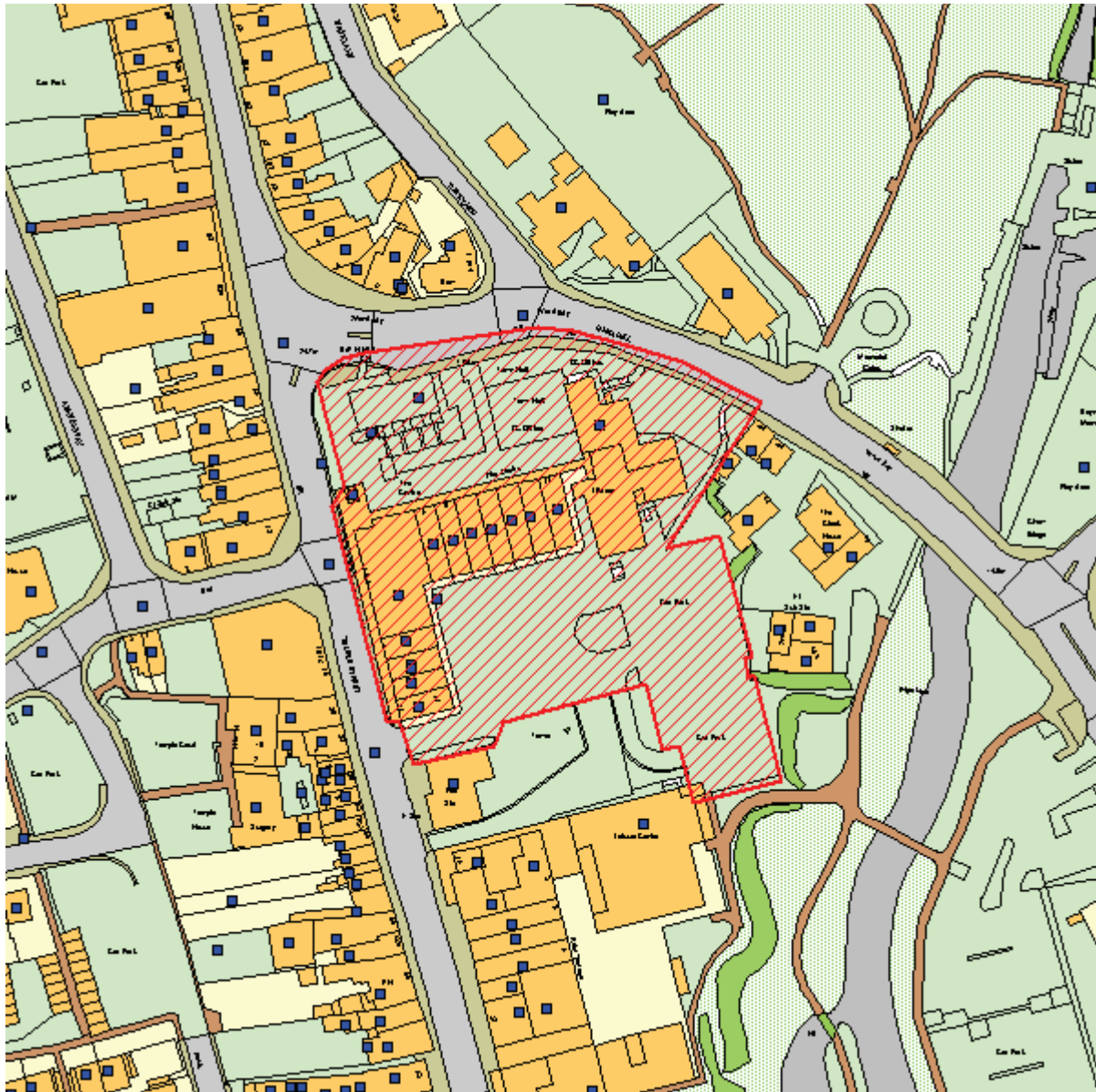
ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	12/00972/REG04 7 June 2012	Bath & North East Somerset Council Town Hall, The Centre, Keynsham, Bristol, Bath And North East Somerset Erection of new buildings to provide offices, library, one stop shop, retail with associated highway works; new public realm works and landscaping following the demolition of all the buildings currently on site (excluding the multi storey car park, which will be extended)	Keynsham South	Mike Muston	PERMIT
02	12/02848/FUL 28 August 2012	Bathweston One Limited & Bathweston Two Limited 12 High Street, Upper Weston, Bath, Bath And North East Somerset, BA1 4BX Erection of rear ground floor extension (totalling approximately 206 sq metres) to create an enlarged retail unit together with rear first and second floor extensions to create 6no 2-bed apartments and alterations to existing shop fronts at 12-20 High Street, Weston	Weston	Alice Barnes	Delegate to PERMIT
03	12/03082/AR 10 September 2012	Roman Candles Of Bath Ltd Roman Candles, 5 Terrace Walk, City Centre, Bath, BA1 1LN Display of external fascia and hanging signs (regularisation) and removal of existing light fittings and associated works.	Abbey	Richard Stott	REFUSE
04	12/03095/LBA 10 September 2012	Roman Candles Of Bath Ltd Roman Candles, 5 Terrace Walk, City Centre, Bath, BA1 1LN External alterations for the display of external fascia and hanging signs (regularisation) and removal of existing light fittings and associated works.	Abbey	Richard Stott	REFUSE



05	12/03731/FUL 23 November 2012	Mr Richard Curry Parcel 1100, Compton Martin Road, West Harptree, Bristol, BS40 6EQ Change of use of land from agricultural (Sui Generis) to the keeping of horses (Sui Generis) and erection of stables and formation of replacement access and track (resubmission).	Mendip	Tessa Hampden	PERMIT
06	11/01772/FUL 16 August 2011	Linden Homes Western Ltd Site Of Alcan Factory, Nightingale Way, Midsomer Norton, BA3 4AA, Residential-led mixed use redevelopment comprising of the erection of 169no. dwellings, community facilities, offices, town centre link, formal green space and associated works.	Westfield	Gwilym Jones	PERMIT

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

**Item No:** 01  
**Application No:** 12/00972/REG04  
**Site Location:** Town Hall, The Centre, Keynsham, Bristol



**Ward:** Keynsham South      **Parish:** Keynsham Town Council      **LB Grade:** N/A  
**Ward Members:** Councillor Alan Hale      Councillor Kate Simmons  
**Application Type:** Regulation 4 Application  
**Proposal:** Erection of new buildings to provide offices, library, one stop shop, retail with associated highway works; new public realm works and landscaping following the demolition of all the buildings currently on site (excluding the multi storey car park, which will be extended)

<b>Constraints:</b>	Agric Land Class 3b,4,5, City/Town Centre Shopping Areas, Conservation Area, Flood Zone 2, Flood Zone 3, Forest of Avon, Housing Development Boundary,
<b>Applicant:</b>	Bath & North East Somerset Council
<b>Expiry Date:</b>	7th June 2012
<b>Case Officer:</b>	Mike Muston

## REPORT

### Update

The application was deferred from the 29 August 2012 meeting, with Committee resolving that significant changes be made to the scheme, in consultation with the Keynsham Community Focus Group, to:-

Roof design of the main building  
Roof design of the library/one stop shop building  
External materials on both buildings

A series of meetings with the Focus Group have taken place, with various options for each of the three areas considered. The Focus Group agreed a revised roof design, featuring a split roof, for the main building. A number of alternative roof designs were considered by the Focus Group for the library/one stop shop building. However, the Group felt strongly that the original flat roof design for this building worked far better than any other option. Materials were also considered, with the Focus Group agreeing that the brass/gold cladding material should be retained, but in smaller quantities. The Group also asked if banding could be introduced into the stone wall fronting Bath Hill, similar to that in St John's church. This has been done.

The changes that have taken place since the application was last reported to the Committee can be summarised as:-

Split roof introduced to the three roofs of the main buildings, reducing the height of the building at eaves level facing Bath Hill by 4 metres, and introducing more variety into the east and west end elevations  
Roof pitches on the three main roofs increased to 15 (main roof) and 25 (smaller area of split roof) degrees  
Library/one stop shop building reduced in height by 0.5 metre  
Area of brass cladding facing Bath Hill reduced by 45%, with contrasting panels added  
Area of gold cladding on smaller building facing Temple Street significantly reduced, with contrasting panel added  
Gold detailing on Bath Hill elevation of main building removed  
Bath Hill Blue Lias stone wall to incorporate stone banding to echo the design of St Johns Church  
Bath Hill retail units set further back from Bath Hill resulting in wider footpath  
Balcony overhangs reduced

Consultations have been sent in relation to these revisions, and any responses will be reported to Committee in the update report or at Committee for any later responses. It is considered that the Committee's resolution from the August meeting has been fulfilled and

that the design of the scheme has improved as a result. The recommendation for permission to be granted remains as before, and the report to the August Committee is reproduced below.

## The Site

The application site lies at the southern end of Keynsham's High Street and is bounded by Bath Hill to the north and Temple Street to the west. To the south is the fire station site and beyond that the Council's Riverside offices. To the east the land falls away to the River Chew and the surrounding park.

The site is within the defined town centre and the Keynsham (High Street) Conservation Area.

## The Proposal

The application proposes the complete redevelopment of the site. All the existing buildings on site would be demolished, with the exception of the multi-storey car park, which would be extended. The proposal would provide the following new floorspace on the site:-

Offices (Use Class B1)	6,300 sq m
Library/One Stop Shop (Use Class D1)	1,180 sq m
Town centre uses (Use Classes A1, A2, A3, A4, A5)	1,940 sq m

The proposal would provide new Council offices, a free-standing library/one stop shop and units available for appropriate town centre uses. These would include a food store that would act as an anchor store at this end of Keynsham town centre. New areas of public realm would be created, including a central market square, a new street between the office and retail buildings and the library/one stop shop (leading towards the fire station and Riverside sites) and a new street leading through the development and down the hill to Bath Hill. The existing multi-storey car park on site would be retained and extended to provide car-parking to serve the scheme.

The main office/retail buildings are proposed to be three blocks of four storey buildings (3 floors of offices over a ground floor of town centre uses), with mono-pitched roofs facing south (accommodating arrays of photo-voltaic panels), linked by lighter weight narrower sections with flat roofs. The free-standing library/one stop shop would be a two storey flat-roofed building. The main materials proposed would be a combination of blue lias stone, brass cladding and copper aluminium cladding. Two additional floors would be added to the top of the existing multi-storey car-park. The car park itself would be refurbished and provided with new timber infill cladding between floors.

## RELEVANT HISTORY

None relevant to the current proposal, other than to note that the site was completely redeveloped with the existing buildings on site in the 1960s.

## SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Keynsham Town Council - in response to the latest revised plans, commented as follows:-

The Planning and Development Committee support the amended plans (revision of the building line resulting in a wider footpath going up Bath Hill) pursuant to the current application.

Previously made the following comments:-

Are very much in support of the redevelopment of this site but do have some concerns. These are primarily as follows:

Design - feel that the proposed building does not reflect the character of the old market town. It is too boxy and square.

Deliveries - consider that delivery drivers may damage the proposed trees whilst making deliveries and would like to see restrictions on the timing of deliveries (Note - a condition is proposed to agree a Delivery Management Plan, which would restrict the timings of deliveries).

Play area - the TC do not wish to see a play area and feel it could lead to problems (Note - the "play area" is now intended to be an informal landscaped area).

Parking - concerned that the post Tesco parking survey may not be comprehensive and would like to see later data on parking in Keynsham.

Highways - the TC would like to be involved in discussions regarding all highway issues.

Environment Agency - No objections and recommend conditions

Wessex Water - No objections and recommend a condition

English Heritage - Understands that the proposal is part of a wider site aimed at regenerating the town centre and accepts that given the development proposed on site, it is not surprising that the outcome is challenging. Accepts that much will depend on the scale of the public benefits that flow from the proposal. In relation to the scheme, comments as follows:

The applicant accepts that the scheme will cause harm to the conservation area but maintains that this is less-than-substantial rather than substantial. In replicating some of the defining characteristics of the existing development on the site the impacts of the existing scheme will also be replicated. In that the original scheme involved a substantial change in historic character so will the proposed, and while substantial change does not automatically equate to substantial harm there is such harm in this case by the very nature of the proposals relative to the historic character and appearance of the conservation area. It is fair to observe that the site was included in the conservation area when it was designated in 1997 and that it forms part of the area's character. The absence of a character appraisal at that time makes it difficult to speculate about the reasoning behind its inclusion but there is agreement that its contribution is negative and again this must therefore be seen as substantially negative. Perpetuation of harm through physical change, even without causing greater harm, still falls short of enhancement and compliance with policy 137 of the NPPF.

Concludes by maintaining the view that the proposals will cause substantial harm to the character and appearance of the conservation area.

Police Crime Prevention Adviser - No objections

Environmental Protection - No objections and recommend a condition

Contaminated Land - No objections and recommend conditions

Environmental Services - Objected to the originally submitted Air Quality assessment as incomplete - no comments received at the time of drafting this report on the subsequently submitted complete version.

Highways - were initially concerned about some of the proposals for altering the highway network in Keynsham. In response to the revised proposals, which no longer include changes to the wider network, comment as follows:-

Traffic Impact - notes that discussions have been on-going with the applicants' agents to agree transport modelling. Points out that the modelling shows the likely impact of traffic generated on the local and wider network, and is a mechanism by which a professional judgement can be made of the effect of these increased movements. It is important to bear in mind that these assessments consider the future movement of all traffic around the highway network (with appropriate growth factors added) not just that resulting from development. Notes that the modelling gives the following results:-

2014, with Riverside remaining as offices – queues and delays will result during the morning peak hours on Bath Road, Ashton Way and High Street. During the afternoon peak delays also appear on Avon Mill Lane, Bristol Road and Station Road

2014, with Riverside developed as residential – in the morning nominal queues form on Bath Road and High Street, which dissipate fairly quickly, with a similar impact during the afternoon peak hour.

All assessments of the 2022 scenario showed the highway network being significantly adversely affected, although the residential option less so.

Concludes on traffic impact that in terms of the impact on the highway network there would be no objection to the proposals if the Riverside building residential development could be guaranteed, which it cannot be. There is greater risk of congestion and delay with this building remaining in its current use as offices. Depending on the future of the Riverside building, immediate mitigation for the development may not therefore be considered necessary, but in any scenario it will be required in the medium/long term, especially when other significant development in the area is considered. The applicant has therefore committed a sum of up to £700,000 towards future town centre traffic management, public realm and sustainable transport infrastructure. Mitigation in the form of a contribution will allow a more holistic approach to improvements the town centre and beyond, as the on-going impact of the development is monitored possibly in the form of a wider master plan and in the context of other committed and future significant development in the town.

Travel Plan - The Travel Plan submitted has been worked-up in liaison with Transportation Planning colleagues and is considered by them to be acceptable and compliments the Bath and North East Somerset Council Corporate Travel Plan currently being developed.



A condition is recommended to ensure the development operates in accordance with the approved Travel Plan.

Parking - Consideration of this issue is once again greatly influenced by the future use of the Riverside building. If it remains as offices, the T.A. shows that there is likely to be insufficient appropriate capacity i.e. while overall parking capacity in Keynsham is shown to be available, this does include short-stay parking which will not be suitable for people working in Keynsham. Should Riverside be developed as residential accommodation however, with integral parking, sufficient public parking is available.

The Local Plan recognises that the availability of off-street parking can encourage use of alternative transport, and together with an effective Travel Plan and improved travel infrastructure being considered both locally and regionally, it is possible to minimise the demand for parking, and the issue of capacity is addressed to some degree. There is also the intention to create additional parking at the existing Civic Centre car park as part of this application, by the introduction of a new deck which will increase its capacity to 189 spaces. This will obviously assist in addressing the increased demand.

Recommends that on-going monitoring and review is undertaken (surveys etc.) post development, to allow any subsequent amendments to on-street parking Traffic Regulation Orders to be considered, all to be funded by the applicant. Notes that the Local Plan states that developers will not be required to provide any more off-street parking than they themselves wish, unless there are implications for on-street parking. This review will ensure any resulting on-street parking implications are addressed.

Layout of car park - No objections.

Site layout - The internal layout of the public space has been designed to allow maximum permeability around and through the development to areas beyond. Ramping has been designed to be DDA compliant. It would appear there are elements of the existing 'public highway' which may become redundant as a result of the development, as well as areas which will require to be adopted as new highway. The exact extent and status of these areas have not yet been fully decided however this is an issue which can be discussed in detail following any consent granted, and appropriate provision made for stopping-up, adoption etc.. A condition has been recommended to ensure the appropriate design and approval processes are entered into, and the appropriate access rights and future maintenance provision ensured. There are no existing Public Rights of Way permanently affected by this development. Temporary provision may be required to a PROW to the south of the site during the construction period. Servicing and deliveries for the development as a whole will be taken from the car-park access, off Temple Street to the south of the site. It has been demonstrated that vehicles can manoeuvre adequately and is therefore considered acceptable. Notwithstanding this recommends a Delivery Management Plan be conditioned with any consent granted to allow detailed consideration of the timing and control of deliveries.

Safety audit - A stage 1 Safety Audit has been undertaken to assess the implications of the marginal changes to the local road layout, and the access changes to the Civic Centre car park (which include all servicing traffic for the development). The designer's response to this is considered appropriate.

Highways Drainage - Raise no objections.

Conclusions - In conclusion, the two fundamental issues affecting a highways recommendation in this instance (highways impact and parking capacity) are dependent on the future of the Riverside building (i.e. offices or residential). Should a residential development take place, there is reasonable certainty that the impact will not be significant. There is less certainty of this should the use of this building remain as offices, however as detailed above, the mitigation presented by the applicant in this regard will have a positive impact. The guidance of the National Planning Policy Framework must be borne in mind in this regard where it states "development should only be prevented or refused on transport grounds where the residual cumulative impacts are severe". Should the Development Control Committee be minded to grant consent, conditions are recommended, as well as the securing of the £700,000 contribution detailed above.

Highways Drainage - Raise no objections

Urban Design Officer - Principle issues have been resolved in relation to massing and broad use. Outstanding issues remain relating to connectivity to wider regeneration objectives, building design details and, public realm design.

Considers that the scheme enhances opportunities for regeneration of Riverside, but lacks clear commitments and connectivity to The High Street, that the building proposals enhance the character of the conservation area but are compromised by unfortunate detailing and that the public realm design is largely well structured but overly complex in specification and badly related to the conservation area. Conditions should be placed on the submission of all façade and paving materials.

Conservation Officer - In the words of the National Planning Policy Framework great weight needs to be given to the objective of conserving designated heritage assets. As the Conservation Area is a designated asset any harm to it would require clear and convincing justification. The NPPF also requires decision-makers to look for opportunities to enhance or better reveal the significance of assets. Conservation of assets is one of the core principles of the NPPF and only development that demonstrates that it achieves this objective can be said to comply with the presumption in favour of sustainable development.

Considers that the supporting papers included in the submission go a good way towards analysing the historic context of the site but that it is not entirely clear how the context has been carried forward into the development proposals. Feels something of a divergence seems to have developed in the place-making process between the historic context of the site and the proposed development. It is acknowledged that the height of the buildings has reduced since master plan stage and that a nod to the past has been given by splitting the three main office blocks into three component parts. However, fears there is a risk that the large scale blocks will fail to truly reflect the finer grain that characterises the essence of Keynsham as a market town. Unclear as to why tall buildings on high ground can be said to preserve or enhance the character of Keynsham as a market town. The proposed wide span, mono-pitched roofs in particular do not fit neatly with the established vernacular of the conservation area. The proposed library building also seems to represent something of a lost opportunity. It neither matches the finesse demonstrated by many of the existing buildings in the town centre, nor does it have the architectural presence of a traditional civic building which might control the proposed new market place. Thinks the proposals may represent a lost opportunity to stitch back the grain, rhythm, and



historic streetscape of the town that was severely weakened by the last round of comprehensive redevelopment.

Ecological Officer - An ecological survey has been submitted. The main ecological interest is the presence of a Lesser Horseshoe Bat roost in the sub-floor void of the multi-storey car park. The ecological assessment is based on this area being retained and unaffected by the proposals. However it is not clear from the submitted plans that this will be the case. This must be clarified before any decision to permit. (Note: such clarification has now been received).

Economic Development Officer - Supports the application for the following main reasons:

The redevelopment of the site should act as a catalyst for refurbishment on neighbouring sites such as the Riverside and the Fire Station as it is in line with the ambitions of the Core Strategy and the Keynsham ERDP. The proposal creates the opportunity for new retail units that are larger than that provided currently on the High Street. This will create an anchor for the Southern end of the High Street to counter balance the supermarket at Charlton Road. Activity will increase through Temple Street and promote footfall which is positive for businesses located in the area. The proposal will modernise the public services in Keynsham which include the Library and a new One Stop Shop.

The proposal will create modern, quality, efficient office space that starts to put Keynsham on the map as an employment destination. The proposed scheme will provide a gross increase of 6,500sq.m of offices, 1,940sq.m of retail and 1,200sq.m of civic centre uses. This aligns with the Core Strategy and will promote Keynsham as a commercial location. The displacement of council workers from Bath creates greater business for the High Street as there will be a larger influx of people in Keynsham on a day to day basis. As a result this will increase employment opportunities elsewhere in the town centre through greater demand for goods and services.

The retail aspect of the proposal as the various sized retail units will attract national and regional retailers as well as providing existing retailers an opportunity to expand. This will increase the popularity of Keynsham as a shopping destination, preventing leakage of expenditure to areas such as Longwell Green and Brislington. The proposal will support the wider retail on the High Street and provide better retail circuits and movement through the town centre.

The improvements to the public realm as Keynsham's public realm is poor. This proposal begins to address this by creating a market square that provides a flexible space and an area for events. This would encourage more activity in the town centre potentially for start-ups and market stalls which will draw more people in to the town centre.

Landscape Officer - Raises no objections subject to conditions. However, is concerned that some of the details are over complicated and may not work in practice.

Arboricultural Officer - all existing trees will be removed to accommodate the proposal and this is made clear in the drawing showing trees lost and retained. Has no objection subject to meaningful replacement planting but does not believe that the landscape master plan achieves this or provides any enhancement.

Planning Policy Officer - Broadly supports the scheme but raises a few concerns:-  
Still concerned about the stretch of Bath Hill running between the retail units and the junction at the top of Bath Hill with High Street/Temple Street. This stretch of frontage is still very much blank and questions why the proposed tree planting that was shown at pre-application stage has not made it into the final planning application (trees were originally proposed along the whole of Bath Hill) - Note - the trees could not be planted in this location because of the proximity of underground service runs.  
Despite repeated requests for the applicant to supply a BREEAM pre-assessment alongside the planning application, supporting the Council's submitted Core Strategy, this has not been completed. Instead, great efforts have been made to produce a bespoke sustainable construction assessment, which the applicant is confident is equivalent to a BREEAM assessment in terms of process and targets. Acknowledges the case that has been made in terms of producing an equivalent assessment, but still believes that the focus for the development is rather narrow and focused on energy efficiency, and not on other sustainability principles as would be evidenced by BREEAM.  
Pleased that previous comments have been taken on board and that the development has been redesigned to be connected to a district heating network in the future (which should be incorporated into the Riverside redevelopment as a priority).  
Suggests the applicant considers the inclusion of a green (sedum) roof on the currently blank terrace.  
Seek clarification that a clock is included in the development - Note - a clock is proposed, as requested by Planning Policy, but not a clock tower, as some representations would like to see.

Archaeological Officer - Notes that a desk-based archaeological assessment was submitted as part of the current application. It provided a good assessment of the below ground archaeological resource, indicating the substantial survival of intact medieval and post-medieval deposits and structures across the site, including standing walls in the basement of the town hall. On the basis of this assessment and in response to advice from the Council's Archaeological Officer the applicants commissioned an archaeological field evaluation of the site (Avon Archaeology, June 2012), which has now been submitted as part of the current application. Agrees with the overall conclusions of the archaeological evaluation. Whilst no deposits of national importance have been identified on the site, those that do survive are nevertheless of regional and local importance and as such should be preserved by record (archaeologically excavated and published) in advance of any development of the site. Whilst objecting to the proposed development's impact on the wider historic environment (conservation area and listed buildings), if permission were granted would recommend that archaeological conditions are attached.

On the wider impact, shares English Heritage's concerns. Considers it essential that a full understanding of the historic environment character and context informs the redevelopment of this important site at the heart of the historic market town. Feels that redevelopment of this area represents an opportunity to draw inspiration from the historic town plan, its medieval burgage plots and lanes, in regenerating this lost part of Keynsham. Also notes that the Design and Access Statement (DAS) submitted at pre-application stage contained a section on the historic environment, which provided a good baseline assessment of the built environment, conservation area and below ground archaeology. This included a useful analysis of the historic town plan, statements on the significance of the historic grain of town, local vernacular architecture, building materials, and the need to enhance the character of the conservation area. The submitted DAS

omits much of this and instead appears to be driven by the client brief rather than drawing inspiration from the historic grain of the town, or from local vernacular styles to enhance of the character of the conservation area. (Note - the HHES was submitted to replace some of the analysis in the pre-app stage DAS on the historic environment, whilst the below ground archaeology is dealt with in the submitted desk-based archaeological statement. It is though true that some of the content of the pre-app stage DAS no longer features).

24 letters of objection and 15 of comment received raising the following main points:

The design of the proposed buildings is totally out of keeping with Keynsham as a historic market town.

The blocks are just as drab and soulless as the buildings they are meant to replace.

Keynsham deserves better than this - if Bath's shopping centre can be redeveloped sensitively why can't Keynsham's.

This scheme largely involves facilities which Keynsham will never use fully.

There is insufficient parking, too many retail outlets which are already covered elsewhere in the town and too little regard for the character of Keynsham.

The design of the proposed new buildings is horrible, a throwback to the 1970s.

The road infrastructure or parking facilities will not cope with the proposals put forward and will only create confusion to both pedestrian and motorist, especially at the Bath Hill/Temple Street junction.

Will cause increasingly poor air quality.

The proposal for parking facilities for the office workers, accessed from Temple Street, is complete madness as this would bring additional unnecessary traffic through the shopping area.

Lost opportunity in not providing a large hall suitable for local groups to use

Would like to see another free-standing town clock

Distressed by the apparently arbitrary design of the outdoor space, which seems counter intuitive and almost deliberately confusing.

The proposed buildings will not weather well and will look an eyesore in a few years' time.

The car park recladding would be in unsuitable materials.

The proposed landscaping is too formal.

Would like to see more trees and greenery included.

Would like to see trials before any changes to the highway network put in place.

In addition, a petition has been submitted by the Keynsham Civic Society, gathered at the Farmers' Market of 14 July 2012. 335 people have put their names to a statement "we the undersigned object to the design of the new Keynsham Town Centre buildings". 5 people have put their names to a statement "we the undersigned support the design of the new Keynsham Town Centre buildings".

## **POLICIES/LEGISLATION**

### **LOCAL PLAN**

Bath & North East Somerset Local Plan (including Minerals and Waste policies) 2007.  
Policies relevant to this site in the Local Plan are:

- D.2 General Design and public realm considerations
- D.4 Townscape considerations
- ET.2 Office development

CF.2	New community facilities
ES.1	Renewable energy
ES.2	Energy conservation
S.1	Shopping centres
S.2	Retail development in town centres
T.3	Promotion of walking and use of public transport
T.24	General development control and access policy
T.26	On-site parking and servicing provision
NE.5	Forest of Avon
NE.9	Adjoins Nature Conservation site
NE.12	Natural Features
BH.2	Listed buildings and their settings
BH.6	Development within or affecting Conservation Areas
BH.12	Archaeology

## CORE STRATEGY

The Council has prepared a draft Core Strategy, which has been the subject of an Examination in Public. A letter has been received from the planning inspectorate (PINS), indicating that the Strategy cannot be found sound in its current form. This reduces the weight that can be attached to the Strategy. However, two area and site specific policies are particularly relevant to this application and neither is the subject of the above concern from PINS. They therefore attract some weight in the decision-making process. These policies are:-

KE1	Spatial Strategy for Keynsham
KE2	Town centre/Somerdale Strategic Policy

Policy KE1 includes the following relevant elements:-

Plan for about 1,500 net additional jobs between 2006 and 2026

Make provision for an increase in office floorspace: from about 20,000m<sup>2</sup> in 2006 to about 30,000m<sup>2</sup> in 2026

Enable development which supports the town to continue to function as an independent market town. The scale and mix of development will increase self-containment and help develop the town as a more significant business location

Provide larger retail units in the town centre to attract a more varied mix of retailers

Provide for improvements to public transport and enhance connectivity between walking, cycling and public transport routes

Implement a reviewed Parking Strategy

Enable renewable energy generation opportunities including a new district heating network within Keynsham, potentially anchored by the Centre/Town Hall redevelopment

Policy KE2 includes the following relevant elements:-

Key Opportunities include to establish an integrated and sustainable town centre. There are major development opportunities on the High Street and on the edge of the town centre which can attract new jobs, shops and more visitors. These include The Centre/Town Hall and Riverside.

Scope and Scale of Change includes to make provision for (amongst other things) new office development at the Centre/Town Hall site including a new library, retail units at street level, leisure facilities and residential dwellings, some larger retail units to provide space for high quality, national retailers which complement the existing successful independent retailers. diversification of the employment base in order to offer greater opportunities for the resident population, a District Heating Network, with potential identified at Somerdale and the town centre.

Placemaking Principles include to reinforce and enhance the historic character and qualities of the Conservation Area ensuring local character is strengthened by change. The linear pattern and fine grain of the High Street should be maintained and enhanced, improve the quality of the public realm including provision of a new civic space, enhance the town centre to make it a more vibrant and attractive area, enabling all members of the community to enjoy it over a longer period of the day, retain and enhance the leisure, open space, sport and recreation function of the town centre and Somerdale, enhance the rivers, park and green spaces and link them together to form an improved green infrastructure network (linking the town internally and to its environs), provide new employment opportunities that help establish Keynsham as a more significant business location, diversifying the economy, and providing jobs, especially in the Higher Value Added sectors, improve the management of traffic through the town centre and enhance public transport provision, create / enhance links from Keynsham to the surrounding national and regional cycle networks, improve air quality in the town centre as part of the Air Quality Management Area.

## NATIONAL PLANNING POLICY FRAMEWORK

The National Planning Policy Framework (the Framework) was published in March 2012 and superseded much previous Government guidance. It contains a number of paragraphs that are relevant to the application and these are summarised below:-

### Presumption in favour of sustainable development

The Framework introduces a presumption in favour of sustainable development. This is defined as being made up from economic, social and environmental elements. It says that, when taking decisions on applications, this presumption means approving development proposals that accord with the development plan without delay. Where the development plan is absent, silent or relevant policies are out of date, it means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or where specific policies in this Framework indicate development should be restricted.

### Core Planning Principles

Amongst the core planning principles set out in the Framework are that planning should:-  
proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs

always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings



take account of the different roles and character of different areas, promoting the vitality of our main urban areas

support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change, and encourage the reuse of existing resources, including conversion of existing buildings, and encourage the use of renewable resources (for example, by the development of renewable energy)

encourage the effective use of land by reusing land that has been previously developed  
promote mixed use developments, and encourage multiple benefits from the use of land in urban and rural areas

conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations

actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable

## Economic Growth

Paragraph 19 of the Framework helps explain the importance the Government places on securing economic growth. This states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

## Town Centres

The Framework also says that local planning authorities should, in relation to town centres:-

recognise town centres as the heart of their communities and pursue policies to support their viability and vitality allocate a range of suitable sites to meet the scale and type of retail, leisure, commercial, office, tourism, cultural, community and residential development needed in town centres. It is important that needs for retail, leisure, office and other main town centre uses are met in full and are not compromised by limited site availability where town centres are in decline, local planning authorities should plan positively for their future to encourage economic activity

## Good Design

The Framework continues the theme from previous Government guidance that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

It says that planning decisions should aim to ensure that developments:-

will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development

establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit

optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks

respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation are visually attractive as a result of good architecture and appropriate landscaping

The Framework goes on to say that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

It also says that local planning authorities should not refuse planning permission for buildings or infrastructure which promote high levels of sustainability because of concerns about incompatibility with an existing townscape, if those concerns have been mitigated by good design (unless the concern relates to a designated heritage asset and the impact would cause material harm to the asset or its setting which is not outweighed by the proposal's economic, social and environmental benefits).

### The Historic Environment

The Framework says that, in determining planning applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

It says that, when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, it says that local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm. It goes on to say that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Paragraph 137 of the Framework (referred to by English Heritage in their response) says that local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

The Framework also points out that not all elements of a Conservation Area will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area should be treated either as substantial harm or less than substantial harm, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area as a whole.

### **OFFICER ASSESSMENT**

## MAIN ISSUES

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

- The principle of the development
- The regeneration of the town centre
- The impact on the historic environment
- Highway issues
- Design issues
- Energy efficiency and carbon footprint
- Other benefits of the proposal

## PRINCIPLE OF DEVELOPMENT

As set out in the Policy section above, a development along the lines of the one envisaged here was specifically supported in the draft Core Strategy (policies KE1 and KE2). Policy KE2 is seeking new office development at the Centre/Town Hall site including a new library, retail units at street level, leisure facilities and residential dwellings, and some larger retail units. The new office development, library and retail units, including some larger retail units, would all be provided by the application scheme. Residential development is not proposed as part of this application, but could come forward as part of the wider regeneration proposals centred on this part of Keynsham, which would be possible as and when the Council's Riverside offices are vacated.

The proposal is in accordance with Policy ET.2 of the Local Plan, in that it proposes a net gain in office floorspace within the central area of Keynsham. It will be in accordance with Policy S.2, which supports retail development in Keynsham town centre, provided it is of a scale and type consistent with the existing retail function of the centre and will be well integrated into the existing pattern of the centre. It is considered that both of these criteria are met. The proposal complies with Policy CF.2, in that it will include the development of community facilities within a main settlement.

The proposal therefore has support in principle both from the development plan (in the form of relevant Local Plan policies) and from an emerging plan (the draft Core Strategy). The principle of the proposal also has support from paragraph 19 of the Framework, which urges that significant weight should be placed on the need to support economic growth through the planning system.

It is concluded that the principle of the proposed development is acceptable.

## REGENERATION

The proposal contains a number of elements that should aid the regeneration of Keynsham. These are considered below.

It would enable a large number of Council staff to be retained in and to move to Keynsham. This increase in workers in the town should have a very positive effect on the day-time economy of the town, by providing a large number of potential additional customers for existing and new businesses.



As noted by the Economic Development Officer in his comments, the redevelopment of the site should act as a catalyst for refurbishment on neighbouring sites such as the Riverside and the Fire Station, as well as creating the opportunity for new retail units that are larger than that provided currently on the High Street. This will create an anchor for the southern end of the High Street to counter balance the supermarket at Charlton Road. Activity should therefore increase through Temple Street and promote footfall, which is positive for businesses located in the area.

The new retail and other town centre units should attract national and regional retailers, as well as providing opportunities for existing retailers in the town to expand. All of this should help to reduce leakage of trade into other nearby centres such as Longwell Green and Brislington.

The proposal will provide new modern civic facilities in the centre of Keynsham, supported by new civic and public spaces. As noted by the Economic Development Officer, this would encourage more activity in the town centre and provide opportunities for business start-ups and market stalls, which will hopefully draw more people into the town centre.

Taken together, it is considered that the proposal would have a very beneficial impact on the regeneration of both the town centre and Keynsham as a whole. As urged by the Framework, it is considered that substantial weight should be afforded to this significant effect of the scheme.

## HISTORIC ENVIRONMENT

The site is located within the Keynsham (High Street) Conservation Area, which dates from 1997. Documents from that time show that the boundary of the Conservation Area originally excluded the site, along with the southern half of High Street. A report to the then Planning, Transportation and Environment Committee of 17 July 1997 provides some limited analysis of the character and appearance of the Conservation Area at that time and the rationale behind its designation. The positive elements listed in this analysis do not include any in the area around the application site. The report concludes that the Civic Centre is included (in the Conservation Area) as it "identifies the end of the High Street and is a prominent site". This strongly suggests that, at the time of its designation, the application site was not seen as, in the words of the Framework, making a positive contribution to the significance of the Conservation Area.

Regardless of the reasons for designating a site within a Conservation Area, the Council has a statutory duty to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area, when considering applications within it. The submitted Heritage and Historic Environment Statement (HHES) concludes that the existing development on the application site makes a negative contribution to the Conservation Area. English Heritage, in its consultation response, agrees and suggests that the contribution made by the existing buildings on site should be seen as substantially negative.

The submitted HHES concludes that, cumulatively, the impact of the application proposal on the High Street Conservation Area and its setting is assessed as being a slight negative effect on the historic environment, due to the new development's increased scale

and massing and the harm it will cause to the historic street pattern, outweighing still important positive impacts.

English Heritage has reached a different conclusion, arguing that, although the original (existing) scheme involved a substantial change in historic character, so would the proposed, and while substantial change does not automatically equate to substantial harm there is such harm in this case by the very nature of the proposals relative to the historic character and appearance of the conservation area. It concludes by arguing that the proposals would cause substantial harm to the character and appearance of the conservation area.

It has of course to be accepted that the Conservation Area was declared with the existing buildings already on site. Any assessment of the impact of the current proposal must therefore compare the impact of what is now proposed with the impact of the existing development on site. English Heritage accepts that the existing development has a substantially negative impact on the Conservation Area. It is accepted that the proposed development cannot be seen to comprise, as stated in paragraph 137 of the Framework, development that preserves those elements of the setting that make a positive contribution to (which it is argued this site does not) or better reveals the significance of the asset (the Conservation Area, which it is accepted that this site does not). However, the lack of a positive contribution does not necessarily result in substantial harm to the Conservation Area, even if the proposal is one, such as this one, where substantial change is proposed.

It is necessary at this point to consider why the site is within the Conservation Area. As stated above, this appears to be because it identifies the end of the High Street and is a prominent site. The proposal would provide a more effective end to the High Street than the existing 1960s development and would be more prominent. On that basis, it would still fulfil the function identified when the Conservation Area was declared. The increased massing of the new buildings compared to those on site now would make the development more imposing within the Conservation Area than the existing buildings. However, on balance, it is considered that the application proposal would cause less than substantial harm to the Conservation Area, as concluded within the submitted HHES, rather than substantial harm, as concluded by English Heritage.

Having said this, it is important to be aware that both forms of harm are unacceptable, unless they are outweighed by public benefits. They both mean that the development neither preserves nor enhances the character and appearance of the Conservation Area. The main difference is that, if the harm is considered to be substantial, as argued by English Heritage, the public benefits require to outweigh this harm must themselves be substantial. The matter of whether the public benefits outweigh any harm caused by the proposal is considered further later in this report.

The submitted HHES identifies four Grade II listed buildings, the settings of which will be affected by the proposal. These are the Temple County primary school to the north of the site, 64/66 High Street and 2 Temple Street, both to the north-west of the site, and the Trout Tavern, to the south-west of the site. The report concludes that the setting of 2 Temple Street would be enhanced, whilst the proposal would have a neutral impact on the setting of the Trout Tavern.

The report concludes that the proposal would have a negative impact on the settings of 64/66 High Street and the Temple County primary school. In the case of the Temple County this effect would be moderate, whilst the negative impact on the setting of 64/66 High Street would be slight.

The analysis in the HHES on the impact on the settings of the listed buildings appears robust and its conclusions are accepted. The result is that a negative impact on the setting of two Grade II listed buildings must be weighed in the balance, as well as the harm to the Conservation Area identified above.

## HIGHWAYS

When the application was first submitted, it was accompanied by plans to change the way traffic moved through Keynsham town centre. Whilst not part of the application, the proposals were based on those changes going ahead. However, the Council's highways officers expressed reservations about many elements of those proposed highways changes. As a result, the proposals have been amended so as to no longer include changes to the wider highway network around Keynsham. The impacts on highways have now been calculated assuming no major changes in the highway network.

The conclusion from the Council's highways officers is that the two fundamental issues affecting a highways recommendation in this instance (highways impact and parking capacity) are dependent on the future of the Riverside building (i.e. offices or residential). Should a residential development take place, there is reasonable certainty that the impact will not be significant. There is less certainty of this should the use of this building remain as offices.

The current lawful use of the Riverside offices is of course as offices. However, should the application proposals go ahead, the Council's staff that use Riverside would be relocated into the new Council offices included as part of this proposal. This would leave the Riverside offices empty. The applicants have submitted two independently commissioned reports that show that the demand for such office floorspace as Riverside provides in Keynsham is low and that the likelihood of anyone succeeding in letting Riverside as offices, even if they are refurbished, is very remote. In addition, in May 2012, Cabinet considered a report relating to the importance of the Riverside site to the regeneration of Keynsham and recommending that authority be given to use Compulsory Purchase powers, if necessary, to ensure the site came forward to be redeveloped and aid that regeneration. This recommendation was agreed.

It is not possible, as noted in the highways comments, to guarantee that Riverside will not be retained as offices, as that is its lawful use. Nor can a condition reasonably be attached to secure this. However, on the basis of all of the facts set out in the paragraph above, it is considered that the likelihood of Riverside being reoccupied as offices once the Council has vacated the building is remote. In the circumstances, it is accordingly considered that little weight need be attached to the highway issues that might arise were the application scheme to be fully occupied and Riverside were to be used again as offices.

The Council's intention is of course not to leave the Riverside site vacant but to redevelop it as part of the wider regeneration proposals, with the predominant use being residential.

This scenario has been considered in the submitted Transport Assessment and by highway officers in making their comments. Their conclusion is that on that basis, no harmful highway impacts would arise, subject to the contribution to off-site works of up to £700,000 and to suitable conditions. A letter has been received from the applicants' agent stating as follows:-

"I write to formally confirm that as part of the project budgets a figure of £700,000 has been put aside for off-site (outside red line) improvement works in terms of highway improvements, public access / public realm improvements in terms of a range of works covering: paving, crossovers, DDA ramps to Bath Hill East Car park, kerb readjustment, cycle links, signage etc. which is justified in planning terms to subsume the proposed development into the surrounding network to ensure continued highway safety for all users."

As this is a Council application, it is not possible to secure this by means of a Section 106 agreement (the Council cannot enter into a legal agreement with itself). However, it is considered that the contribution offered would meet the tests set out in relation to planning obligations and is both justified and necessary. Therefore, subject to this sum of money being made available as stated and to appropriate conditions, the proposal is acceptable in highways terms.

## DESIGN ISSUES

By far the most frequently repeated criticism in letters of representation has been in relation to the proposed design of the new buildings. There is no doubt that they are proposed to be overtly modern and this has provoked considerable reaction, much of it negative. However, it must be borne in mind that the scheme is aiming to fit a large quantum of floorspace on this site, and to include uses including new Council offices, a library/one stop shop building and a number of retail and other town centre units. At the same time, the design has been heavily influenced by a desire to produce a building with as low a carbon footprint as possible. The result is that the proposal features buildings of some scale and some presence, with a design that is of now, rather than looking to the past for inspiration.

The design has been the subject of change since the proposals were first prepared, prior to the submission of the application, in response to comments from the Council's officers and members of the public. As a result, the Council's urban design officer has concluded that previous issues in relation to massing and broad uses have now been resolved. However, in response to comments made by the urban design officer and landscape officer, it is acknowledged that elements of the design, particularly the details of materials and hard landscaping, may still need some clarification and amendment. This can be controlled to some extent by way of conditions.

The new buildings will be very prominent additions to the townscape of Keynsham. Despite suggestions in the representations, it is not accepted that they are similar to the 1960s buildings they replace. The shape of the buildings, with corners often not at right angles, their mono-pitched roofs, and their use of materials all serve to differentiate them strongly from the buildings they would replace. These features do however also mark them out as being very much modern buildings. However, much of their impact on the character and appearance of the area derives from their scale, which itself derives from

the quantity of development sought on the site to aid the regeneration of the town centre. It is not considered that the proposed design is in itself objectionable.

## ENERGY EFFICIENCY AND CARBON FOOTPRINT

The applicant states in the submitted Design and Access Statement that it has high sustainability aspirations for the development, particularly with regard to energy use and regeneration and are very keen that these flagship buildings should use state of the art design and methods to deliver the lowest possible carbon footprint in use. They state that the focus of the sustainability performance of the development will be on achieving exemplar levels of low energy and carbon emissions at design stage and during actual operation. Rather than following a prescribed accreditation procedure such as the BREEAM scheme, the design team have set sustainability targets specific to the needs of the scheme. The most challenging target for the office development is an A rated Display Energy Certificate (DEC) which requires more focus on the running of the building than an A rated Energy Performance Certificate (EPC).

The Council has a corporate target to reduce its operational carbon emissions by 30% (from a 2007/08 base) by 2014. Emissions from energy use in Council buildings make up a substantial part of the Council's operational carbon footprint. As a result, the focus on delivering a low carbon new town hall and civic centre in Keynsham, with a DEC rating of A, would play a significant role in helping to deliver the Council's challenging target.

The Planning Policy Officer has, as stated in their response, constantly sought a BREEAM assessment, which is set out as preferred within the draft Core Strategy. However, it is considered that the assessment undertaken by the applicant team does adequately demonstrate the sustainability credentials of the proposal. Indeed, it is considered that the fact that the design of the buildings enables this level of energy efficiency and low carbon footprint is a significant benefit of the scheme, and would act as an example to other developers in the future.

## OTHER BENEFITS

The applicant's agents have set out a list of benefits, which they believe the proposal would bring. These are set out below, along with comments as to how much weight could be attached in the balance that leads to a decision on the merits of the application.

1. Significant regeneration of the town centre and catalyst for wider regeneration as a whole. The regeneration of the town hall site will safeguard approximately 815 jobs, which is vitally important to support the projected housing growth of 1500 new homes and 1500 new jobs (700 homes is the target for Somerdale and the town centre) in Keynsham.

This is a significant benefit of the scheme, as highlighted in the comments made by the Economic Development Officer, and can be given considerable weight.

2. Delivery of the Core Strategy objectives to deliver Office floor space increases and large retail units (of 1,940 sq m) along with a scale and mix of development to increase self-containment of the town.



Compliance with the draft Core Strategy has been dealt with above and can be given weight.

3. The Retail Strategy 2008 sets out proposals to create 'conditions for success'. The development site does just that by providing a dumb-bell effect to the Tesco, which is essential for the footfall between the two anchor stores.

The provision of a counter-attraction at the southern end of High Street is seen as important in the development of retail floorspace in the town.

4. Deliver the Core Strategy objectives to develop major development opportunities in the town centre which can attract new jobs, shops and more visitors, specifically new office development at the Centre/Town Hall site including a new library, retail units, leisure and residential.

Compliance with the draft Core Strategy has been dealt with above and can be given weight.

5. The creation of improved opportunities to regenerate the adjoining Riverside and Fire Station Site, within the town centre in due course.

The part this site has to play in enabling the wider regeneration of this part of Keynsham, in particular the adjoining sites to the south, is an important factor. As well as being a benefit to which weight can be attached, it also provides a chance for development on the adjoining site to significantly enhance the character and appearance of the area as whole, which helps counter-balance any harm done at this stage to the Conservation Area.

6. Specifically improve the links between shopping, employment uses within the Town Centre and legibility for walking and parking.

A benefit of the scheme to which weight can be attached.

7. Reinforcement and enhancement of the character of the urban setting by reconstructing damaged parts of the town by using more sensitive materials (blue lias stone) and including improvements to the retained car park.

Taken into account in the conclusions reached above in relation to harm to the Conservation Area.

8. New public spaces that will be accessible to all, comfortable to use, sheltered from the main impact of traffic noise and provide a focus for civic and public realm.

A benefit of the scheme to which weight can be attached.

9. Additional usable external space (due to removal of existing surface car park)

A benefit of the scheme to which weight can be attached.

10. Increased tree planting;

Needs to be balanced against the loss of existing trees and greenery on site, such that it cannot be regarded as a benefit of the scheme.

11. Increased permeability with the new Market Street linking with High Street and the heart of the new development and leisure centre beyond.

A benefit of the scheme to which weight can be attached.

12. A new pedestrian route which will provide a shallower wheelchair and buggy accessible route linking Temple Street to the river valley and park entrance.

A benefit of the scheme to which weight can be attached.

13. The formation of a new town centre Market square which is bordered by the Library / One Stop Shop.

A benefit of the scheme to which weight can be attached.

14. Creation of a modern stand-alone building a desire of the local community that will not only provide a Library / One Stop Shop, but will also deliver a flexible large multipurpose meeting / performance space for community use.

A significant benefit of the scheme considered above under regeneration.

15. Space within the development for serviced external market spaces and public realm improvements.

A benefit of the scheme considered above under regeneration.

16. Display cases within the Civic Centre for the exhibition of local historic artefacts.

A minor benefit to which some weight can be attached.

17. Display of significant Roman mosaic which is currently stored in the basement of the town hall.

A minor benefit to which some weight can be attached.

18. Significant improvements to highways strategy, including the reduction in traffic congestion and improving pedestrian links between the town and the park / conservation area.

The improvements to the highway strategy are no longer tied in with the application, so cannot be given weight. The improved pedestrian links remain and can be given weight.

19. Increased parking serving the Town Centre as a whole.

A benefit to which weight can be attached.

20. Delivering new energy efficient modern sustainable development (targeting DEC A) within Keynsham helping to reduce carbon emissions.

A significant benefit of the proposal, which has been a leading driver in determining the design of the building. Given the Government and the Council's commitment to this subject, considerable weight can be given to this benefit.

## CONCLUSIONS

The main benefits of this proposal are related to the regeneration of Keynsham and its town centre and have been discussed above under Regeneration. In addition, the new buildings would be very energy efficient and would have a low carbon footprint. The section immediately above has set out other benefits that the scheme would bring and assessed what weight these could be given. Against this, the proposal would have a negative impact on the historic environment (although the scale of this is not agreed) and many representations express a dislike of the design proposed.

It is considered that the proposal does bring substantial public benefits, which have the potential to outweigh the harm caused to the character and appearance of the Conservation Area (even if that harm is considered to be substantial harm) and to the setting of Grade II listed buildings. However, it needs to be considered whether a different scheme, more respectful of the historic environment, and of a different design, could bring the same benefits.

The applicant's agents were asked to consider this point and replied that, in order to provide the equivalent building area which is required to meet the regeneration and employment requirements, the buildings would have to fill the site, which would then not deliver the following significant public benefits that has been achieved with the application proposal:

- a. Enhanced and expanded public realm which would not be provided if the historic street pattern were fully reinstated
- b. A stand-alone civic building which is accessible to all and instils civic pride by providing a local resource and local history centre, including the display of significant historic artefacts could not be delivered. It should not be underestimated the importance of a separate public building to the Council offices. This is a symbolic move which reflects the council's commitment to the regeneration of Keynsham and was heavily supported at public consultation.
- c. Significant retail area improvements including increased frontage offered by creating additional pedestrian only streets.
- d. A range of retail floor plates which encourage smaller independent shops. If frontage was limited to just Temple Street and Bath Hill, and the Civic Centre takes up a significant amount, then in order to provide an equivalent area of retail it would be of a deeper floor plate only suitable to large stores.
- e. Wheelchair and buggy accessibility to all parts of the site
- f. New tree planting (it is not possible to plant the existing footpaths due to the location of services, whereas by creating public spaces within the development boundary we are able to provide trees and improve ecology)



- g. Increased parking on site which can only realistically be located where we have proposed (underground parking is prohibitively expensive) and this will have an impact on the conservation area regardless of the scheme proposed for the rest of the site
- h. The pedestrian connection through to the Riverside (known as Market Street) improves connection to the Leisure Centre and park, and encourages long term regeneration options for the Riverside complex which will benefit the vitality and retail environment of the southern part of the town

It is considered that these responses demonstrate that, were an alternative building form to be proposed, more sympathetic to the historic environment, some of the public benefits would not be achieved. It is therefore considered that the harm caused by the scheme to the historic environment, even if considered substantial, is outweighed by substantial public benefits, as required in the Framework.

Many of the public representations have expressed a dislike of the design and it is acknowledged that it is not as immediately seen as fitting into its environment as, for example, the Southgate development in Bath, which many representations cite as a preferable alternative. It is accepted that design, particularly modern design, is always perceived subjectively, with some people loving and some hating the same buildings. Whilst the design does not obviously echo its setting, it is understood that a different form of building would not deliver some of the public benefits. On balance, the design in itself (as opposed to the effect on the historic environment) is not seen to weigh significantly either in favour or against the development.

The proposal is otherwise in line with development plan policies and is strongly supported by policies in the draft Core Strategy, which is a material consideration that should be given weight. In addition, the Framework places considerable emphasis on economic growth, the vitality and viability of town centres, and creating a low carbon development. All of these lend significant support to the application proposal. The proposal would bring considerable economic and social benefits, whilst being negative overall when assessed against environmental factors (energy efficiency and carbon footprint being positive, effect on the historic environment being negative). Overall, it is considered that the proposal amounts to sustainable development, taking all three elements into consideration. Accordingly, in line with the recent expression of Government policy in the Framework, the application should be approved, subject to conditions.

## **RECOMMENDATION**

PERMIT subject to £700,000 being put aside for off-site improvement works in terms of highway improvements, public access / public realm improvements, and 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 apart from demolition, until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and

approved in writing by the local planning authority. The scheme shall include details of how the drainage shall be maintained and managed after completion. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

REASON: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

3 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

all previous uses

potential contaminants associated with those uses

a conceptual model of the site indicating sources, pathways and receptors

potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express consent of the local planning authority.

The scheme shall be implemented as approved.

REASON: To prevent pollution of controlled waters.

4 The development shall not be commenced until

1) a scheme of works for the diversion of foul and surface water sewers is submitted and approved in writing by the local Planning Authority

2) a drainage scheme shall include appropriate arrangements for any temporary works needed to accommodate live flows and works to seal off any redundant connections

3) the drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the local planning authority.

Reason: To ensure that the development does not increase the risk of sewer flooding to property and reduce the impact of maintenance access upon residents amenity.

5 Prior to the opening of the premises an operational statement prepared by a competent person shall be submitted to and approved in writing by the Local Planning Authority in relation to the kitchen extract system. This statement should make reference to Guidance on the control of Odour and Noise from Commercial Kitchen Exhaust Systems produced by DEFRA and in particular Annex B; Information required to support planning application

for commercial kitchen. In this regard, the statement should include information on the following points:

1. Plans and drawings showing the dimensions/location of the ventilating system including the
2. location of all filters and fan(s).
3. Details of pre-filters to include manufacture's product data sheet.
4. Details of carbon filters or electrostatic precipitators as appropriate.
5. Details of cooker hood and system operation including air flow rates.
6. Details of flue design bearing in mind the discharge of air should be at a minimum of 1m above
7. the roof ridge.
8. Maintenance schedule to include details of washing/replacement of filters; frequency of inspection
9. servicing; provision of record keeping.

Reason: To protect residential amenity.

6 Ground gas monitoring shall be completed in accordance with CIRIA C665 and as outlined in the Hydrock Ground Investigation report to include a minimum of 6 gas monitoring visits over a minimum period of 2 months with at least two sets of readings at low or falling atmospheric pressure (known as worst case conditions). A gas risk assessment shall be completed to determine the gas characteristic situation and make recommendations where appropriate. The gas monitoring and risk assessment shall be subject to the approval in writing of the Local Planning Authority. Should remedial measures be required, details shall be provided to the Local Planning Authority for review and validation of any such remedial works shall be provided to the Local Planning Authority for their review and approval.

Reason: To ensure that risks from land contamination to the current and future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

7 In the event that contamination is found at any time when carrying out the further investigation works to further assess geotechnical ground conditions on site or during the approved development, work must be ceased and it must be reported immediately to the Local Planning Authority. The Local Planning Authority shall be consulted to provide advice regarding any further works required. Contamination may be indicated by soils that have unusual characteristics such as: unusual colour, odour, texture or containing unexpected foreign material.

Reason; To ensure that risks from land contamination to the current and future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

8 No development shall commence until a schedule of materials and finishes, sample panels, and samples of the materials to be used in the construction of the external surfaces, including walls, facades and paving materials, shall be submitted to and approved in writing by the Local Planning Authority before the relevant parts of the works

are commenced. The development shall thereafter be carried out only in accordance with the details so approved.

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

9 Notwithstanding the submitted information, no development shall be commenced apart from demolition (unless another date or stage in development has first been agreed in writing with the Local Planning Authority) 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.

10 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.

11 No building shall be occupied or otherwise used for any purpose until the highways works on Bath Hill and Temple Street are complete to the satisfaction of the local planning authority, unless otherwise agreed in writing with the local planning authority.

Reason: In the interests of highway safety.

12 No building shall be occupied or otherwise used for any purpose until the extended Civic Centre car park extension is complete and fully open to the public, unless otherwise agreed in writing with the local planning authority.

Reason: In the interests of amenity and highway safety.

13 No building shall be occupied or otherwise used for any purpose until provision has been made within the site for the loading and unloading of goods vehicles in relation to that building, in accordance with details 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 development shall be operated in accordance with the submitted and approved Travel Plan.

Reason: In the interests of sustainable development.

15 Details of cycle parking area(s) shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle parking area(s) shall be installed before the buildings to which they relate are first occupied and shall not be used other than for the parking of cycles in connection with the development hereby permitted.

Reason: In the interests of sustainable development.

16 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management. Construction shall then only take place in accordance with the approved Construction Management Plan.

Reason: To ensure the safe operation of the highway.

17 Prior to the occupation of any part of the development, a Delivery Management Plan relating to that part shall be submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries, restricted delivery periods, supervision and traffic management. Deliveries shall then only take place in accordance with the approved Delivery Management Plan.

Reason: To ensure the safe operation of the highway.

18 On occupation of the development, and in accordance with a programme to be agreed by the local planning authority, a programme of review of on and off-street parking shall be identified together with any measures considered appropriate to address issues arising, to be funded by the developer.

Reason: In the interests of highway safety and residential amenity.

19 No development shall take place within the site (including any site clearance or demolition works) until the applicant, or their agents or successors in title, has produced detailed drawings of all underground works, including foundations, drainage and those of statutory undertakers, which shall then have been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, extent and depth of all excavations and these works shall be carried out and completed in accordance with the details as approved.

Reason: The site is within an area of major archaeological interest and the Council will wish to protect the archaeological remains.

20 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 shall have been submitted to and approved in writing by the Local Planning Authority. The programme of

archaeological work should provide a controlled excavation of all significant deposits and features, which are to be disturbed by the proposed development, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation. Thereafter the building works shall incorporate any building techniques and measures necessary to mitigate the loss or destruction of any further archaeological remains.

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

21 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 has produced significant archaeological findings and the Council will wish to publish or otherwise disseminate the results.

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

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

23 Prior to the commencement of development, details of a dust management plan (which shall comply with the guidance contained in the BRE Code of Practice on the control of dust from construction and demolition activities) shall be submitted to and approved in writing by the Local Planning Authority. Development shall then only take place in full compliance with the approved dust management plan.

Reason: To protect the amenities of the occupants of adjacent residential properties.

24 At least 420 square metres gross of the floor space set aside for town centre uses on the ground floor of the northern-most fronting Bath Hill shall be first occupied as Class A1 retail, as set out in the Town and Country Planning(Use Classes) order 1987 (as amended)

Reason: In the interests of the vitality and viability of the town centre

#### **PLANS LIST:**

Drawings received 28/09/12 - 100/P03, NT\_625\_C\_D\_107, P-020/B, P-021/B, P-022/B, P-030/B, P-031/B, P-032/B, P-033/B, P-034/A, P-035/B, P-050/B, P-051/A.

Drawings received 27/06/12 - 101/P01, 102/P01, 105/P01, 107/P01, 200/P01, 300/P01, A(10)001/B, 11004-C001/E.

Drawing received 22/06/12 - P-023/A



Drawing received 25/04/12 - EKV0015

Drawings received 28/02/12 - 106/P00, 201/P00, 210/P00, 301/P00, 302/P00, 303/P00, 304/P00, 307/P00, 308/P00, C1104-G003, P-001, P-002, P-010, P-011, P-012, P-015, P-016, P-017, P-023.

## **REASONS FOR GRANTING APPROVAL:**

1. The decision to grant approval has taken account of the Development Plan, relevant emerging Development Plan Documents and approved Supplementary Planning Guidance and Documents. This is in accordance with the Policies set out below at A.
2. The proposed development is not fully in accordance with the Policies set out below at B, but the planning merits of the proposed development outweigh the conflict with these Policies.
3. It is considered that the proposal would result in substantial benefits, primarily in relation to the regeneration of Keynsham. The principle of the development is as set out in Policies KE1 and KE2 of the Council's draft Core Strategy. The proposal would not give rise to any unacceptable highway impacts. On the other hand, it is considered that the proposal would have an adverse impact on the character and appearance of the Conservation Area and the setting of listed buildings. It is considered that the substantial benefits that would arise from the proposal outweigh the harm that has been identified.

### **A**

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

D.2	General Design and public realm considerations
D.4	Townscape considerations
ET.2	Office development
CF.2	New community facilities
ES.1	Renewable energy
ES.2	Energy conservation
S.1	Shopping centres
S.2	Retail development in town centres
T.3	Promotion of walking and use of public transport
T.24	General development control and access policy
T.26	On-site parking and servicing provision
NE.5	Forest of Avon
NE.9	Adjoins Nature Conservation site
NE.12	Natural Features
BH.12	Archaeology

### **B**

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

BH.2	Listed buildings and their settings
BH.6	Development within or affecting Conservation Areas

## 2 ADVICE NOTES:

- 1) There is a need for separate approvals and licences under the provisions of the Highways Act 1980 to undertake works within, or immediately adjacent to, the public highway.
- 2) Public Right of Way BA27/20 runs in close proximity to the proposals. All rights shall be safeguarded, in that their line and width must not be affected by the development or during its installation.



**Item No:** 02  
**Application No:** 12/02848/FUL  
**Site Location:** 12 High Street, Upper Weston, Bath, Bath And North East Somerset



**Ward:** Weston                      **Parish:** N/A                      **LB Grade:** N/A  
**Ward Members:** Councillor C V Barrett                      Councillor M J H Lees

**Application Type:** Full Application

**Proposal:** Erection of rear ground floor extension (totalling approximately 206 sq metres) to create an enlarged retail unit together with rear first and second floor extensions to create 6no 2-bed apartments and alterations to existing shop fronts at 12-20 High Street, Weston

**Constraints:** Agric Land Class 3b,4,5, Article 4, Conservation Area, Flood Zone 2, Flood Zone 3, Forest of Avon, Hotspring Protection, Local Shops, World Heritage Site,

**Applicant:** Bathweston One Limited & Bathweston Two Limited

<b>Expiry Date:</b>	28th August 2012
<b>Case Officer:</b>	Alice Barnes

## **REPORT**

### **REASONS FOR REPORTING APPLICATION TO COMMITTEE**

The application is being reported to committee at the request of Councillor Colin Barrett and Councillor Malcolm Lees for the following reasons; Weston village already experiences parking problems and the development will reduce parking spaces. The impact of a larger store may put at risk the viability of the smaller traders as well as destroying the character of the village. There is a lot of resident interest. The application has been referred to the chairman of the development control committee who has agreed that the application should be considered by the committee.

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

The existing property is a large retail unit located within the local shopping area of Weston. It is part of the Conservation Area and the World Heritage Site. The application relates to the erection of an extension to the ground floor retail area and the erection of a two storey extension to the rear to accommodate six flats. This would include an alteration to the access to the existing flats above the retail units on the High Street, where all the flats would be accessed from a single entrance on Crown Road.

Weston High Street is a busy local shopping area. The existing shop fronts onto Weston High Street with ancillary retail space to rear fronting onto Crown Road. The proposed flats would be accessed from Crown Road. To the south of the site is the store car park which is accessed from both the High Street and Crown Road. Crown Road is located at a higher level to the High Street and the existing car park slopes downwards towards the High Street. Currently the rear elevation of the site does little to enhance the appearance of Crown Road appearing as the back land of the shopping area.

Permission has been considered lawful under a certificate of proposed use for the existing retail unit to expand into the neighbouring shops of the carpet shop and takeaway.

### **RELEVANT HISTORY**

DC - 11/04022/CLPU - LAWFUL - 8 November 2011 - Change of use of 12-20 High Street (ground floor and first floor to rear only) for use as a single A1 (Shops) unit (Certificate of Lawfulness for a Proposed Use)

DC - 09/00617/FUL - PERMIT - 21 April 2009 - Installation of replacement plant comprising of 1 no. condenser unit and 3 no. air conditioning units and provision of security door to replace existing security door

DC - 09/00619/FUL - PERMIT - 21 April 2009 - Installation of ATM

DC - 09/00621/AR - CON - 21 April 2009 - Display of 1no. externally illuminated fascia sign, 1no. externally illuminated projected sign and non-illuminated frosted manifestations.

DC - 09/00623/FUL - PERMIT - 21 April 2009 - Installation of replacement shop front and the undertaking of minor external alterations

DC - 09/01734/AR - CON - 31 July 2009 - Display of 1no. non-illuminated fascia and 2no. non-illuminated welcome/goodbye signs.

DC - 96/00273/FUL - APP - 1 November 1996 - Alterations to existing shop front to provide new automatic entrance doors, roof mounted condenser, and compressor in car park at rear.

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

Urban Design: The massing, form and broad landscape approach to the proposal is considered acceptable subject to amenity issues. Materials and landscape will be important factors in resolving a successful scheme, which will be a significant intervention into the townscape.

The use of manmade tiles and fibre cement boarding gives cause for concern. The roofs cape of the proposal will make a significant intervention into the townscape from elevated views. Natural materials within this conservation area context should be employed. The use of fibre cement panels may be acceptable. However this must be subject to condition.

The use of natural Bath stone rough cut plinth and boundary walling is welcomed. The bonding pattern of this wall will significantly influence its integration into the townscape and should also be conditioned.

Environmental Protection: The assessment demonstrates that the impact of noise could be significant and I would suggest the mitigation measures laid out in Section 7 of the report need to be carried out to ensure an adequate protection from noise. A condition should be attached requiring a further assessment to be submitted on completion of the works to show that the development has been constructed to provide sound attenuation against external noise.

Environment Agency: No comment

Highways: The Transport Statement assesses the likely traffic generation resulting from the development. While an extension will inevitably lead to some increased use, my own experience suggests this will not pro-rata compared to the increase in floor area. I would therefore not disagree with the conclusion of the transport statement. that there will not be a significant increase in traffic resulting from this development.

The main issue to be considered therefore is that of parking and servicing of the site. The current arrangement provides 20 marked parking spaces, and there is a 20 minute limit for parking. The observations of the applicant's Transport Consultant (Entran Ltd.) is that this arrangement is not enforced.

The transport statement provides survey information obtained during the traditionally busiest periods for shopping (Friday PM and Saturday mid-day), and this shows that a significant number of spaces are occupied permanently, but that there was generally limited parking available, and only one very short period when the car park was completely full.

My own observations, on a number of occasions, confirm this as being the case and there appears to be some long stay parking at present which reduces parking availability for shoppers.

The application proposes parking provision of 15 spaces, with a similar 20 minute time limit. The justification for the lower parking ratio is based on the observation that there is sufficient parking if the time restriction is enforced. The figures quoted in the T.S. would confirm this as being the case i.e. the current 20 space car-park is reduced to 12 spaces due to permanent occupations. It is worth noting that similar sized food stores operate in both with fewer parking spaces.

The implications of insufficient parking is the potential for increased demand on-street, however this would be no different than as present if the current restrictions were enforced properly. In addition, the loss of the existing two retail units (particularly the takeaway at the evenings and weekends) will result in the loss of a degree of on-street parking demand.

The 15 spaces provided are therefore considered to be appropriate if they are rigorously enforced. I would suggest this can be secured through a parking management plan conditioned to any consent granted.

Space for deliveries through the car park is limited (as it is currently), however as the car park benefits from a through-route, there is less space required for manoeuvring. Notwithstanding this, and to ensure deliveries do not arrive during peak shopping periods, I would recommend the management of deliveries be included within the parking management plan. Vehicle tracking information submitted shows that access by delivery vehicles is possible but needs to be managed. Currently three separate units operate deliveries from this site with differing demands for delivery.

Currently the shop operates without shopping trolleys. The original plans indicated no provision for trolley 'parking' which raised concerns in respect of them being generally 'abandoned' in the local vicinity, or around the car park which may cause parking spaces to be obstructed. The recently submitted revised plan indicates a trolley parking area which is sufficient for small store such as this, and does not result in any loss of parking.

While I understand the view that dwellings without parking might result in increased on-street parking in the area, I am minded that an Inspector's decision on a residential development close to this site established the principle that Weston village was a sustainable location and his view that residential development here was "likely to attract occupiers who do not drive or own a car". An objection on these grounds could therefore not be defended.

'Strategic' contributions are required to be secured as per the Planning Obligations SPD contribution of £18,000 toward local public transport infrastructure, which will promote the use of sustainable travel and therefore mitigate for the reduced level of parking in accordance with para D12.6 of the Local Plan, and the 'Planning Obligations' SPD.

The works to the lower ground floor may be likely to affect a wall which retains the highway. The applicant must therefore be advised of the need to submit plans, section

and specifications of the proposed retaining wall for the approval of the Highway Authority in accordance with section 167 of the Highways Act 1980. The applicant should be made aware that this process can take in the region of 6 weeks to conclude. It may be that access for future maintenance of the wall (if considered to be a highway structure) will be required through the building itself.

Highways Drainage: The applicants proposal is located within flood zones 2 and 3.

Building Control: No comment

Councillor Colin Barrett:

Weston village already experiences parking problems.

The building of apartments will further reduce the available parking spaces.

There is already a problem with large delivery vehicles delivering goods in the early morning disturbing the sleep of nearby residents.

There is no provision within the new store for the parking of shopping trolleys.

The impact of a larger store may put at risk the viability of the smaller traders as well as destroying the character of the village.

Representations: Ten representations have been received objecting to the application for the following reasons;

The development will result in a reduction of car parking for shoppers and it will be difficult for deliveries as the high street is already congested.

There are already insufficient car parking spaces.

Deliveries to the High Street are already a problem.

The position of the bike shed will be a problem for nearby dwellings as it may be vandalised.

The new dwellings will reduce the amount of natural light to nearby properties on the High Street and will overlook nearby properties resulting in a loss of privacy.

The stairs to the existing flats should be removed as they attract anti-social behaviour.

There is will be an increase of rubbish in the streets.

If delivery vehicles are parked on the highway they will disrupt the traffic.

Twenty minutes parking is not good enough for a store of this size and would not allow for support of other local stores.

Parking would be displaced onto surrounding streets or result in dangerous parking.

Building flats with no parking will lead to further problems.

The proposals will result in an expansion in the existing supermarket which currently only functions as a local convenience store.

The increase in the size of the store will result in an increase of trips to the site in particular by private car.

The transport statement and highway officer has underestimated the number of shopping trips.

There is currently a low level of trade generated by the existing shops.

The transport statement has only undertaken a limited survey of the existing car park.

The local community centre also increase demand for on street parking.

It is not possible to prevent occupiers of the flats from owning cars.

The proposed development will impact on the parking provision of surrounding residential properties.

The application is contrary to transport policies in the local plan as they do not provide an appropriate level of off street parking and will result in an increase in on -street parking.



People do not shop in the High Street due to a lack of parking.  
If the store increases in size there will be more customers who will spend longer in the store increasing the demand for parking.  
There is no information regarding staff numbers which will increase. This will be more than the staff employed at the existing carpet shop and takeaway.  
There is no staff parking.  
The expanded Tesco will have a detrimental impact on other retail uses within the local centre.  
An expanded store could improve trade on the High Street if adequate parking was provided.  
The time limit of 20 minutes on the car park will mean customers only have time to shop in Tesco and not the rest of the High Street.  
The development will ruin the fragile status of Weston as a village. The village needs more small shops not one large one and less cars.  
There are never enough parking spaces.  
Six flats should not be built without parking.

In addition a petition objecting to the application has been received stating these plans would prove detrimental to the smaller independent traders in the village and will further add to parking problems. The petition includes 476 signatures.

It has also been drawn to my attention that a petition has been collected with 609 signatures to require the retention of the existing takeaway use (use class A5). A change of use from takeaway (use class A5) to retail (use class A1) can occur without planning permission therefore this is not a material consideration of the planning application but the comments are noted.

Two representations have been received in support of the application for the following reasons;

The new store will enable customers to do their weekly shop in walking distance from their homes and this would be of benefit to the community.  
It would be an asset

## **POLICIES/LEGISLATION**

D.2: General design and public realm considerations

D.4: Townscape considerations

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

Bh.6: Development within or affecting Conservation Areas

S.2: Retail development proposals within centres defined under policy S.1

S.8: Retention of shops in district, local and village centres

T.24: General development control and access policy

T.26: On-site parking and servicing provision

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

## **SUBMISSION CORE STRATEGY, MAY 2011**

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:

B4 - The World Heritage Site and its Setting  
CP6 - Environmental Quality  
CP12- Centres and retailing

National Policy

The National Planning Policy Framework adopted March 2012

### **OFFICER ASSESSMENT**

The application site is located within the centre of Western village local shopping area. The existing shop fronts onto Weston High Street. The car park is accessed from the High Street and Crown Road to the rear. The proposed flats would be located at the rear of the site and would be accessed from Crown Road. It includes creating a new access and entrance to the existing flats above the shop on the high street. The proposed flats will be accessed from Crown Road. The development will result in a private open area on the first floor which provides access to both the proposed and existing flats.

#### Planning History

Permission has been considered lawful under a certificate of proposed use for the expansion of the existing retail unit into the neighbouring carpet shop and takeaway. The carpet shop is already A1 and the takeaway can revert to A1 under permitted development. Therefore there was no requirement for planning permission to be obtained for the initial expansion of the existing retail unit. Current planning policy encourages the retention of retail uses within local shopping areas. Any alterations to the existing shop front and signage would be the subject of a separate application.

#### Principle

The site is located within the city of Bath therefore the principle of residential development is accepted. Policy CP.12 of the core strategy also states that retail centres will also be the focus for high density forms of residential development provided the centre is suitable for such development and has a high level of accessibility by public transport, cycling and walking. Part 23 of the National Planning Policy Framework also states that residential development can play an important role in ensuring vitality of centres.

The existing retail unit is located within the local shopping centre therefore the principle of retail development is accepted. Policy S.2 allows for retail development within existing centres provided it is of a scale consistent with the existing retail function of the centre. The floor space of the retail unit will increase by approximately 26%, when just the shop floor space is measured this reduces to 13%. The floor space of the retail unit will not substantially increase as a result of this development and therefore the proposed development will comply with policy S.2.

#### Design

The proposed flats will be accessed from Crown Road. The development will result in a private open area at first floor level which provides access to both the proposed and existing flats.

Currently the existing site does little to enhance the appearance of Crown Road appearing as a gap in the development at the rear of the shopping area. The provision of development at this frontage will improve the appearance of the street scene drawing attention away from the rear of the shopping area.

The proposed flats will result in the provision of a two storey building at Crown Road dropping to three stories at the High Street due to the topography of the site. The proposed development will enlarge the existing building to the rear of the site and includes the provision of a new stone boundary wall. The site has a dual aspect with frontages to both Crown Road and the High Street.

The massing, form and landscape approach to the proposal is considered to be acceptable. The proposed building to the rear will fit well within the street scene and the windows on the front elevation increases the verticality and rhythm of the façade. The Urban Designer has raised concern over the proposed materials such as the use of fibre cement boarding. This can be controlled by condition with the submission of material samples.

The provision of a Bath stone plinth and boundary wall will enhance the appearance of the street scene along Crown Road. The provision of the stone boundary will reduce the dominating appearance of the existing car park. The applicant also proposes to re pave the car park to improve the general appearance of the public realm as pedestrians move through the car park.

With regards to long range view the proposed building will be clearly visible from Crown Road and as stated above will make a positive contribution to the street scene. The applicant has also submitted a view study within the design and access statement. This shows that whilst the building will be visible from views such as from nearby Church Road and it will contribute positively to the views.

Overall the development will improve the appearance of the site therefore enhancing the Conservation Area. The new building together with the alterations to the boundary treatment will improve the appearance of the public realm and the surrounding area of Crown Road.

## Highways

The applicant has submitted a transport statement in support of the application. This has been referred to the highways officer who has raised no objection to the application.

The transport statement submitted assess the likely traffic generation from the development. Whilst an enlargement of the retail space will lead to increased use this will not be pro-rata compared to the increase in floor space. It is not considered that there will be a significant increase in transport movements.



The current parking arrangements provides 20 parking spaces with a 20 minute time limit. This arrangement is not currently considered to be enforced. On visiting the site the highways officer observed a significant level of long stay parking. The applicant is proposing 15 parking spaces with a similar 20 minute time limit. This is justified by the observation at that the 20 minute time limit would be enforced. The implications of insufficient parking is the potential for increased demand on-street, however this would be no different than as present if the current restrictions were enforced properly. The highways officer has conducted a number of site visits to confirm this. The available spaces would apply to all vehicles related to the development, including those belonging to staff.

In addition, the loss of the existing two retail units (particularly the takeaway at the evenings and weekends) will result in the loss of a degree of on-street parking demand. The 15 spaces provided are therefore considered to be appropriate if they are rigorously enforced. A condition should be attached to any permission requiring a parking management plan to be submitted and approved. This would include details of how the parking area will be enforced. It is worth noting that similar sized food-stores in bath operate with fewer parking spaces than are provided at this location.

Vehicle tracking information submitted shows that access by delivery vehicles is possible but needs to be managed. Currently three separate units operate deliveries from this site with differing demands for delivery. Space for deliveries through the car park is limited (as it is currently), however as the car park benefits from a through-route, there is less space required for manoeuvring. Notwithstanding this, and to ensure deliveries do not arrive during peak shopping periods, the management of deliveries should be included within the parking management plan identified above.

Currently the shop operates without shopping trollies. The original plans indicated no provision for trolley 'parking' which raised concerns in respect of them being generally 'abandoned' in the local vicinity, or around the car park which may cause parking spaces to be obstructed. The recently submitted revised plan indicates a trolley parking area which is sufficient for small store such as this, and does not result in any loss of parking.

Overall it is worth noting that the site currently services three independent retail units and therefore it can be argued that the development will result in fewer deliveries to the site.

With regards to the proposed flats, the flats have been located on an area with local services and good public transport links into Bath. The highways officer has requested that conditions are attached to any permission requiring the submission of a staff travel plan and residents welcome packs to give staff and residents information on sustainable transport options. Secure cycle parking has also been provided within the new development for residents.

Concern has been raised that the residential flats do not include off street parking. Past appeal decisions have stated that the village is considered to be sustainable with its own shops and services. It is well connected to the city centre via a bus route. Therefore a residential development is considered to be likely to attract occupiers who do not own a car. Previous appeal decisions on a residential development close to the site have stated that Weston village is a sustainable location.

In terms of current planning policy the local plan states that developers will not be required to provide more off-street parking than they themselves wish unless the likely increase in on-street parking would have irresolvable implication for road safety. It is not considered that any parking on-street would have such an impact given the area is well protected against obstructive and dangerous parking by parking restrictions. The same document recognises that the availability of secure off-street parking can encourage residents to leave the car at home and use public transport.

The national planning policy statement states that development should only be refused on transportation grounds where the impacts are "severe". It is not considered that the parking impact of development, if any, would be severe.

'Strategic' contributions are required to be secured as per the Planning Obligations SPD contribution of £18,000 toward local public transport infrastructure, which will promote the use of sustainable travel and therefore mitigate for the reduced level of parking in accordance with para D12.6 of the Local Plan, and the 'Planning Obligations' SPD.

The works to the lower ground floor may be likely to affect a wall which retains the highway. The applicant must therefore be advised of the need to submit plans, section and specifications of the proposed retaining wall for the approval of the Highway Authority in accordance with section 167 of the Highways Act 1980. The applicant should be made aware that this process can take in the region of 6 weeks to conclude. It may be that access for future maintenance of the wall (if considered to be a highway structure) will be required through the building itself. This can be added to any condition as an informative.

#### Noise

The proposed and existing flats will be located close to the plant room and a busy main road. The applicant has submitted a noise assessment which has been referred to the environmental health officer. The environmental health officer has raised no objection to the application but has stated that the assessment demonstrates that the impact of noise could be significant. The mitigation measures laid out in Section 7 of the report need to be carried out to ensure an adequate protection from noise. A condition should be attached to any permission requiring a further assessment to be submitted on completion of the works to show that the development has been constructed to provide sound attenuation against external noise.

#### Amenity

The new flats are located approximately 15m away from the existing flats on the high street. Therefore the proposed new flats are not considered to harm the amenity of nearby occupiers from overlooking. Concern has been raised within representations that the proposed new building will cause a loss of light to nearby dwellings on the High Street. As stated above the proposed development would be located approximately 15m from the properties on the High Street.

As stated above the highways officer has requested a parking management plan that would include the control of deliveries. This would also mitigate against deliveries happening at anti-social hours. This would be of benefit to the local area which currently

does not benefit from such controls. Furthermore an operational statement will be required by condition to establish the opening hours of the store and its proposed staff numbers.

#### Other Matters

The representations received raise a number of issues the bulk of which have been covered in the report. The issue of amenity can be controlled by condition whereby deliveries to the site can be made outside anti-social hours and the opening time of the store can be controlled.

Concern was raised over the existing external staircase which provides access to the existing flats being a problem for anti-social behaviour. The new design shows that the external staircase will be removed. The flats existing and proposed will all be accessed from one accessed on Crown Road. Then the flats can be accessed internally.

#### CONCLUSION

The principle of residential development is accepted and the development is considered to comply with the policies set out within the development plan and national planning policy framework.

The proposed development will result in a building which will enhance the appearance of the surrounding Conservation Area. The proposed development is not considered to cause harm to highway safety. Appropriate conditions will be added to ensure that the amenity of future occupiers will not be harmed. The proposed development will not harm the amenity of residents surrounding the site.

The committee is therefore recommended to delegate to officer to permit the application with a legal agreement to secure highways contributions.

#### RECOMMENDATION

Authorise the Development Manager of Planning and Transport Development to PERMIT subject to condition(s)

#### CONDITIONS

A. Authorise the Planning and Environmental Law Manager to enter a Section 106 Agreement to cover the following;-

1) £18,000 for the improvement of local public transport infrastructure.

B. Subject to the prior completion of the above agreement, authorise the Divisional Director for Planning and Transport Development to PERMIT 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 a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

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

3 No development shall commence until a sample panel of the permitted boundary wall shall be 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 interest of the appearance of the surrounding Conservation Area.

4 Prior to the occupation of the development, an operation statement for the retail unit shall be submitted to and approved in writing by the Local Planning Authority and shall include details of opening hours and deliveries. The development shall thereafter be occupied in accordance with the approved operational statement.

Reason: In the interests of residential amenity and highway safety.

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

Reason: In the interests of amenity and highway safety.

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

Reason: In the interests of amenity and highway safety.

7 Prior to the commencement of the development, a Parking and Service Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include details of parking enforcement, delivery management (including restricted times as appropriate).

Reason: To ensure the safe operation of the car park and highway.

8 Within two months of occupation of the development the Staff Travel Plan shall have been instigated. The development shall thereafter be operated in accordance with the Travel Plan in liaison with Bath and North East Somerset Council's Transportation Planning Team.

Reason: In the interests of sustainable development.

9 Before the dwellings are first occupied, new resident's welcome packs shall be issued to purchasers which should include information of bus and train timetable information,

information giving examples of fares/ticket options, information on cycle routes, a copy of the Travel Smarter publication, car share, car club information etc., together with complimentary bus tickets for each household to encourage residents to try public transport. The content of such packs shall have been approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

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

Reason: To minimise the impact of noise to existing and future occupiers of the property and the amenity of neighbouring occupiers to the site.

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

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

#### **PLANS LIST:**

1 Location plan P\_050  
Existing site plan P\_051  
Proposed site plan P\_052  
Topographical Survey 915/6262/1  
Streetscapes 2  
Ground floor plan 4  
First floor plan 5  
Lower ground floor (High Street) P\_053  
Upper ground floor (Crown Road) P\_054  
First floor plan P\_055  
Roof plan P\_056  
North-East Elevation P\_057  
SE Elevation P\_058  
North-West Elevation P\_059  
Section B P\_060

#### **Informative**

The applicant is advised of the need to submit plans, sections and specifications of the proposed retaining wall for the approval of the Highway Authority in accordance with Section 167 of the Highways Act 1980. This process can take in the region of 6 weeks to conclude. It may be that access for future maintenance of the wall (if considered to be a highway structure) will be required through the building itself.

## **REASONS FOR GRANTING APPROVAL**

1. The proposed development would not have an adverse impact upon the street scene or the amenity of the surrounding and future residential occupiers. Due to the use of appropriate materials and design the proposed development will enhance the character of the surrounding Conservation Area. The proposed development will not cause harm to highway safety.

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

A.

D2, D4, Bh.1, Bh.6, S.2 and S.8 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

**Item No:** 03  
**Application No:** 12/03082/AR  
**Site Location:** Roman Candles, 5 Terrace Walk, City Centre, Bath



**Ward:** Abbey      **Parish:** N/A      **LB Grade:**  
**Ward Members:** Councillor B J Webber      Councillor Manda Rigby  
**Application Type:** Advertisement Consent  
**Proposal:** Display of external fascia and hanging signs (regularisation) and removal of existing light fittings and associated works.  
**Constraints:** Agric Land Class 3b,4,5, Article 4, Bath Core Office Area, City/Town Centre Shopping Areas, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, World Heritage Site,  
**Applicant:** Roman Candles Of Bath Ltd  
**Expiry Date:** 10th September 2012  
**Case Officer:** Richard Stott



## **REPORT**

### **REASON FOR PRESENTING TO COMMITTEE**

Cllr Rigby has requested that this application be presented to Committee in the event that the case officer is minded to refuse and the Chair of Committee has agreed to this request.

### **DETAILS OF THE LOCATION**

5 Terrace Walk is Grade II listed and noted in the statutory list as, Nos 3-5 Terrace Walk (Group Value) , shops with accommodation over, constructed in 1730 and altered in the late 18th and 19th centuries. There are a large number of listed buildings in the immediate vicinity including, to the north west of the site, Bath Abbey which is listed Grade I.

### **DETAILS OF THE PROPOSAL**

Retrospective advertisement consent is sought to regularise external alterations to this shop including the display of an external fascia and hanging sign and the removal of the existing light fittings

### **RELEVANT HISTORY**

12/03095/LBA - External alterations for the display of external fascia and hanging signs (regularisation) and removal of existing light fittings and associated works - This application is also to be considered by Committee.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **CONSULTATION:**

#### **HISTORIC ENVIRONMENT TEAM: Object**

- o The approach taken by the applicant is not appropriate or consistent with conservation best practice.
- o The applied, standard metal fascia signage is regarded as inappropriate, incongruous and discordant with the character of both the protected building and also in terms of its setting within a traditional and high quality historic environment as recognised by the World Heritage Site inscription status and being within a designated conservation area
- o It is worth noting also that the style and materials chosen for the hanging sign are inappropriate and, akin to the fascia signage, regarded as incongruous and inappropriate for the context of a traditional shop front.
- o The applied manifestations on the glazing of the shopfront, which, again, are regarded as inappropriate and incongruous with the traditional character of the shopfront, protected building and the Conservation Area.
- o In the spirit of offering a solution for the applicant I would advise that the applied metal fascia should be removed and the same lettering traditionally sign written. This is regarded as an appropriate compromise and would be more consistent with the approach adopted throughout the city on other traditional shopfronts.

**HIGHWAY DEVELOPMENT:** No Comment

### **REPRESENTATIONS:**



#### BATH HERITAGE WATCHDOG: Object

The works, by virtue of the use of inappropriate materials, design and colours are considered to be detrimental to the special historic and architectural character of the listed building, adjacent listed buildings and the conservation area contrary to S16 and S72 of the Planning (Listed Buildings & Conservation Areas) Act 1990, Section 12 'Conserving & Enhancing the Historic Environment of the NPPF and Local Plan Policies BH2, BH6, BH17 and BH19 and should be refused in its current format.

#### BATH PRESERVATION TRUST: Object

The fascia by virtue of its excessive width, dominant position, method of fixing, inappropriate materials and high shine finish is unsympathetic to the setting of the listed building. The signs which have been erected are incongruous and visually intrusive. This application should be refused and action taken to get the inappropriate signs removed. This application is contrary to policies BH2, BH17 and BH19 of the B&NES Local Plan, the Planning (Listed Building and Conservation Areas) Act 1990, and the NPPF, and should be refused.

#### 1x third party letter of objection:

- Lower quality shop front than others in the city - most appear either hand painted or have raised lettering
- The sign itself appears ill fitting and over large.

#### 5x third party letters of support

- Stylishly presented and enhances the area
- Energies should be directed at bringing the rest of [the street] up to this standard
- Best shop in this row of shops
- Black and gold are authentic and in keeping
- Very tasteful

#### CLLR RIGBY: Support

- The area of the fascia is no greater and therefore no more prominent than the fascia of the previous occupier. The colours and style of lettering are in keeping with the city.
- The fascia is less prominent or objectionable than others in the vicinity. It is smart and attractive, but not aggressively modern.
- The applicant has offered to replace the shiny finish with a matt finish, though it is doubtful whether that concession needed to be made.
- The Council has no consistent approach to shop fascia's. There is a great variety to be seen in the city centre. Many are of very poor quality, with no visual interest whatever.
- More damage is done to the setting of the listed buildings in Terrace Walk by the multifarious street furniture, poor quality paving and traffic congestion.
- The applicant's scheme is the reasonable evolution of the building to suit present day retailing requirements.
- The hanging sign is inconspicuous and consistent with the fascia.
- The redundant lighting is to be removed.

- Only one member of the general public has submitted a mild criticism of the quality of the lettering, but his concern does not seem to relate to the setting of the listed building.
- The proposals are not incongruous or visually intrusive or unsympathetic to the setting of the listed building or to the conservation area.
- If the applications are referred to the Development Control Committee, it is requested that a site visit be arranged prior to the meeting.

## **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 Building

BH.6 Conservation Area

BH.17 Advertisement Control

DRAFT CORE STRATEGY, MAY 2011

The Draft Core Strategy is a material consideration but at this stage it has limited weight

## **LEGAL FRAMEWORK**

Town and Country Planning Act, 1990

Town and Country Planning (Control of Advertisements) Regulations 2007

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

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

## **NATIONAL PLANNING POLICY FRAMEWORK**

The NPPF came into force on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's), the following chapter is relevant to this decision:

12 Conserving and enhancing the historic environment

## **OFFICER ASSESSMENT**

This application seeks retrospective advertisement consent to regularise an unauthorised shop front including external fascia and hanging signs on this Grade II listed shop. The application follows a pre-application enquiry where the applicant was advised that the current shop front is deemed unacceptable.

This application relates to a projecting metal fascia board affixed to the original timber shop fascia, the new board is mounted on blocks and projects 5cm forward of the original fascia. The existing finish is gloss black vinyl covering the metal, the applicant has stated the sign is to be "de-glossed" although it is noted that no details of what the sign would look like

have been provided. The sign features simple gold lettering. Currently there are four modern down lights on the shop front that were installed by a previous occupant, these are to be removed as part of this application. In addition to the fascia, the site features a small hanging sign with two down lights. The lights are to be removed but the hanging sign is to be retained.

Terrace Walk is in a visually prominent location on the edge of the city centre and comprises a row of shops. There is diversity in the shop fronts and whilst it is noted that some of the frontages have been unsympathetically finished, this should not be seen as setting a precedent. The site is located within the Bath Conservation Area and the World Heritage Site.

The counterpart listed building application has been assessed to be unacceptable and is recommended for refusal stating that by virtue of its excessive width, dominant position, method of fixing and inappropriate materials the fascia and hanging sign area unsympathetic to the setting of the listed building, to the detriment of the appearance of this Grade II Listed heritage asset. The signage which has been erected is deemed incongruous and visually intrusive and fails to preserve or enhance the character and appearance of the street scene or of this part of the Bath Conservation Area. The development is concluded as being contrary to both local and national planning policy.

In determining this application for advertisement consent, the primary test is set out in Policies BH.17 of the Bath & North East Somerset Local Plan.

BH.17 states that consent will be granted provided the works do not prejudice public safety, be prejudicial to visual or residential amenity or be detrimental to the appearance of the building or street scene. In respect of this policy whilst it is accepted that the signage does not prejudice public safety, in line with the listed building report it is deemed that the works both on their own and cumulatively with other signage in the area harm the visual amenities of the area and harm the setting and appearance of the host listed building. The works are concluded as being contrary to Policy BH.17.

Section 12 of the NPPF confirms at para 132 that "significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification". In this case the applicant justifies the works by stating that the signage provides essential advertisement for the shop and that there is variety in the fascia styles in this area. This is considered to be a weak justification and does not address the fundamental issue that the works carried out are intrinsically harmful to the setting of the heritage asset, despite having received an in principle objection at pre-application. In failing to provide a clear and convincing justification for the works, the applicant's case is contrary to National Policy. The NPPF goes on at para 136 to state "Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred". In this case the applicant has been advised at pre-application of the measures to make this scheme more acceptable however this application falls short of what would be required.

Overall, by reason of the size and design of the signage and the use of inappropriate materials it is concluded that the works carried out to this shop front are unacceptable and

contrary to policy and it is therefore recommended that this application for advertisement consent is refused.

## **RECOMMENDATION**

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

1 The signage installed on this Grade II listed shop front, by reason of its size, use of inappropriate materials and poor design is detrimental to the special historic and architectural character of the building which is fundamental to its heritage significance. The works are incongruous and discordant with the adjacent listed buildings and fail to preserve or enhance this part of the Bath Conservation Area or the wider streets scene. Insufficient and inadequate information has been presented to justify or override the harm to the heritage asset and as such the works are contrary to Section 12 of the National Planning Policy Framework and contrary to Policies D.4, BH2, BH6 and BH17 of the Bath and North East Somerset Local Plan, including minerals and waste policies, October 2007.

### **PLANS LIST:**

This decision relates to the Covering Letter, Supporting Photographs and to drawings 01, 02, 03, 04, 05 and 06 dated 16th July 2012

**Item No:** 04  
**Application No:** 12/03095/LBA  
**Site Location:** Roman Candles, 5 Terrace Walk, City Centre, Bath



**Ward:** Abbey      **Parish:** N/A      **LB Grade:**  
**Ward Members:** Councillor B J Webber      Councillor Manda Rigby  
**Application Type:** Listed Building Consent (Alts/exts)  
**Proposal:** External alterations for the display of external fascia and hanging signs (regularisation) and removal of existing light fittings and associated works.  
**Constraints:** Agric Land Class 3b,4,5, Article 4, Bath Core Office Area, City/Town Centre Shopping Areas, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, World Heritage Site,  
**Applicant:** Roman Candles Of Bath Ltd

<b>Expiry Date:</b>	10th September 2012
<b>Case Officer:</b>	Richard Stott

## **REPORT**

### **REASON FOR PRESENTING TO COMMITTEE**

Cllr Rigby has requested that this application be presented to Committee in the event that the case officer is minded to refuse and the Chair of Committee has agreed to this request.

### **DETAILS OF THE LOCATION**

5 Terrace Walk is Grade II listed and noted in the statutory list as, Nos 3-5 Terrace Walk (Group Value) , shops with accommodation over, constructed in 1730 and altered in the late 18th and 19th centuries. There are a large number of listed buildings in the immediate vicinity including, to the north west of the site, Bath Abbey which is listed Grade I.

### **DETAILS OF THE PROPOSAL**

Retrospective listed building consent is sought to regularise external alterations to this shop including the display of an external fascia and hanging sign and the removal of the existing light fittings

### **RELEVANT HISTORY**

12/03082/AR - Display of external fascia and hanging signs (regularisation) and removal of existing light fittings and associated works. This application is also to be considered by Committee.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **CONSULTATION:**

### **REPRESENTATIONS:**

#### **BATH HERITAGE WATCHDOG: Object**

The works, by virtue of the use of inappropriate materials, design and colours are considered to be detrimental to the special historic and architectural character of the listed building, adjacent listed buildings and the conservation area contrary to S16 and S72 of the Planning (Listed Buildings & Conservation Areas) Act 1990, Section 12 'Conserving & Enhancing the Historic Environment of the NPPF and Local Plan Policies BH2, BH6, BH17 and BH19 and should be refused in its current format.

#### **BATH PRESERVATION TRUST: Object**

The fascia by virtue of its excessive width, dominant position, method of fixing, inappropriate materials and high shine finish is unsympathetic to the setting of the listed building. The signs which have been erected are incongruous and visually intrusive. This application should be refused and action taken to get the inappropriate signs removed. This application is contrary to policies BH2, BH17 and BH19 of the B&NES Local Plan, the Planning (Listed Building and Conservation Areas) Act 1990, and the NPPF, and should be refused.

CLLR RIGBY: Support

- The area of the fascia is no greater and therefore no more prominent than the fascia of the previous occupier. The colours and style of lettering are in keeping with the city.
- The fascia is less prominent or objectionable than others in the vicinity. It is smart and attractive, but not aggressively modern.
- The applicant has offered to replace the shiny finish with a matt finish, though it is doubtful whether that concession needed to be made.
- The Council has no consistent approach to shop fascia's. There is a great variety to be seen in the city centre. Many are of very poor quality, with no visual interest whatever.
- More damage is done to the setting of the listed buildings in Terrace Walk by the multifarious street furniture, poor quality paving and traffic congestion.
- The applicant's scheme is the reasonable evolution of the building to suit present day retailing requirements.
- The hanging sign is inconspicuous and consistent with the fascia.
- The redundant lighting is to be removed.
- Only one member of the general public has submitted a mild criticism of the quality of the lettering, but his concern does not seem to relate to the setting of the listed building.
- The proposals are not incongruous or visually intrusive or unsympathetic to the setting of the listed building or to the conservation area.
- If the applications are referred to the Development Control Committee, it is requested that a site visit be arranged prior to the meeting.

## **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 Building

BH.6 Conservation Area

BH.17 Advertisement Control

DRAFT CORE STRATEGY, MAY 2011

The Draft Core Strategy is a material consideration but at this stage it has limited weight

## **LEGAL FRAMEWORK**

Town and Country Planning Act, 1990

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

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

## **NATIONAL PLANNING POLICY FRAMEWORK**



The NPPF came into force on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's), the following chapter is relevant to this decision:

12 Conserving and enhancing the historic environment

### **OFFICER ASSESSMENT**

This application seeks retrospective listed building consent to regularise an unauthorised shop front including external fascia and hanging signs on this Grade II listed shop. The application follows a pre-application enquiry where the applicant was advised that the current shop front is deemed unacceptable.

This application relates to a projecting metal fascia board affixed to the original timber shop fascia, the new board is mounted on blocks and projects 5cm forward of the original fascia. The existing finish is gloss black vinyl covering the metal, the applicant has stated the sign is to be "de-glossed" although it is noted that no details of what the sign would look like have been provided. The sign features simple gold lettering. Currently there are four modern down lights on the shop front that were installed by a previous occupant, these are to be removed as part of this application. In addition to the fascia, the site features a small hanging sign with two down lights. The lights are to be removed but the hanging sign is to be retained.

Terrace Walk is in a visually prominent location on the edge of the city centre and comprises a row of shops. There is diversity in the shop fronts and whilst it is noted that some of the frontages have been unsympathetically finished, this should not be seen as setting a precedent. The site is located within the Bath Conservation Area and the World Heritage Site.

Having assessed this application it is clear that the approach taken by the applicant is not appropriate or consistent with conservation best practice. The shop front is traditional and historic and therefore a traditional approach of providing signage should be adopted i.e. sign written signage. The applied, standard metal fascia signage is regarded as inappropriate, incongruous and discordant with the character of both the protected building and also in terms of its setting within a traditional and high quality historic environment as recognised by the World Heritage Site inscription status and being within a designated conservation area.

Whilst it is noted that there was a hanging sign on the shop front previously there is no evidence to indicate that this benefits from a formal approval and furthermore it is regarded as counter to the formal character of the terrace (there are no other hanging signs along this street frontage). The presence of an unauthorised and inappropriate sign should not be taken as setting a precedent to allow for the retention of this sign.

There are examples of streets in Bath where hanging signs are appropriate and add positively to the character of the street an example being Green Street. By contrast Terrace Walk is an informal street with a varied built form and no obvious architectural unity, hanging signs do not form part of the character of this area.

The style and materials chosen for the hanging sign are deemed inappropriate and, akin to the fascia signage, regarded as incongruous and inappropriate for the context of a traditional shop front, fundamentally the hanging sign is considered intrinsically



disproportionate to the scale of the shop frontage. The hanging sign element of this application in its current form is not supported by officers.

Whilst there is no objection in terms of the colour scheme adopted, overall the style, materials, proportions and method of fixing are not acceptable, an appropriate compromise would be to reduce the scale of the signage and opt for a more simple sign written sign, this would be more consistent with the approach adopted throughout the city on other traditional shop fronts.

Section 12 of the NPPF confirms at para 132 that "significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification". In this case the applicant justifies the works by stating that the signage provides essential advertisement for the shop and that there is variety in the fascia styles in this area. This is considered to be a weak justification and does not address the fundamental issue that the works carried out are intrinsically harmful to the setting of the heritage asset, despite having received an in principle objection at pre-application. In failing to provide a clear and convincing justification for the works, the applicant's case is contrary to National Policy. The NPPF goes on at para 136 to state "Local planning authorities should not permit loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred". In this case the applicant has been advised at pre-application of the measures to make this scheme more acceptable however this application falls short of what would be required.

In conclusion, the fascia, by virtue of its excessive width, dominant position, method of fixing and inappropriate materials is unsympathetic to the setting of the listed building, to the detriment of the appearance of this Grade II Listed heritage asset. The signs which have been erected are incongruous and visually intrusive to this part of the street scene and the Bath Conservation Area and the development is contrary to both local and national planning policy.

It is recommended that this application is refused.

## **RECOMMENDATION**

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

1 The signage installed on this Grade II listed shop front, by reason of its size, means of fixture, use of inappropriate materials and poor design is detrimental to the special historic and architectural character of the building which is fundamental to its heritage significance. The works are incongruous and discordant with the adjacent listed buildings and fail to preserve or enhance this part of the Bath Conservation Area or the wider streets scene. Insufficient and inadequate information has been presented to justify or override the harm to the heritage asset and as such the works are contrary to Section 16 and Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990, Section 12 of the National Planning Policy Framework and contrary to Policies D.4, BH2, BH6 and BH17 of the Bath and North East Somerset Local Plan, including minerals and waste policies, October 2007.

**PLANS LIST:**

1 This decision relates to the Covering Letter, Statement of Significance, Supporting Photographs and to drawings 01, 02, 03, 04, 05 and 06 dated 16th July 2012

**Item No:** 05  
**Application No:** 12/03731/FUL  
**Site Location:** Parcel 1100, Compton Martin Road, West Harptree, Bristol



**Ward:** Mendip                      **Parish:** West Harptree                      **LB Grade:** N/A  
**Ward Members:** Councillor T Warren  
**Application Type:** Full Application  
**Proposal:** Change of use of land from agricultural (Sui Generis) to the keeping of horses (Sui Generis) and erection of stables and formation of replacement access and track (resubmission).  
**Constraints:** Airport Safeguarding Zones, Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Water Source Areas,

<b>Applicant:</b>	Mr Richard Curry
<b>Expiry Date:</b>	23rd November 2012
<b>Case Officer:</b>	Tessa Hampden

## REPORT

Reason for referring application to committee

Cllr Tim Warren, Mendip Ward Cllr, requested that this is heard at Committee if officers are minded to approve the application. Cllr Warren does not feel that the previous reason for refusal has been overcome. Further West Harptree Parish Council object to the planning application. The Chair of Committee has agreed to this application being considered by Committee, particularly as the previous application was also considered by Committee.

Site description and proposal

The application relates to a parcel of land located off Compton Martin Road, in between the villages of Compton Martin and West Harptree. The site is located within an Area of Outstanding Natural Beauty (AONB).

The application seeks planning permission for the change of use of land from agricultural to the keeping of horses and the erection of stables and formation of a replacement access and track. A similar application to this was refused planning permission by Development Control Committee on 15th February 2012 for the following reason:

'Due to the size of the stables, the development has the potential to have a similar impact as a commercial enterprise, and the noise and disturbance resulting from the use of the stables and the track in close proximity to the neighbouring dwelling is considered to result in undue harm to these neighbouring occupiers. The development is therefore considered to be contrary to policy D2 of the Bath and North East Somerset Local Plan, October 2007'

The current application has been resubmitted in an attempt to overcome this previous reason for refusal. The stables have been re-sited a further 12metres to the north east, away from Fairash Bungalow. The access road has correspondingly been extended, but the overall size, and design of the proposed stables is the same as put forward in the previous planning application. The agent has confirmed within the current submission that the development is not for commercial purposes and disagrees that the three bay stable unit and hay store is akin to a commercial use.

Relevant planning history

DC - 12/00426/FUL - RF - 7 June 2012 - Change of use of land from agricultural (Sui Generis) to the keeping of horses (Sui Generis) and erection of stables and formation of replacement access and track.

DC - 11/04357/FUL - PERMIT - 19 December 2011 - Formation of replacement vehicular access

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Highway Development - No objection subject to the inclusion of conditions. Subject to the development being limited to a non-commercial use, it is considered that any potential intensification in use of the site is likely to be de-minimis and negated by the proposed improvements to the access.

Cllr Warren - Does not feel that concerns raised at the time of the last application have been overcome.

Compton Martin Parish Council - support this planning application and comment that the Parish Council were pleased to see the applicant agrees to the condition previously recommended by the Case Office that the use of the proposed development and site shall be limited to non-commercial equine uses for the benefit of the individual site owner, or individual tenant and their immediate family

West Harptree Parish Council -- Object to the planning application. The comments can be summarised as follows: objection to principle of the development, Impact upon neighbouring residential amenity, huge visual impact, potential for commercial use in the future, will increase number of flies/pets, increase in vehicular movements, and light pollution.

## **POLICIES/LEGISLATION**

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

D.2: General design and public realm considerations

D.4: Townscape considerations

NE.2: Areas of Outstanding Natural Beauty

T.24: General development control and access policy

ET7 Use of Agricultural land

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.

Guidelines for Horse related Development for the Mendip Hills AONB - Revised 2012

The NPPF was published in March 2012 and is a material consideration but is not considered to conflict with the above policies.

## **OFFICER ASSESSMENT**

Use of agricultural land

The development is not considered to have an adverse impact upon the efficient operation of an agricultural enterprise, or lead to the fragmentation or severance of a farm holding. There is therefore no objection to the change of use in principle.

Effect on the Landscape

It is important to ensure that the development does not have a detrimental impact upon the landscape qualities of the Mendip AONB. The guidance with the Supplementary Planning Guidance (Guidelines for Horse related Development for the Mendip Hills AONB ) has therefore been considered in the determination of this planning application. Although the siting of the stables has altered since the previous application, the siting, in terms of its visual impact is not dissimilar to the previous submission, and a similar conclusion can be reached on this issue.

It is considered that in terms of the impact on the AONB, the stables are sensitively sited. They will be seen in context with the existing adjacent farm buildings and the neighbouring bungalow. The visual link with the existing cluster of buildings will reduce the impact of this building upon the natural beauty of the AONB. The development is considered to respect the topography of the site and is not considered to be in located in a particularly elevated position, being sited on a lower part of ground within the parcel of land.

The stables are of a fairly standard design which is typical of stables in rural areas. The scale is considered to be acceptable ensuring that the building will not be overly dominant in this location. The materials as proposed are considered to be appropriate, with the timber frame being less visually intrusive than other materials such as concrete block.

The field access has been approved under a previous planning application, where it was not considered to have an adverse impact upon the rural character of the area. The track access leading from the field entrance to the stables is proposed as two narrow strips of scalping's with a grass central core. The agent has stated that the scalping's would quickly green over with vegetation and consequently be insignificant in the field. Although the principle of limestone scalping's is considered to be acceptable, as the colour of these can vary. A condition should therefore be added to ensure that the materials chosen are appropriate in the rural landscape.

No external lighting is proposed and conditions can be included to ensure that this is not installed at a later date or to ensure that any that are installed (such as security lighting) are appropriate and do not cause unnecessary light pollution which could have a resultant impact upon the AONB.

The application relates to the change of use of the land and as such is likely that jumps etc may at times be placed on the land. As a temporary feature, the harm that this would bring is not considered to be significant. A condition can be attached to any permission to ensure that jumps should be removed after use and stored on site. Any fixed structures would require the benefit of planning permission.

On balance, the change of use of the land and the stables, and associated work are not considered to have a detrimental impact upon the rural character of the area or the character and appearance of the Area of Outstanding Beauty in which the site is set.

#### Highway safety

The existing access to the site is sub-standard. Whilst the replacement access permitted by way of planning permission 11/04357/FUL, affords some improvements and benefits to highway safety, it remains substandard. With or without the proposed development, the

existing field and access could be used for the keeping of livestock. The agent has confirmed that the development is to be used for private equine use and a condition can be added to ensure that the development is not used as a commercial enterprise. If this is the case, it is considered that any potential intensification in use of the site is likely to be de minimis and negated by the proposed improvements to the access.

There is some concern with regards to the safety of the adjacent road in terms of a route to ride horses. However this is only a small distance from more acceptable routes off Harptree Hill. Given that this is for small scale private use rather than a larger commercial enterprise, it is not considered that any harm would be significant enough so as to warrant a reason for refusal.

On balance therefore the proposed development is not considered to result in any undue harm to highway safety and there are no objections raised on these grounds.

#### Residential amenity

As stated above, the previous application was refused due to the resultant impact of the stables upon the residential amenity of the neighbouring occupiers. The stables have been re-sited a further 12 metres north east, so that they now sit 44 metres from the nearest elevation of Fairash Bungalow, with the dung store being sited 60 metres from this point.

The stable building is not considered to dominate the outlook of any habitable windows of Fairash Bungalow and is not considered to result in an unacceptable outlook from the outdoor amenity space. In this regards, the development is therefore not considered to significantly harm the neighbouring amenity.

Concerns were previously raised at committee with regards to the noise and disturbance resulting from the use of the building and the associated access road. The agent has confirmed that the stables are not for commercial use and would accept a condition to control this. As such, the stables, sited further away from the neighbouring bungalow, and used as private stables, are not considered to result in an unacceptable level of noise and disturbance for these neighbouring occupiers. The neighbouring bungalow is located adjacent to poultry farm buildings, and although this use has recently ceased, would have typically resulted in a level of noise and disturbance which would be greater than that of a small scale private stable facility. Further, the agent has stated that, in respect of the access, it lies between 80metres and 47metres distance from the nearest part of the neighbouring dwelling compared with the 17 metre distance from the trafficked A3678. The agent cites that given the low level of usage (estimated at two visits per day by the agent), compared to the ambient traffic noise from the A368, any objection to noise disturbance from the use of the track is untenable. Given the increased acceptable distance between the development and the neighbouring property, it is not considered that the development would result in any significant harm upon the neighbouring occupiers in terms of increased noise and disturbance.

Given the scale of the development and the acceptable distance between the development and the neighbouring property, it is not considered that the development would have any significant detrimental impact upon the neighbouring occupiers in terms of increased flies, smells and other nuisance. Provisions have been made for the storage of



dung, and this is considered to be appropriate, away from the neighbouring properties. The adjacent property is sited next to a former poultry farm and the field currently has an agricultural use. This form of development as proposed is not uncommon in a rural environment.

The proposed development is not considered to result in an undue detrimental impact upon the residential amenity of the neighbouring occupiers.

## Conclusions

Overall, the proposed development is considered to be of an appropriate siting, scale and design, which will ensure that the rural character of the area, and the character and appearance of the site is safeguarded. It is considered that the previous reason for refusal has been overcome. Subject to conditions, there are not considered to be any significant issues with regards to highway safety or the residential amenity of the neighbouring occupiers. For these reasons, the 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 No external lighting shall be installed on the site unless details are first submitted to and approved in writing by the Local Planning Authority. Any lighting shall thereafter only be installed and retained in accordance with these approved details.

Reason: In the interest of the rural character and appearance of the area.

3 Any jumps or associated paraphernalia should be removed when not in use and stored on site.

Reason: To safeguard the character and appearance of the Area of Outstanding Natural Beauty

4 No development shall commence until details of the limestone scalplings to be used in the construction of the track have been submitted to and approved in writing by the Local Planning Authority. The development shall then only be carried out in accordance with these approved details.

Reason: To safeguard the character and appearance of the Area of Outstanding Natural Beauty



5 The development hereby permitted shall not be occupied until the proposed access has been constructed in full accordance with the requirements of and details approved in writing by the Local Planning Authority. The access shall then be maintained in accordance with these approved details thereafter.

Reason: In the interests of highway safety

6 The access, between the carriageway and the gates, shall be properly bound and compacted (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety

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

Reason: In the interests of highway safety.

8 The access hereby permitted shall not be brought into use until the visibility splays shown on the submitted plan have been provided with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety.

9 The existing vehicular access shall be closed and its use permanently abandoned, concurrently with the provision of the new access hereby approved being first brought into use, and the verge and other highway features reinstated, in accordance with details which shall first have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

10 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include a programme of the works, together with details of appropriate traffic management. The development shall then only be constructed in accordance with that approved plan.

Reason: To ensure the safe operation of the highway.

11 The use of the proposed development and site shall be limited to non-commercial equine uses for the benefit of the individual site owner, or individual tenant, and their immediate family.

Reason: In the interests of highway safety

12 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.

## **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 Bath and North East Somerset Local Plan (including minerals and wastes) adopted October 2007 D2, D4, NE4, T24, ET7

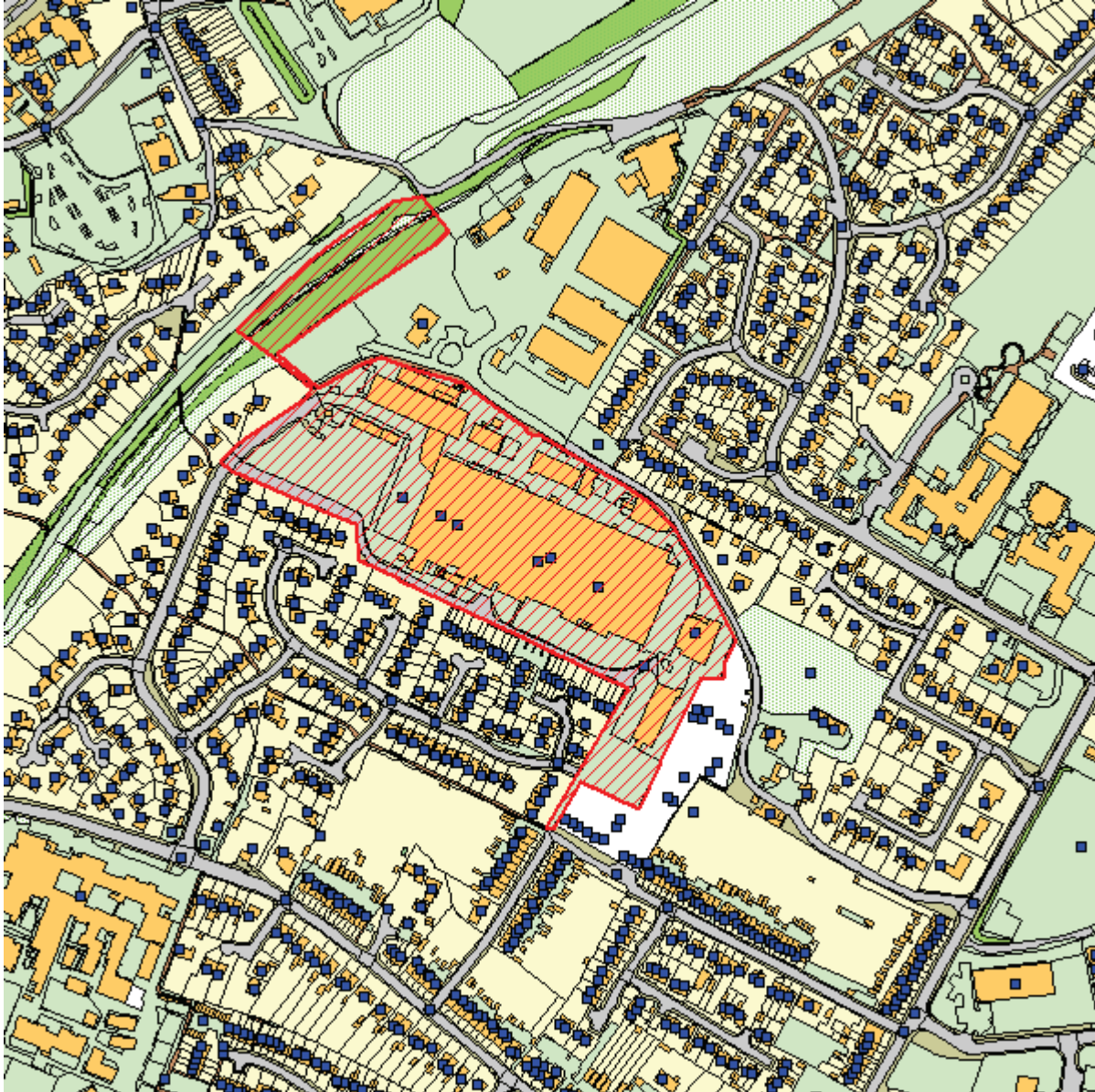
The change of use of the land is considered to be acceptable in principle, with the appropriate siting, scale and design ensuring that there is no resultant harm on the Area of Outstanding Natural Beauty in which the site is set. Subject to conditions, the development is not considered to result in significant harm to highway safety or the residential amenity of the neighbouring occupiers. No other significant issues have arisen as a result of this planning application.

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

### **3 ADVICE NOTE:**

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

**Item No:** 06  
**Application No:** 11/01772/FUL  
**Site Location:** Site Of Alcan Factory, Nightingale Way, Midsomer Norton, BA3 4AA



**Ward:** Westfield                      **Parish:** Westfield                      **LB Grade:** N/A  
**Ward Members:** Councillor R Appleyard      Councillor Robin Moss  
**Application Type:** Full Application  
**Proposal:** Residential-led mixed use redevelopment comprising of the erection of 169no. dwellings, community facilities, offices, town centre link, formal green space and associated works.  
**Constraints:** Agric Land Class 3b,4,5, Coal - Standing Advice Area, Core Employment Area, Forest of Avon, Housing Development Boundary, Public Right of Way, Sites of Nature Conservation Imp (SN), Tree Preservation Order,

<b>Applicant:</b>	Linden Homes Western Ltd
<b>Case Officer:</b>	Gwilym Jones

## **APPLICATION FOR A DEED OF VARIATION TO S.106 AGREEMENT**

### **BACKGROUND**

At its meeting of 18<sup>th</sup> January 2012 the Committee resolved to grant detailed planning permission for the comprehensive redevelopment of the former Alcan site comprising the erection of 169 residential units, community space, and offices together with formal green space and associated works.

The Recommendations were to:

(A) Authorise the Planning and Environmental Law Manager to secure an Agreement under Section 106 of the Town and Country Planning Act 1990 in respect of various matters including:

2. Provision of On Site Employment

Provision of an employment/community building of approximately 1,620m<sup>2</sup> (Gross Internal Area) comprising:

- Ground floor community use (Class D1)
- First and second floor offices (Class B1)

The community use space to be available at negligible cost

The employment/community building to be managed by a community trust for the benefit of residents and the surrounding community

The employment/community building to be available for occupation to shell and core specification (details to be agreed) prior to the occupation of more than 50 residential dwellings

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

The s.106 agreement was signed and planning permission granted on 29<sup>th</sup> June 2012.

### **CURRENT APPLICATION**

The developer (Linden Homes) is seeking a variation to the signed agreement to require that the community and office building is available for occupation prior to the occupation of more than 100 residential dwellings. The s.106 would remain unchanged in all other respects

### **CONSULTATIONS**

There has been no formal consultation on the proposed Deed of Variation but has been posted as an application document on the Council's website. In addition the Ward Councillors (Appleyard and Moss) have been advised of the proposed changes. Any comments received from them will be reported to Committee.

### **CONSIDERATIONS**

Linden Homes have begun preliminary work on the site but have advised that following a review of the detailed build programme and cashflow appraisal of the approved scheme then given the upfront costs of developing the site (and limited return on the initial investment from sales) the requirement that the community and office building is complete by occupation of the 50th dwelling is constraining their ability to fund the delivery of the project. They are therefore proposing that the building is complete on occupation of the 100th dwelling.

In terms of the estimated dates for delivery of the space, whereas based on the construction programme the space would be available by December 2013 the proposed change would move this to February 2015. The build programme for the community and office building is approximately 40 weeks and Linden has agreed to commit to both a start for the building (not later than occupation of 65 dwellings) as well as its completion (100 dwellings). They have also

confirmed that Mardons Social Club, who are currently on the site will be able to continue to occupy their existing building continuously until the new building is ready for occupation.

The original application was subject to a detailed and independent review of Linden's financial appraisal and this demonstrated the scheme could support the full range of s.106 obligations reported to Committee. Whilst the financial appraisal submitted with the planning application has not been independently re-assessed in the light of the proposed change in the delivery programme for the community and office building, based on the viability of the original scheme Officers are satisfied that the proposed change is reasonable and will still ensure that the space is provided significantly before completion of the development.

The development as a whole will deliver significant community benefits including new affordable homes, open space, and on and off-site employment space as well as redevelop a large and currently derelict site. The development includes 35% affordable housing, the delivery of which is supported in part by Government funding which requires the affordable dwellings to be built by March 2015. The recommendation is to agree to the variation in the Section 106 agreement as set out in this report.

### **RECOMMENDATION**

To agree to the requested variation of the planning obligations entered into in respect of the above Development as set out above and that if the Committee is minded to accept this recommendation:

That the Development Control Committee resolve that the Council enter into a supplemental Section 106 Agreement with the current owners of the land to vary the terms of the Section 106 Agreement dated 29<sup>th</sup> June 2012 made between the Council, Linden Limited and HSBC Bank Plc in respect of the former Alcan Site, Nightingale Way, Midsomer Norton ("the Original Section 106 Agreement") to provide in respect of the Community and Office Building that:

- construction to commence before occupation of 65 dwellings
- the building to be available for occupation prior to the occupation of more than 100 residential dwellings

### Background Papers

Original report to Committee on 11/01772/FUL dated 18<sup>th</sup> January 2012

Signed Section 106 agreement dated 29<sup>th</sup> June 2012 relating to this site

Letter submitted on behalf of the applicants setting out the proposed change to the s.106

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<b>Bath &amp; North East Somerset Council</b>	
MEETING:	Development Control Committee
MEETING DATE:	24 <sup>th</sup> October 2012
TITLE:	Tree Preservation Order: Bath and North East Somerset Council ( Hillscroft, Bull's Hill, Wellow No. 3 ) Tree Preservation Order 2012
WARD:	Wellow
<b>AN OPEN PUBLIC ITEM</b>	
<p><b>List of attachments to this report:</b></p> <p>Plan of Site</p> <p>Copy of letter of objection to the Tree Preservation Order</p>	

## **1 THE ISSUE**

1.1 An objection has been received from Wildwood Tree Surgeons acting on behalf of the owner following the making of the Tree Preservation Order entitled Bath and North East Somerset Council ( Hillscroft, Bull's Hill, Wellow No. 3 ) Tree Preservation Order 2012 ("the TPO"), which was provisionally made on the 28th May 2012 to protect a Silver Birch and Poplar which are encircled in black and identified as T1 and T2 on the plan which make a contribution to the landscape and amenity of the conservation area.

## **2 RECOMMENDATION**

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council ( Hillscroft, Bull's Hill, Wellow No. 3 ) Tree Preservation Order 2012 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 conservation area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services. 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 one mature Silver Birch and one Poplar growing in the garden of Hillscroft and encircled in black and marked T1 and T2 on the attached plan.

4.3 Both trees were originally the subject of a notification reference 12/01892/TCA to be felled. The notification also included the felling of one Hornbeam. Wellow Parish Council voted to oppose the notification at the time.

4.4 The trees were viewed and assessed. The Poplar and Silver Birch were considered to be of sufficient landscape merit that a Tree Preservation Order should be made.

4.5 Aerial photographs indicate that the tree cover on this land within the Wellow Conservation Area has substantially reduced over a period of years since 2005. The officer is not inferring that the owner has undertaken any unauthorised work or poorly managed the trees, however, the officer does consider that the current trees contribute towards the conservation area and wishes to ensure that replacements can be secured in the future to reduce the gradual erosion of tree cover.

#### **4.6 Letter of objection to the Tree Preservation Order**

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



4.8 One letter of objection has been received from Wildwood Tree Surgeons on behalf of the owner, Kevin Jackson. The Committee are advised to read the letter of objection attached.

4.9 The Council are advised that following the making of the TPO an application, reference 12/02633/TPO, was made to fell the Poplar and to reduce the Silver Birch by 30%. Wellow Parish Council responded that it would have no objection to the application being approved following discussions with the agent.

4.10 The main objections as detailed within the letter are summarised below.

- i) The Poplar leans towards the road.
- ii) Another Poplar of the same size as the current Poplar failed at the root plate approximately 5 years ago.
- iii) The waterlogged conditions will result in reduced root cohesion with the surrounding soil, and in view of the canopy size and height of the Poplar this tree is considered to pose a danger.
- iv) Pruning is not considered practical because the regrowth will develop on weak attachment points.
- v) The Poplar is of low amenity value and does not fulfil the assessment criteria of the Council's adopted written method to determine whether trees should be considered for a tree preservation order.
- vi) Silver Birch are a short lived pioneer species and the current tree is considered to have a safe useful life expectancy of 20-30 years.

4.11 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 Poplar has a slight lean towards the road ( East ) , however, the objector has not stated or demonstrated that the lean is progressive or that recent basal movement has occurred. A tree stem can develop the appearance of a lean in response to the presence of neighbouring trees, for instance, to grow towards the light. Aerial photographs from 2005 indicate that there was a dense covering of trees present to the west of the tree which could have influenced the growth of the Poplar.
- ii) Details of the reasons why the adjacent Poplar failed have not been provided or substantiated and is subject to speculation. The agent did not attend the clearance of the tree. The loss of an adjacent tree is not considered sufficient justification to fell a neighbouring tree.
- iii) A small overgrown informal pond or dell is present to the immediate south of the Poplar, however this is considered to have a localised impact. No supporting information has been provided to indicate that the whole rooting area is consistently waterlogged and there were no obvious signs that this was the case during the officer's visit. The objector uses the word 'danger' in their objection to the TPO. A dead or dangerous tree is exempt for the normal six weeks notice, however, the notification did not indicate that the tree was dangerous and considered exempt by the agent at that time. If the agent was confident that the tree was a danger and could demonstrate that this was the case then they did not have to submit a notification.

- iv) The officer agrees that regrowth on Poplar following major works such as a significant crown reduction is often formed on weak attachments and extensive decay can develop following such works. Poplars which have been reduced or pollarded in the past usually require regular work to address these issues.
- v) The officer disagrees that the Poplar has low amenity value. The tree is readily visible to the general public and considers that the making of the TPO is defensible.
- vi) The Officer agrees with the comments made by the agent regarding the Silver Birch. The agent also clearly states that there are no structural weaknesses and that the tree is in good condition. The officer does not agree that felling or crown reduction is necessary or desirable, nor does the proposal follow the guidance within British Standard 3998 2010 Tree Work - Recommendations. Any pruning creates wounds which provide access for decay-causing organisms and the crown reduction referred to will adversely affect the visual appearance of the tree, destroying the natural tapering branch tracery.

#### **4.12 Relevant History**

4.13 10/02536/FUL – Proposed new entrance and drive including demolition of 5.5 metres of stone boundary wall – REFUSED

4.14 12/01892/TCA – Poplar, Hornbeam and Silver Birch – Fell – TPO MADE ON POPLAR AND SILVER BIRCH

4.15 12/02633/TPO – Fell Poplar, crown reduce Silver Birch by 30% – REFUSED, APPEAL PENDING IF TPO CONFIRMED.

### **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 6<sup>th</sup> 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 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 28th May 2012 and 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 contribute to the landscape and amenity of the Wellow Conservation Area and are readily visible to the general public.

6.2 Confirmation of the TPO would ensure the retention of the trees, however, an application supported by sound arboricultural reasons for pruning or felling can be made under the TPO. The Council will then be able to condition the quality of the workmanship and appropriate replacement planting if considered appropriate.

6.3 Following the making of the TPO an application under the TPO has been made to fell the Poplar and reduce the Silver Birch which has been refused. An appeal has been lodged but is currently on hold until a decision has been made with regards to the TPO.

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

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





## Wildwood Tree Surgeons

4 HUNGERFORD TERRACE  
WELLOW  
BATH  
BA2 8QA  
01225 835729  
07719 476679  
WILDWOOD7@MSN.COM

OUR REF WILD MT VERN  
06/06/2012



Hillscroft  
Bulls Hill  
Wellow  
BA2 8QS

### RE: FORMAL NOTIFICATION OF AN OBJECTION TO PROPOSED TREE PRESERVATION ORDER AT HILLSCROFT WELLOW.

Dear Jane Brewer

This is formal notification of an objection to the proposed Tree Preservation Order.  
(TCA 12/01892).

I have not been formally given a TPO number, I was also informed of the refusal at 3.30pm the preceding day by telephone before the notification expired the next day May 24th 2012.

#### Grounds for objection

##### **Tree1.**

The Poplar tree has a pronounced lean towards a busy B road another poplar of the same size failed at the root plate around five years ago adjacent to the road. It is my opinion that the cohesion of the roots given the waterlogged position and the height and windsail of the tree present a danger to the public highway.

(I am surprised the owner have not been requested by The Highways Authority under the miscellaneous provisions act to fell the tree, and can only assume because it is a third party tree it has been overlooked.)

Pruning higher up would only produce weaker points of attachment further up in the crown and exacerbate the problem further.

If the Wessex Tree Officer or Julian Forbes-Laird Tempo criteria are carried out on this tree it does not fall into the range for preservation. This is my argument, also the tree is of a very limited amenity value.

##### **Tree2.**

The Birch tree is a short lived pioneer species with an expected lifespan of under 90 years. This tree is clearly mature and its sule is likely to be 20-30 years, although there are no major structural weaknesses in the tree and it is in good condition a



reduction of 30% may be a more appropriate solution as the tree enters senescence with out the a need to place a TPO.

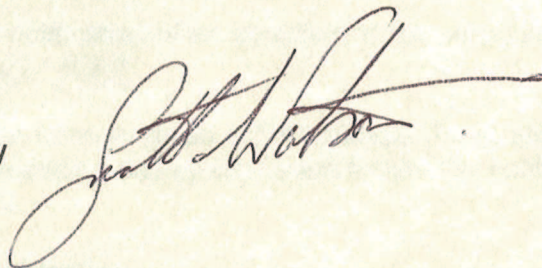
The reason I am confident and competent to carry out this assessment in an unbiased way is:

I spent 2009-2011 surveying trees for Network Rail. I was involved with around 12 other surveyors carrying out tree hazard assessment over 22,000 miles and conducting the biggest safety inspection of trees in Europe ever conducted. The work took me from Lostwithiel in West Cornwall to Lindisfarne in Northumbria covering over 1,500 miles and surveying 10,000's of trees.

The auditor for the contract was Julian Forbes Laird (responsible for Tempo) we used his threats template through out. I therefor refute the validity of the Tree Preservation Orders and see no grounds that loss of amenity overrides safety.

This then makes a mockery of both the Highways Act and The Occupiers Liability Act when statute Law can be over-ridden on the grounds of loss of amenity the arboricultural world is in real difficulty.

Yours sincerely



Scott Watson Techcert.ArborA. RFS. cert arb

**WILDWOOD**

Scale 1:1250

Date: May 2012

Plan No: 546/3

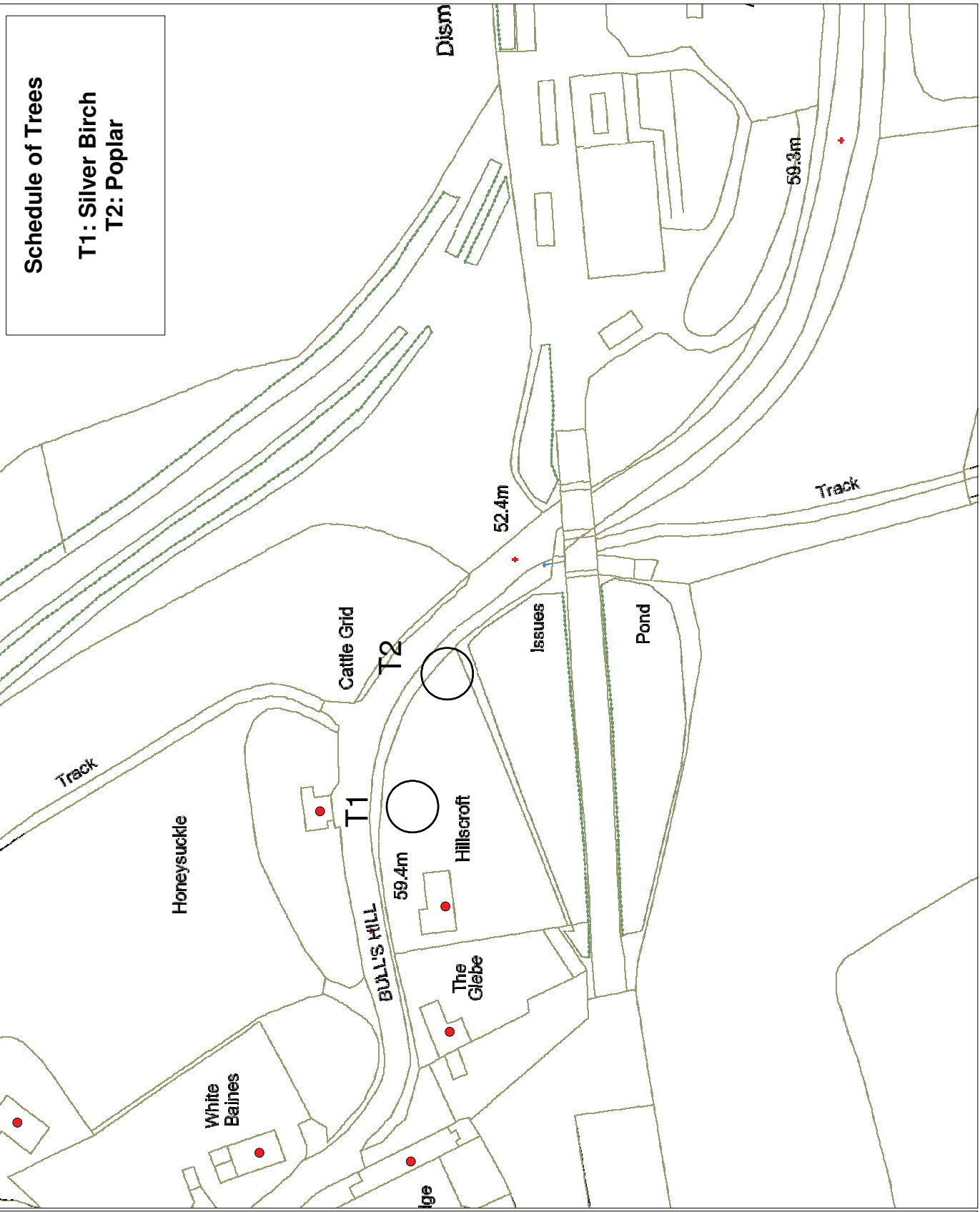
Grid Ref: ST 743 583

Title:  
TOWN AND COUNTRY  
PLANNING ACT 1990  
BATH AND NORTH EAST  
SOMERSET COUNCIL  
( Hillscroft, Bull's Hill,  
Wellow No. 3 )  
TREE PRESERVATION  
ORDER 2012

I hereby certify that this  
plan referred to in the  
BATH AND NORTH  
EAST SOMERSET  
COUNCIL  
( Hillscroft, Bull's Hill,  
Wellow No. 3 )  
TREE PRESERVATION  
ORDER 2012



Divisional Director,  
Planning & Transport Development



**Schedule of Trees**

- T1: Silver Birch
- T2: Poplar

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<b>Bath &amp; North East Somerset Council</b>	
MEETING:	Development Control Committee
MEETING DATE:	24 <sup>th</sup> October 2012
TITLE:	Tree Preservation Order: Bath and North East Somerset Council ( 35 West Hill Gardens, Radstock No. 29 ) Tree Preservation Order 2012
WARD:	Radstock
<b>AN OPEN PUBLIC ITEM</b>	
<p><b>List of attachments to this report:</b></p> <p>Plan of Site</p> <p>Copy of letters of objections to the Tree Preservation Order</p>	

## **1 THE ISSUE**

1.1 Two objections have been received from two neighbours following the making of the Tree Preservation Order entitled Bath and North East Somerset Council ( 35 West Hill Gardens, Radstock No. 29 ) Tree Preservation Order 2012 (“the TPO”), which was provisionally made on the 2nd May 2012 to protect a Sycamore ( identified as T1 on the plan) which makes a contribution to the landscape and amenity of the conservation area.

## **2 RECOMMENDATION**

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council ( 35 West Hill Gardens, Radstock No. 29 ) Tree Preservation Order 2012 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 tree which is the subject of this report makes an important contribution to the landscape and amenity of the conservation area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services. Officers from Development Control will need to take account of the tree when considering any application for development or alterations on the site which might affect the tree.

### **4 THE REPORT**

#### **4.1 Background**

4.2 The tree which is the subject of the TPO is one mature Sycamore growing close to the front boundary wall of 35 West Hill Gardens encircled in black and marked T1 on the attached plan.

4.3 An application, reference 12/00808/TPO, was received for the felling of the tree. The reason given in the application was because the tree was pushing out the boundary wall into the road and that to rebuild the wall significant root damage would be caused as to require the felling of the tree.

4.4 The tree was viewed and assessed and considered to be of sufficient landscape merit that alternative methods should be considered to reduce any risk with regards to the condition of the wall. For instance, since the wall did not function as a retaining structure, a section could be removed and the gap bridged without the need to sever roots or fell the tree.

4.5 Further investigation relating to the status of the original TPO was undertaken following an enquiry from the applicant. The original Tree Preservation Order was entitled Wansdyke District Council ( Norton-Radstock No.4 ) Tree Preservation Order 1986 which was made on 3<sup>rd</sup> October 1986. No written evidence was found to support a record of a confirmation date of 28<sup>th</sup> February 1987. This meant that the original TPO was considered unenforceable so the new TPO was made which is the subject of this report.

4.6 Westfield Parish Council provided a response of no objection to the Tree Preservation Order.

#### **4.7 Letter of objection to the Tree Preservation Order**

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

4.9 Two letters of objection have been received from 33 West Hill Gardens and 34 West Hill Gardens which are located on the opposite side of the road. The Committee are advised to read the letters of objection attached.

4.10 The main objections as detailed within the letters are summarised below.

- i) The tree is a cause of concern and fear during high winds because it would cause considerable damage or worse if it were to fall.
- ii) The leaves and other debris fall onto neighbouring properties and block gutters and down pipes and result in the development of numerous seedlings.
- iii) The tree is in the wrong place and should at least be pruned.
- iv) The canopy and roots are encroaching on neighbour's properties.
- v) The tree blocks light reaching rooms and shades front gardens when in leaf restricting the types of plants which can be planted.

4.11 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) A tree owner has a duty of care and should ensure that their trees are regularly checked by a suitably qualified and experienced person. The Council would support an application for appropriate pruning operations which are based on sound arboricultural reasons.
- ii) The natural shedding of seasonal debris is insufficient reason to fell a tree and sets an unsustainable precedent if this reason were supported by the Council.
- iii) The tree is not considered to be in the wrong location and is set in a generous front garden. The trunk is approximately 12 meters from the front elevation of 35 West Hill Gardens and approximately 22 meters from the nearest elevation of the properties opposite. The Council would support an application for appropriate pruning operations.
- iv) The root growth towards the properties opposite will be considerably influenced by the presence of the road which would provide unfavourable conditions for roots to flourish. No evidence to support root encroachment has been provided. Growth was noted to extend across the road but, with the exception of minor growth from the lower canopy, none overhung the front garden of the properties opposite.
- v) The tree is located to the west of 33 and 34 West Hill Gardens and it is accepted that shading of front gardens and front rooms will occur at particular times of the day and year. The severity of shading can be reduced by pruning without felling the tree.

## 4.12 Relevant History

4.13 12/00808/TPO – Felling of Sycamore – OBJECTION – TPO made which is the subject of this report.

## 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 6<sup>th</sup> 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 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 tree. The TPO was made on 2nd May 2012 and took effect immediately and continues in force for a period of six months.

### Planning Policy

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

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

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

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

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

## 6. CONCLUSION

- 6.1 The tree makes a significant contribution to the landscape and amenity of the area and is readily visible to the general public.
- 6.2 Confirmation of the TPO would ensure the retention of the tree, however, should it be found in the future that it would be unreasonable to retain the tree an application can be made under the TPO for felling. The Council will then be able to condition appropriate replacement planting if considered appropriate.
- 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.

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

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33 Westhill Gardens,  
RADSTOCK.

BATH & N.E. SOMERSET. BA3 3SH  
8th June, 2012

Jane Brewer,  
Senior Arboriculturalist,  
Bath & N.E. Somerset Council,  
Planning Services, P.O. Box 5006  
BATH BA1 1JG



Dear Ms Brewer,

Tree Preservation Order 2012 (35 Westhill Gardens, Radstock No. 29)

In response to your letter of the 3rd May 2012, I have lived at this address for 28 years and have only seen the abovementioned tree cut back once.

It is now huge and has reached the electricity cables which service Cedar Terrace. If any of it was blown down during stormy weather it would cause immense damage to nearby houses and the cars which park in Cedar Terrace which is also well used by pedestrians.

The leaves and other bits of the tree blow onto my property and as in previous years, I have had to have my gutters and downpipes cleaned due to the build-up and blockages this causes. Hundreds of seedlings also germinate in my garden each year.

Sadly a tree of that size is in quite the wrong place in a busy built up area and I urge you to at least consider having it lopped.

Yours faithfully,



Mrs B. Stivers.



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RECEIVED

-7 JUN 2012

LEWIS HOUSE

34 WESTHILL GARDENS  
RADSTOCK  
BA3 3SH.

F.A.O. BATH & N.E. SOMERSET COUNCIL.

TO WHOM IT MAY CONCERN.

RE: TREE PRESERVATION ORDER 2012

(35 WESTHILL GARDENS, RADSTOCK NO. 29)

WE WISH TO OBJECT TO THE TREE  
PRESERVATION ORDER 2012, NO 29, ON  
THE MATURE SYCAMORE SITUATED  
IN THE FRONT GARDEN OF 35  
WESTHILL GARDENS, RADSTOCK FOR THE  
FOLLOWING REASONS:-

1) OUR PROPERTY IS DIRECTLY  
OPPOSITE THIS TREE AND WE HAVE  
BEEN CONCERNED ABOUT THE STABILITY  
OF THIS TREE FOR A NUMBER OF  
YEARS, ITS MOVEMENT DURING  
HIGH WINDS AND BAD WEATHER

MAKES US FEAR FOR THE SAFETY OF OUR PROPERTY AND OURSELVES SHOULD IT UPROOT & FALL.

2) WE ARE ALSO CONCERNED THAT DUE TO THE SIZE OF THIS TREE THAT THE CANOPY AND ESPECIALLY THE ROOTS ARE ALREADY AFFECTING OUR PROPERTY THROUGH THEIR ENCROACHMENT ONTO OUR LAND.

3) THE SEEDS AND LEAF DROP BLOCK OUR DRAINS AND GUTTERING EVERY YEAR, AND IT IS ALMOST IMPOSSIBLE TO REMOVE ALL THE SEEDINGS WHICH ROOT IN OUR LAWNS & GARDENS.

4) THE SIZE OF THIS TREE, ESPECIALLY WHEN IN FULL LEAF, LIMITS THE AMOUNT OF LIGHT IN OUR LIVING AREAS AND MEANS THAT DURING THE SUMMER

AND AUTUMN PARTICULARLY  
OUR FRONT GARDEN IS IN  
DEEP SHADE FOR AT LEAST HALF  
OF DAYLIGHT HOURS, WHICH  
RESTRICTS THE TYPE OF PLANTS  
WE ARE ABLE TO USE AND ENJOY.

5) ALTHOUGH THE TREE IS PART  
OF THE LOCAL AMENITY, WE  
CONSIDER THAT THE FELLING  
OF THIS TREE WOULD NOT  
ADVERSELY AFFECT THE AREA  
AS THERE IS AN ABUNDANCE OF  
TREES & GREENERY IN THE  
IMMEDIATE LOCALITY.

YOURS SINCERELY

C.L. Dix.

(COLIN DIX)

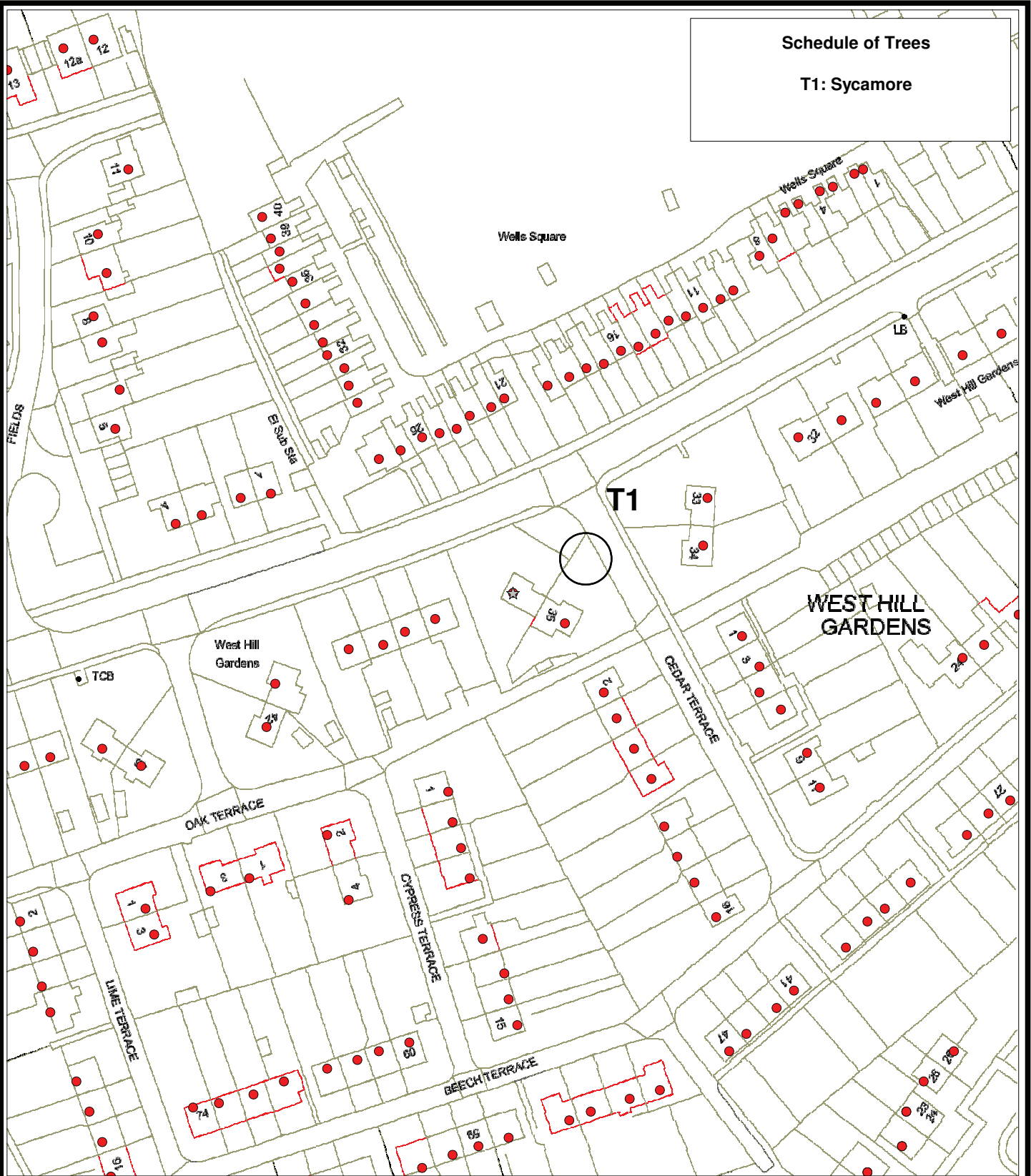
 Dix

(JEAN DIX)

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Schedule of Trees

T1: Sycamore



Scale 1:1250

Date: May 2012

Plan No: 533/29

Grid Ref: ST 795 443

**Title:**  
**TOWN AND COUNTRY PLANNING ACT 1990**  
**BATH AND NORTH EAST SOMERSET COUNCIL**  
**( 35 West Hill Gardens, Radstock No.29 )**  
**TREE PRESERVATION ORDER 2012**

**I hereby certify that this plan referred to in**  
**the BATH AND NORTH EAST SOMERSET**  
**COUNCIL ( 35 West Hill Gardens, Radstock No.29 )**  
**TREE PRESERVATION ORDER 2012**

Divisional Director, Planning & Transport Development

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<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	<b>24<sup>th</sup> October 2012</b>
<b>RESPONSIBLE OFFICER:</b>	Lisa Bartlett, Development Control Manager, Planning and Transport Development (Telephone: 01225 477281)
	AGENDA ITEM NUMBER
<b>TITLE:</b>	<b>NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES</b>
<b>WARD:</b>	ALL
<b>BACKGROUND PAPERS:</b>	None
<b>AN OPEN PUBLIC ITEM</b>	

**APPEALS LODGED**

**App. Ref:** 12/00926/FUL  
**Location:** High Gables The Barton Corston Bath  
**Proposal:** Erection of a dwelling with triple garage following demolition of existing dwelling, garages and outbuildings.  
**Decision:** REFUSE  
**Decision Date:** 20 April 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 14 September 2012

---

**App. Ref:** 12/02064/AR  
**Location:** Red Bridge House Lower Bristol Road Westmoreland Bath  
**Proposal:** Display of 3no. internally illuminated fascia signs, 1no. internally illuminated service sign, 1no. internally illuminated totem, 1no. non-illuminated wall mounted totem and 2no. non illuminated direction signs.  
**Decision:** Split decision - check file/certificate  
**Decision Date:** 2 July 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 17 September 2012

---

**App. Ref:** 12/02159/LBA  
**Location:** Parsonage Farm Parsonage Lane Publow Bristol  
**Proposal:** Internal works to first floor bedroom and bathroom (regularisation).  
**Decision:** REFUSE  
**Decision Date:** 6 July 2012  
**Decision Level:** Delegated

**Appeal Lodged:** 17 September 2012

---

**App. Ref:** 12/02056/FUL  
**Location:** Box Bush Bromley Road Stanton Drew Bristol  
**Proposal:** Restoration, alteration and extension of existing house following removal of existing extensions and garages  
**Decision:** REFUSE  
**Decision Date:** 17 July 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 21 September 2012

---

**App. Ref:** 12/01762/FUL  
**Location:** Former Little Chef Bristol Road Farrington Gurney Bristol  
**Proposal:** Change of use from restaurant (A3) to restaurant and takeaway (A3 and A5).  
**Decision:** REFUSE  
**Decision Date:** 9 August 2012  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 27 September 2012

---

**App. Ref:** 12/02266/FUL  
**Location:** Land North Of Ashwood Church Lane East Harptree Bristol  
**Proposal:** Erection of 9 retirement cottages with associated access, car parking, open space and landscaping.  
**Decision:** REFUSE  
**Decision Date:** 13 August 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 27 September 2012

---

**App. Ref:** 12/00675/FUL  
**Location:** Monkton Combe School Church Lane Monkton Combe Bath  
**Proposal:** Provision of access road, parking and drop-off area including new permissive pedestrian and cycle route and landscaping on land off Church Lane (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 4 April 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 2 October 2012

---

**App. Ref:** 12/01002/FUL  
**Location:** The Cottage Kelston Road Kelston Bath  
**Proposal:** Provision of new vehicular access  
**Decision:** REFUSE  
**Decision Date:** 24 May 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 2 October 2012

---

**App. Ref:** 12/01003/LBA  
**Location:** The Cottage Kelston Road Kelston Bath  
**Proposal:** Provision of new vehicular access  
**Decision:** REFUSE  
**Decision Date:** 24 May 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 2 October 2012

---

**App. Ref:** 12/01925/FUL  
**Location:** 4 Lime Grove Bathwick Bath BA2 4HF  
**Proposal:** Conversion of student lets into 2no maisonettes and 1no self contained apartment with first floor extension at the rear  
**Decision:** Non-determination  
**Decision Date:** 2 October 2012  
**Decision Level:**  
**Appeal Lodged:** 2 October 2012

---

**App. Ref:** 12/02072/FUL  
**Location:** The Chase Rectory Lane Compton Martin Bristol  
**Proposal:** Erection of extensions and provision of a first floor.  
**Decision:** REFUSE  
**Decision Date:** 23 July 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 4 October 2012

---

**App. Ref:** 11/03805/FUL  
**Location:** 55 Meadow Park Bathford Bath BA1 7PY  
**Proposal:** Provision of a timber balcony with stairway to garden at the rear of the dwelling (Retrospective)  
**Decision:** REFUSE  
**Decision Date:** 1 June 2012  
**Decision Level:** Delegated  
**Appeal Lodged:** 9 October 2012

---

## APPEAL DECISIONS

**App. Ref:** 11/04269/FUL  
**Location:** Court Essington, Midford, Bath  
**Proposal:** Erection of replacement loose boxes and equipment store  
**Decision:** **Refuse**  
**Decision Date:** **12 September 2012**  
**Decision Level:** **Delegated**  
**Appeal Decision:** **Allowed**

## Summary:

Court Essington is a substantial detached house in large grounds in Midford. Within the grounds is an assortment of stables, wood store and equipment store timber buildings located in close proximity to each other.

The proposal was to replace these existing buildings with one substantially larger building. The proposal was refused under the previous guidance within PPG2 and that the proposed buildings were not small scale essential sports facilities and therefore were inappropriate development within the Green Belt also harming openness and also have a harmful impact on the Area of Outstanding Natural Beauty.

Due to the passage of time the appeal was dealt with under the NPPF guidelines which are less strict in relation to the erection of facilities for outdoor sport and recreation by omitting the requirement for such facilities to be small scale or essential. The Inspector gave substantial weight to the NPPF and very little weight to the Local Plan Policy GB1 and came to the conclusion that the proposed building was not substantially larger than the existing and would not be highly visible from Old Midford Road. He was of the view that the proposal would not constitute inappropriate development in the Green Belt and would not have a harmful impact on the Area of Outstanding Natural Beauty.

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<b>App. Ref:</b>	11/03223/FUL
<b>Location:</b>	The Orchard, 3 Lower Farm Lane, Corston, Bath
<b>Proposal:</b>	Erection of a 3 bed detached dwelling after demolition of the existing
<b>Decision:</b>	<b>Refuse</b>
<b>Decision Date:</b>	<b>22 July 2011</b>
<b>Decision Level:</b>	<b>Delegated</b>
<b>Appeal Decision:</b>	<b>Dismissed</b>

## Summary:

The application relates to The Orchard, 3 Lower Farm Lane in the village of Corston. The site currently comprises a detached house, built in the 60's/70's with a detached garage and a number of single storey flat roofed extensions. The dwelling has a large garden, stables and small paddock.

The site is within the Green Belt and the proposal was refused as it was considered that the replacement dwelling would be materially larger than the existing dwelling which would represent inappropriate development within the Green Belt and would also have a harmful impact on openness.

The Inspector considered this and was of the view that, at an 80% increase in volume, the proposed dwelling would be materially larger and therefore the development was inappropriate development within the Green Belt and as such is contrary to the NPPF. The Inspector was also of the view that the proposal would have a harmful impact on the openness of the Green Belt which again is contrary to the NPPF. However he was also of the view that the proposed dwelling would not be so conspicuous as to cause material harm to the visual amenity of the Green Belt or the character and appearance of the area.

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**App. Ref:** 11/04966/FUL  
**Location:** 19 Waterloo Road, Bath  
**Proposal:** Erection of a pair of semi detached dwellings, including revised access and parking arrangements  
**Decision:** **Refuse**  
**Decision Date:** **19 January 2012**  
**Decision Level:** **Delegated**  
**Appeal Decision:** Dismissed

### Summary:

The application related to an area of land adjacent to 19 Waterloo Road that formed a side garden, garage and parking area. 19 Waterloo Road is an end of terrace miner's cottage. The site is within the Radstock Conservation Area.

The application was refused due to poor quality design and layout, including a car parking area to the front which did not reflect the character of the neighbouring Miner's cottages and this part of the character of the Radstock Conservation Area. There was also an issue with overlooking at the rear to the existing garden of 19 Waterloo Road.

Following the refusal of the appeal proposal, a revised application for a detached dwelling on the site, which overcame the previous reasons for refusal, was granted planning permission on 4 April 2012 ref: 12/00614/FUL. Soon after this an appeal was received against the original scheme for a pair of semi detached dwellings.

The Inspector, in dismissing the appeal, was of the opinion that the proposed dwellings were of a scale and mass that was not significantly different from the detached dwelling already granted permission. However he was of the view that the proposed parking area to the front would become dedicated to car parking and manoeuvring space which, along with the hard surfacing materials, would present a hard, uncompromising edge to the public realm when unused, and an incongruous parking lot when full.

He also commented that there would be little or no opportunity for landscaping, and that the prominence of this aspect of the development, set on rising land, would render it visually unacceptable and harmful.

He concluded that the proposed development would not serve to preserve or enhance the character or appearance of the Conservation Area. He was also of the opinion that car parking should not dominate the public realm and that the development should respond to the local context in terms of its layout.

In relation to the overlooking concerns the Inspector was of the view that, with appropriate screening, any issues of harm to residential amenity could be overcome.

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**App. Ref:** 12/01771/FUL  
**Location:** 64 Bloomfield Rise, Bath  
**Proposal:** Erection of a Dormer Window to the rear elevation.  
**Decision:** **Refuse**

**Decision Date:** 14 June 2012  
**Decision Level:** Delegated  
**Appeal Decision:** Dismissed

**Summary:**

The proposal was for a large flat roofed window at the rear of 64 Bloomfield Rise and was refused due to the

In dismissing the appeal the Inspector was of the view that the dormer would fill the majority of the roof slope and, although it would not alter the height of the ridgeline it would dominate the rear roof slope. This would significantly change the roofscape of the building and the terrace as a whole.

The Inspector had regard to the strong visual presence of the dwelling's rear elevation within the street scene and found overall that the proposed dormer would appear in a prominent position as an intrusive and unsympathetic alteration. He concluded that it would fail to display the high quality of design that is required to either complement the existing dwelling or to maintain or enhance the public realm. He was, however, of the view that the dormer would not harm the character of the World Heritage Site.

Finally the Inspector also had regard to other dormer windows within the locality of the dwelling but was of the view that they were minor in status and found that none would be directly comparable to the appeal proposal, either in terms of their size or their visual prominence.

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**App. Ref:** 12/00490/LBA  
**Location:** 29 Sion Hill, Lansdown Bath  
**Proposal:** The creation of a new oval shaped window opening at ground floor level to the rear elevation  
**Decision:** Refused  
**Decision Date:** 05 April 2012  
**Decision Level:** Delegated  
**Appeal Decision:** Dismissed

**Summary**

The introduction of an oval window would interrupt the original architectural balance and proportions of the rear elevation as per the original architect's intention. The proposed oval window would introduce a new off-centre opening of significant size and of a shape which has previously been limited to the ground and first floor of the rear elevation of No 30 and would lead to an unacceptable loss of historic fabric.

The appellant's argument that an increase in natural light levels is required is refuted and that the existing light levels are regarded as acceptable augmented by the borrowed light afforded by a substantial, recently approved modern extension.

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**App. Ref:** 11/02418/LBA & 11/02417/FUL  
**Location:** Weaver's Farm Barn, Wellow, Somerset  
**Proposal:** The construction of a two-storey extension for use as a holiday let

**Decision:** Refused  
**Decision Date:** 03/08/2011  
**Decision Level:** Delegated  
**Appeal Decision:** **Dismiss**

### **Summary**

The site, which is an historic farmstead, has changed significantly with part of the farmstead having been developed for residential housing. Although in a very poor condition the surviving threshing barn's character and essential form remains intact and in juxtaposition and close proximity to the farmhouse is a strong visual reminder of its agricultural context. The barn is also a prominent heritage asset within the Conservation Area/village and is an important surviving feature of its agricultural origins. Whilst it is acknowledged that there may have been a two-storey building that occupied a similar footprint and location as the existing attached, single storey masonry constructed shed this is long gone. The existing single storey historic extension as it exists is subservient to the barn however the construction of a strident two-storey building would increase its prominence and therefore have a detrimental impact on its character and its prominence as an important heritage asset in the Conservation Area. It would unacceptably disrupt the scale and form of this traditional agricultural barn, detracting from the balance of the main body of the barn with its forward projecting wagon entry. These features are of special importance architecturally and are of historic significance in respect of this designated heritage asset and the proposals would cause substantial harm. It was also found that development would cause harm to the character and appearance of the Conservation Area, the AONB and the openness of the Green Belt.

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