

**Democratic Services**

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Date: 27 August 2013

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

**Councillors:-** Gerry Curran, Ian Gilchrist, Liz Hardman, Eleanor Jackson, Les Kew, Malcolm Lees, Douglas Nicol, Bryan Organ, Manda Rigby, Martin Veal, David Veale and Brian Webber and 1 Vacancy

**Permanent Substitutes:- Councillors:** Rob Appleyard, John Bull, Sarah Bevan, Sally Davis, Jeremy Sparks, Vic Pritchard and Nigel Roberts

Chief Executive and other appropriate officers  
Press and Public

Dear Member

**Development Control Committee: Wednesday, 4th September, 2013**

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 4th September, 2013 at 2.00pm** in the **Brunswick Room - Guildhall, Bath**. Please note that there will be an Informal Briefing for Members directly after the meeting.

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 3<sup>rd</sup> September 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, 4th September, 2013  
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 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: 31ST JULY 2013 (Pages 9 - 40)

To approve as a correct record the Minutes of the previous meeting held on Wednesday 31<sup>st</sup> July 2013

9. SITE VISIT LIST - APPLICATION FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 41 - 50)

10. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 51 - 142)

11. ENFORCEMENT REPORT - ROUGH GROUND AND BUILDINGS, QUEEN CHARLTON LANE, QUEEN CHARLTON (Pages 143 - 148)

To consider a recommendation to authorise enforcement action for use of land as a gypsy and traveller site including the stationing of caravans, structures and vehicles

12. BRIEFING UPDATE - PARCEL 5319, CHARLTON FIELD LANE, QUEEN CHARLTON (Pages 149 - 152)

Referring to the Committee's decisions at its meeting on 5<sup>th</sup> June to grant permission for various proposals at the above site, to note that the actual distance between the boundary of the composting site and the boundary of the nearest sensitive receptor is 131m, not 150m as reported. However, this would not have altered the recommendation that the applications be approved subject to conditions.

13. ENFORCEMENT UPDATE - PARCEL 0005/2866, WOOLLEY LANE, CHARLCOMBE (Pages 153 - 154)

To note the report

14. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 155 - 162)

To note the report

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.



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

**BATH AND NORTH EAST SOMERSET**

**MINUTES OF DEVELOPMENT CONTROL COMMITTEE**

Wednesday, 31st July, 2013

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

Councillors Sally Davis (In place of Les Kew), Ian Gilchrist, Liz Hardman, Eleanor Jackson, Malcolm Lees, Douglas Nicol, Bryan Organ, Manda Rigby, Caroline Roberts, Martin Veal, David Veale and Brian Webber

Also in attendance: Councillors Sarah Bevan, Nathan Hartley, David Martin and Ben Stevens

**32 EMERGENCY EVACUATION PROCEDURE**

The Senior Democratic Services Officer read out the procedure

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

A Vice Chair was not desired

**34 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There was an apology from Councillor Les Kew and his substitute was Councillor Sally Davis

**35 DECLARATIONS OF INTEREST**

There were no declarations of interest

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

There were no items of urgent business

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

The Senior Democratic Services Officer informed the meeting that there were members of the public etc wishing to make statements on Sustainable Construction Retrofitting SPD (Report 13) and Former Fullers Earthworks (Item 16) and that they would be able to do so when reaching those Items on the Agenda. There were various people wishing to make statements on planning applications in Reports 10 and 11 and they would be able to do so when reaching their respective items in those Reports. The Chair had agreed to extend the speaking time from 3 minutes to 6 minutes on Item 2 in view of the number of speakers on this controversial application.

## 38 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There were no items from Councillors

## 39 MINUTES: 3RD JULY 2013

The Minutes of the meeting held on 3<sup>rd</sup> July 2013 were approved as a correct record and were signed by the Chair

## 40 MAJOR DEVELOPMENTS

The Team Leader – Development Management informed the meeting that there was no update report for this meeting as the Major Developments Officer had left the Council and his workload had been redistributed amongst Officers in the Planning Team. The Chair requested the Committee to consider whether this item needed to remain as a standard item on the Agenda.

After some discussion, the Committee decided that the item could be deleted as a standard item from future Agendas.

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

The Committee considered

- The report of the Development Manager on 2 applications for planning permission etc
- An Update Report by the Development Manager on Item No 2, a copy of which is attached as *Appendix 1* to these Minutes
- Oral statements by members of the public etc on Items 1 and 2, the Speakers List being attached as *Appendix 2* to these Minutes

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

**Item 1 No 169 Newbridge Hill, Bath – Erection of an 11 bed care home to the rear of the existing care home and associated works** – The Case Officer reported on this application and her recommendation to Permit with conditions. She referred to a further representation received and the receipt from the applicant of a Transport Survey.

The public speakers made their statements against and in favour of the development.

Councillor Eleanor Jackson, although querying the protection of trees, considered that it was an acceptable plan and moved the Officer recommendation. This was seconded by Councillor Bryan Organ. The Case Officer stated that Condition 10 would cover the issue of tree protection.

Members debated the motion. Most Members supported the proposal as the design was acceptable and would not be detrimental to the appearance of the Conservation

Area. The impact on adjoining residents would be minimal. The issue of parking was raised by some Members as none was provided on the site and this would have an effect on the highways with more parking around the area. Councillor Caroline Roberts, as Ward Member, commented on the impact on adjoining properties, construction work and the effect on trees on the site – there would be an overbearing impact on the residents of Yomede Park. She felt a condition should be added regarding installation of obscured glass. The Case Officer responded to comments raised by stating that the site was in a sustainable location with good public transport. The windows referred to were south facing and mainly bedrooms and therefore it would be inappropriate to make them obscured glass. The Team Leader – Development Management informed Members that there was a Tree Preservation Order to protect trees that were of significant amenity value. There was a Condition to provide a Travel Statement which would inform visitors to the Care Home on how to travel to the site on public transport.

The motion was put to the vote. Voting: 9 in favour and 4 against. Motion carried.

**Item 2 No 54 High Street, Saltford – Erection of a detached two storey dwelling and a new double garage for use by No 54, modification works to retaining walls to create wider entrance and associated works following demolition of existing single garage and stone retaining wall** – The Case Officer reported on this application and his recommendation to Permit with conditions. He recommended imposing an additional condition regarding provision of a Construction Management Plan.

The public speakers made their statements against and in favour of the proposal.

Councillor Martin Veal queried the additional condition and how it would be monitored. The Case Officer and the Team Leader – Development Management responded that action could be taken against a breach of the Condition and Enforcement Officers would take the necessary action when appropriate. Councillor Bryan Organ commented on the narrow lane and the loss of stone wall on the lane. He moved that the application be deferred for consideration of the Ecological Report and the Construction Management Plan. The motion was seconded by Councillor Martin Veal.

The Members debated the motion. It was considered that this was a beautiful site but which could accommodate the development and there would be tree protection. The positives of the development outweighed the negatives. The Team Leader – Development Management stated that the conditions requiring an Ecological Assessment and a Construction Method Statement would provide the necessary control. The motion was put to the vote. Voting: 2 in favour and a substantial number against. Motion lost.

Councillor Ian Gilchrist moved the Officer recommendation to Permit with conditions which was seconded by Councillor Liz Hardman. Members debated the motion. It was queried whether Permitted Development rights should be removed to which the Chair stated that this was covered in Conditions 8 and 9. A Member considered that it would be a shame to lose the garden in which the existing house was set and the potential loss of privacy; however, these would probably not be sufficient reasons to withstand any appeal.

The motion was put to the vote. Voting: 9 in favour and 4 against. Motion carried.

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

The Committee considered

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

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

**Item 1 The Old Colliery Yard, Wick Lane, Pensford – Use of land for 12 pitches for Gypsy and Traveller use with associated works – 12 dayrooms and hardstanding (Resubmission)** – The Case Officer reported on this application and his recommendation to refuse permission.

The public speakers made their statements against the proposal. This was followed by a statement by the Ward Councillor Jeremy Sparks who supported refusal of permission.

The Chair commented on some points raised by one of the objectors. Councillor Eleanor Jackson moved the Officer recommendation which was seconded by Councillor Martin Veal. She considered the site to be inappropriate for this development and was too remote. The proposal failed on all counts as outlined in the report. Councillor Veal in supporting the motion referred to various issues including land contamination and the impact on the Green Belt with no special circumstances being identified to outweigh the harm to the appearance of the area. He felt that the development would overwhelm this small village.

Members discussed the proposal. It was generally considered that this was the wrong site for the proposed development.

The motion was put to the vote and was carried unanimously.

**Item 2 Land between Hillside View and Bath Road, Greenlands Road, Peasedown – Erection of 89 dwellings (72 houses/17 flats) and 288 sq metres of Class B1 floorspace. Provision of public open space (including allotments) and landscaping. Two vehicular accesses from Greenlands Road. Undergrounding of existing overhead lines** – The Case Officer reported on this application and her recommendation to Permit with conditions. She referred to the Update Report which provided an Officer Assessment on further representations from the Highways Development Officer and amended the Recommendation with regard to the terms of the S106 Agreement relating to Highways.

The public speakers made their statements against and in favour of the proposal. The Ward Councillors Sarah Bevan and Nathan Hartley made statements against the proposal.

The Chair posed some queries regarding S106 contributions relating to education, health facilities and highways to which the Case Officer responded.

Councillor Martin Veal opened the debate. He was acquainted with the site and couldn't accept the Environment Agency's view that there was no drainage problem. It was outside the housing development boundary and would create a danger to school children walking to school. In addition, the Medical Centre would not be able to cope with the increased population that would result from this development. He therefore moved that permission be refused on the grounds of the adverse impact and permanent serious harm to the landscape. The motion was seconded by Councillor Liz Hardman. Councillor Eleanor Jackson suggested additional reasons for refusal, namely, unsustainable location by virtue of the lack of school places and the pressure on the existing health facilities. The mover and seconder agreed to these being added.

Members debated the motion. Concern was expressed on the impact on the landscape and the possible problems regarding education and health provision. The Team Leader – Development Management responded to these points and drew Members' attention to the relevant passages of the Report, in particular that the Officers took a different view on the effect on the landscape; considered that the existing school could be extended or pupils bussed to other nearby schools; and that there was no evidence that Dr's Surgeries could not cope with increased numbers. Regarding housing provision, he referred to the NPPF which took precedence over the Local Plan and there was a presumption in favour of sustainable development and permission should be granted unless there were any adverse impacts of doing so which would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. He advised that the Officer view was that there was not adequate evidence to support refusal of the application given that the presumption in favour of sustainable development applied in this case.

Members discussed the issue. It was considered that good reasons were needed to defend the refusal if there was an appeal. The Chair queried the advice that monies from highway improvements would not go to the site but to the Bath Package to which the Highways Development Control Team Leader responded.

The Chair summed up the debate and then put the motion to refuse permission to the vote. Voting: 7 in favour and 3 against with 3 abstentions. Motion carried.

(Note: After this decision, at 4.45pm, there was a natural break for 10 minutes.)

**Item 3 Trident Works, Marsh Lane, Clutton – Erection of 2 storey extension to provide new rest room and office including new roof over existing rear stores –** The Case Officer reported on this application and her recommendation to Permit with conditions.

Councillor Bryan Organ moved the Officer recommendation which was seconded by Councillor Eleanor Jackson. The motion was put to the vote and it was carried unanimously.

**Item 4 Cutting Edge, 7 North Parade Passage, Bath – Change of use of ground floor level only from Hairdressers (Use Class A1) to Tea Shop (Use Class A3) –** The Case Officer reported on this application and her recommendation to refuse permission.

The applicant made a statement in support of the proposal.

Councillor Brian Webber, as Ward Member, opened the debate. He referred to the protected retail frontage policy. However, there was an example of a similar property in the Passage being allowed a change of use on appeal in 2010. He considered that there would be no changes to the building or impact on the street scene.

Councillor Ben Stevens made a statement in support of the proposal.

Members discussed the proposal. Various points were raised as regards fragmenting the shopping frontage, the weight given to the example where permission was granted on appeal, the demand for A1 use etc. The Case Officer and the Team Leader – Development Management responded to some of the issues raised. Councillor Manda Rigby, as the other Ward Member, commented on the proposal which she considered would still provide an active street frontage – she therefore supported the proposal.

Councillor Brian Webber moved that the recommendation be overturned and that permission be granted on the basis that the proposal would add to the vitality of the centre and it would not alter the general character of the street. The motion was seconded by Councillor Manda Rigby. The Team Leader advised that the motion would need to be altered to Delegate to Permit so that the application could be advertised as a Departure from the Development Plan. The mover and seconder agreed. The motion was put to the vote. Voting: 6 in favour and 6 against with 1 abstention. The Chair used his second and casting vote against the motion which was therefore 7 against. Motion lost.

It was therefore moved by Councillor Eleanor Jackson and seconded by Councillor Doug Nicol to accept the Officer recommendation to refuse permission. Voting: 7 in favour and 5 against with 1 abstention. Motion carried.

**Item 5 No 4 Lime Grove, Bathwick, Bath – Conversion of student lets into 2 maisonettes and 1 self-contained apartment with first floor extension at the rear (Resubmission of 12/01925/FUL) –** The Case Officer reported on this application and her recommendation to grant permission subject to conditions.

The public speakers made their statements against and in favour of the proposal. The Ward Councillor David Martin made a statement and considered that permission should be refused or a Site Visit be held so that Members could assess the impact of the development on the adjoining property.

It was moved by Councillor Ian Gilchrist and seconded by Councillor Doug Nicol to defer consideration for a Site Visit accordingly. The motion was put to the vote and was carried unanimously.

(Note: Councillor Martin Veal left the meeting prior to consideration of this application.)

#### **43 PLANNING PERFORMANCE AND THE PLANNING GUARANTEE**

The Team Leader – Development Management submitted a report which (1) referred to procedural changes announced by the Government to the way in which major planning applications may be handled; (2) informed that the Government had published, in November 2012, a consultation on “Planning Performance and the Planning Guarantee”, the consultation being in support of Clause 1 in the Growth and Infrastructure Bill that was before Parliament at that time and which would allow planning applications to be submitted directly to the Secretary of State if a local planning authority was designated on the basis of poor performance; and (3) stated that the Bill had received Royal Assent in April this year with relevant provisions contained in Section 1 and Schedule 1 to the Growth and Infrastructure Act 2013.

The Team Leader outlined the report and referred to the major developments performance measure being split between District and County Matter applications. The Council had processed one major County Matter application during the period which was not determined within target time. Therefore, although the Council had only dealt with one such application and this was a very small sample size, it was likely that the Council may be so designated in respect of County Matter applications. Applicants for County Matter applications may therefore apply directly to the Planning Inspectorate for determination if the Council was designated which would be decided in October this year. The Council may need to put a case to the Communities and Local Government Department to argue that it shouldn't be so designated. He gave performance figures on major planning appeals which placed the Authority below the 20% target of being “poor”.

The Chair disagreed with the statement in paragraph 1.2 of the report where it stated that “the measures were intended to allow decisions to be made more quickly in order to support growth and provide greater certainty for local communities.” He considered that there could be more uncertainty and that Members would need to be particularly mindful of reasons for refusal on major applications.

**RESOLVED** to note the report and its contents

(Note: Councillor Brian Webber had left the meeting prior to consideration of this matter; and Councillor Caroline Roberts was not present when this matter was considered.)

#### **44 SUSTAINABLE CONSTRUCTION AND RETROFITTING SPD**

The Committee considered

- The report of the Conservation Officer on this SPD adopted last February which (1) had been produced to accord with and respond to the issues of climate change and the emerging energy deficit and the desire to improve the

energy efficiency of new buildings and the existing building stock; (2) would comply with the National Planning Policy Framework which recommended that Local Planning Authorities adopt proactive policies and strategies to mitigate and adapt to climate change; (3) informed that the accompanying appendix relating to the retrofitting of listed buildings and undesignated historic buildings was omitted pending further discussions but that English Heritage had indicated their support for the current document; and (4) recommended that the guidance be noted prior to its consideration and adoption by the Cabinet

- Statements by representatives of the Local Council's Association and the Bath Preservation Trust
- A statement by Councillor David Martin supporting the guidance and considering that it should be submitted to the Planning, Transportation and Environment Scrutiny Panel.

Members considered the report and the attached guidance which was generally supported. The Chairman summarised the debate, in particular the use of the wording "no detrimental impact" in the Guidance. He considered it was appropriate and consistent with the aims of architectural preservation conservation, the primary legislation and national planning policy relating to heritage protection, particularly in the context of the City of Bath as a World Heritage Site.

**RESOLVED** to note the guidance and its contents prior to consideration and adoption by the Cabinet

#### **45 QUARTERLY PERFORMANCE REPORT - APRIL TO JUNE 2013**

The Committee considered the report of the Development Manager which provided Members with performance information across a range of activities within the Development Management function.

Members commented on the performance figures. Concern was expressed on the low number of major applications determined within the target period. It was pointed out that the amount of work that Officers put into planning applications that were subsequently withdrawn was not really accounted for. The Chair and the Team Leader – Development Management responded to these queries.

The Committee noted the report.

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

The Committee noted the report

#### **47 UPDATE ON FORMER FULLERS EARTHWORKS, COMBE HAY**

The Chair requested the public speakers to make their statements. Representatives of the Local Councils Association and the Bath Preservation Trust made their statements accordingly (see Speakers List attached as *Appendix 2* to these Minutes).



The Principal Solicitor reported that there was little on which to update the Committee. An application for a Certificate for Lawful Established Use had been made. Proceedings for Judicial Review were still in progress and a decision from the High Court was awaited. Pre-application discussions had been recommended and a meeting had been scheduled to take place in mid-July. As regards the Enforcement Notices, the Council's position was protected and the appeals lodged by Waste Recycling Bath Ltd and Mr Barry Williams which were currently awaiting directions from PINS and may be held in abeyance pending the outcome of Judicial Review proceedings. He stated that a report, which would address the points raised by the 2 speakers and the e-mail sent to Members by Mr Matthew Kendrick/Waste Recycling Bath, should be ready for the October meeting.

The Chair requested that a full report be submitted to the meeting on 25<sup>th</sup> September.

The Committee noted.

**48 DATE OF NEXT MEETING**

The Committee noted that the next meeting would be held on Wednesday 4<sup>th</sup> September 2013 (instead of 28<sup>th</sup> August) with the Site Inspections still being held on Monday 19<sup>th</sup> August. (Note: The Chair's Briefing Meeting would therefore be held on Tuesday 3<sup>rd</sup> September.)

The meeting ended at 6.30 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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**BATH AND NORTH EAST SOMERSET COUNCIL**

**Development Control Committee**

**31<sup>st</sup> July 2013**

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

**ITEM 10**

**ITEMS FOR PLANNING PERMISSION**

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
Site Visit 02	13/01163/FUL	54 High Street Saltford Bristol

1. Following the previous committee, the applicant has submitted additional arboricultural information addressing some of the points raised by third parties.

Primarily, these respond to concerns about inaccuracies in the original tree report. It is also confirmed that the Holly Tree within the grounds of The Old Rectory, marked as T13 on the tree report, was felled in March.

The Council's Arboriculturalist has assessed the submitted tree report and raised no objection. They have also confirmed that the height and crown spread of a tree have no bearing, within the methodology employed, on an estimate of the root protection area required for a tree.

2. The applicant has also produced an assessment of the plot sizes of the properties surrounding the application site. The plot size of the proposed dwelling is given as 724.73sq m with the remaining plot size for 54 High Street being 1306.12sq m. This is considered to be comparable to a number of dwellings in the surrounding area.

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
01	13/01965/FUL	Old Colliery Yard Wick Lane Pensford

Update 1:

The committee report under the subheading 'Summary of Consultation/Representations' refers to 295 representations. Please note that this is

the total number of respondents however some respondents have replied more than once and therefore the total number of letters received is 440 in objection and 5 making general comments. Since the committee report was submitted an additional 8 letters of objection and 1 making general comments have been received however no new issues have been raised.

**Update 2:**

An updated consultation response has been received from Stanton Drew Parish Council which raises an objection to the application for the reasons summarised in the committee report.

**Update 3:**

The committee report under the subheading 'Sustainability' refers to the location of the nearest doctors' surgery. Please note that this is in Chew Stoke and not Chew Magna as stated in the committee report.

**Update 4:**

The Council's Ecologist has provided additional comments since the committee report was submitted. These comments explain that the Council must adhere to the Conservation of Habitats and Species Regulations 2010 as amended when determining planning applications with respect to the potential impacts of a proposal on European Protected Species.

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
02	12/05477/OUT	Land Between Hillside View And Bath Road Greenlands Road Peasedown St. John

**Summary of Consultation/Representations:**

Highways Development Officer: Traffic Regulation Orders' (TRO's) are required at Greenlands Road, however the main area for consideration for TRO's would be at the junction of Greenlands Road with Bath Road.

**Officer Assessment:**

The Committee Report currently requires, under the Section 106 agreement that TRO's are required on Greenlands Road only. The Highways Development Officer's comments has clarified that they are also required on Bath Road, at the Junction with Greenlands Road which is considered acceptable and the recommendation should be amended accordingly.

**Recommendation:**

As per the main report with the following paragraph substituted in relation to the provisions within the section 106 agreement.

## Highways

2. To secure the highway works and contributions comprising:
  - o Upgrading of the remaining length of public footpath (BA19/4) with a bound surface to a width of 1m and provision of positive drainage along the entire length.
  - o the formation of new vehicular accesses from Greenlands Road into the development
  - o the formation of new pedestrian access from the site onto Public Right of Way BA19/4
  - o improvements and alterations to road markings (including Traffic Regulation Orders) on Greenlands Road and Bath Road, Peasedown St John.

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**SPEAKERS LIST  
BATH AND NORTH EAST SOMERSET COUNCIL  
MEMBERS OF THE PUBLIC ETC WHO MADE A STATEMENT AT  
DEVELOPMENT CONTROL COMMITTEE ON WEDNESDAY 31<sup>ST</sup> JULY 2013**

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

<b>SITE/REPORT</b>	<b>NAME/REPRESENTING</b>	<b>FOR/AGAINST</b>
<b>SITE VISIT LIST – REPORT 10</b>		
169 Newbridge Hill, Bath (Item 1, Pages 33-46)	Janet Marsh  Dan Washington, GL Hearn (Applicant's Agents)	Against  For
54 High Street, Saltford (Item 2, Pages 47-61)	Mr Pascoe  Luke Pargeter (Applicant)	Against  For
<b>MAIN PLANS LIST – REPORT 11</b>		
Old Colliery Yard, Wick Lane, Pensford (Item 1, Pages 65-80)	Cllr Judith Chubb-Whittle (Stanton Drew Parish Council)  Kathy Curling, Pro Planning (representing Stanton Wick Action Group)	Against  Against
Land between Hillside View and Bath Road, Greenlands Road, Peasedown (Item 2, Pages 81-125)	Cllr Martin Robinson (Dunkerton Parish Council) <u>AND</u> Cllr Karen Walker (Peasedown Parish Council) <u>AND</u> Cllr Chris Taylor (Camerton Parish Council)  Dr Clare Cumpsty <u>AND</u> Tom Clifford <u>AND</u> Chris Dance, LPC Ltd (representing Residents Protecting Peasedown)  Edward Ware (Applicant)	Against – To share 6 minutes  Against – To share 6 minutes  For –Up to 6 minutes
Cutting Edge, 7 North Parade Passage, Bath (Item 4, Pages 132-138)	Laurence Swan (Applicant)	For – To share 3 minutes
4 Lime Grove, Bathwick, Bath (Item 5, Pages 139- 145)	Stella Dymock  Mrs Tonizzo (Applicant)	Against  For
<b>SUSTAINABILITY CONSTRUCTION SPD – REPORT 13</b>		
	Peter Duppa-Miller, Local Councils Association  Emma Lawrence, Bath Preservation Trust	Statement  Statement

<b>FORMER FULLERS EARTHWORKS (ITEM 16)</b>		
	Peter Duppa-Miller, Clerk to Combe Hay Parish Council	Statement
	Emma Lawrence, Bath Preservation Trust	Statement



**BATH AND NORTH EAST SOMERSET COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**Site Visits**

**31st July 2013**

**DECISIONS**

<b>Item No:</b>	001	
<b>Application No:</b>	13/01529/FUL	
<b>Site Location:</b>	169 Newbridge Hill, Newbridge, Bath, BA1 3PX	
<b>Ward:</b> Newbridge	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of a 11 bed care home to the rear of the existing care home and associated works	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Tree Preservation Order, World Heritage Site,	
<b>Applicant:</b>	Mr Mehmet Iltas	
<b>Expiry Date:</b>	12th June 2013	
<b>Case Officer:</b>	Sarah James	

**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 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 No development shall commence until a sample panel of all external walling materials to be used 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.

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

4 Plans showing a secure and sheltered parking area (providing for at least 8 cycles) shall be submitted to and approved in writing by the Local Planning

Authority before the development is commenced. This area shall be provided before the development is 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 amenity and highway safety.

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

Reason: In the interests of sustainable development.

6 No development shall commence until sewage disposal and surface water drainage works have been carried out in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.

Reason : To ensure the adequate provision of drainage infrastructure.

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

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

8 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.

9 No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled

watching brief during ground works 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.

10 No ground preparation, demolition or construction activity 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 demolition of the existing garage, removal of existing concrete; storage, movement and mixing of materials on site, burning, location of site office, service run locations including soakaway locations and movement of people and machinery.

Reason: To ensure that the protected trees to be retained are not adversely affected by the development proposals and to ensure that the approved method statement is complied with for the duration of the development.

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

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

12 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 lines, mains, pipes, cables or other apparatus shall be installed or laid on the site other than in accordance with drawings first submitted to and approved in writing by the Local Planning Authority.

Reason : To safeguard the existing and proposed trees, vegetation and open spaces on the site.

13 No works or deliveries required to implement this development shall take place outside the hours of 8.00 am and 6.00 pm Monday to Saturday and at no time on Sundays or bank holidays.

Reason : To safeguard the amenity of nearby occupiers.

14 The development hereby approved shall not be used other than for purposes ancillary to the existing nursing home located within the site ('Newbridge Towers') as shown on site location plan drawing P001.

Reason : In the interests of residential amenity of the existing and proposed occupiers and surrounding residents.

15 No development shall commence until details of refuse storage have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the refuse storage has been provided in accordance with the details so approved, and thereafter shall be retained solely for this purpose. No refuse shall be stored outside the building(s) other than in the approved refuse store(s).

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

16 The use hereby approved shall not commence until details of proposed extract/ventilation systems have been submitted to and approved in writing by the local planning authority. The system shall thereafter be retained in accordance with the approved details.

Reason : To safeguard the amenities of local occupiers.

17 Prior to commencement of development a detailed external lighting scheme shall be submitted and approved in writing by the Local Planning authority. No external lighting shall be erected other than that approved by virtue of the details submitted by this condition.

Reason : In the interests of residential amenity.

18 No development shall take place until a plan showing existing and proposed ground levels across the site and details of slab levels for the new development has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Reason : To ensure a satisfactory appearance to the development

**PLANS LIST:**

PLANS LIST: 290101-B1-E-010, 011, 012, 013, P - 001, 002, 003, Site - D - 01, 02, 03, 04, Site - P - 001, 002, 010, 011, Site - S 001, 002.

Statement of proactive working

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, a positive view of the submitted proposals was taken and permission was granted.

## 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) BH1, BH6, SC.1, D2, D4, T24, T25, T26, ES.2, ES3, ES.4, ES.5, ES.9, ES12, NE14, BH12, BH22, CF2, CF6

2. The proposed development is considered acceptable in this location. The scheme will provide for a use on site that is locally in demand and would be an acceptable addition to the mix of uses currently in the vicinity. It would provide some local employment. The development would not be visually harmful and would take account of trees within the site so as not to adversely impact upon them. There would be no harm created by traffic. The development would not unacceptably reduce neighbouring amenities.

<b>Item No:</b>	002	
<b>Application No:</b>	13/01163/FUL	
<b>Site Location:</b>	54 High Street, Saltford, Bristol, Bath And North East Somerset	
<b>Ward:</b> Saltford	<b>Parish:</b> Saltford	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of a detached two storey dwelling and a new double garage for use by no 54, modification works to retaining walls to create wider entrance and associated works following demolition of existing single garage and stone retaining walls	
<b>Constraints:</b>	Agric Land Class 1,2,3a, British Waterways Major and EIA, Conservation Area, Forest of Avon, Housing Development Boundary,	
<b>Applicant:</b>	Mr Luke Pargeter	
<b>Expiry Date:</b>	10th June 2013	
<b>Case Officer:</b>	Chris Griggs-Trevarthen	

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

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

3 Provision shall be made within the site for the disposal of surface water, details of which shall be submitted to and approved in writing by the Local Planning Authority prior to construction.

Reason: In the interest of flood risk management.

4 Prior to the occupation of the dwellinghouse hereby approved the means of enclosure separating the garden of No. 54 High Street from the garden of the approved dwellinghouse shall be erected in accordance with details first submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of privacy and the character and appearance of the conservation area.

5 No development shall be commenced on site until a soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation.

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

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

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

7 Notwithstanding the 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 fences, gates, walls or other means of enclosure shall be erected or placed within the curtilage of the dwellinghouse hereby approved without a further planning permission being granted.

Reason: To maintain the spaciousness of the site and in the interests of the visual amenity and character and appearance of the conservation area.

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

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

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

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

10 No development shall commence until a detailed Arboricultural Method Statement in accordance with BS5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The statement shall include tree protection measures during site preparation (including clearance, demolition and level changes, taking into account disposal of soil resulting from excavations on site), during construction and landscaping operations. The statement should also include the control of potentially harmful operations such as storage, handling and mixing of materials on site, burning, movement of people, plant and machinery.'

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

11 No development activity shall commence until the protective measures as stated in the Arboricultural Method Statement are implemented. The Local Planning Authority is to be advised two weeks prior to development commencing of the fact that the tree protection measures as required are in place and available for protection.'

Reason: To ensure that the trees to be retained are protected from potentially damaging operations.

12 No development or other operations shall take place except in complete accordance with the approved arboricultural method statement unless agreed in writing by the Local Planning authority. Interim Site Inspection Reports and a signed Certificate of Compliance shall be submitted to the Local Planning Authority on completion.

Reason: To ensure that the approved Arboricultural Method Statement is complied with for the duration of the development.

13 The garaging hereby approved shall be retained for the garaging of private motor vehicles associated with the dwelling and ancillary domestic storage and for no other purpose without the prior written permission of the Local Planning Authority.

Reason: To retain adequate off-street parking provision.

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

Reason: In the interests of amenity and highway safety.

15 The development hereby permitted shall not be occupied until the access improvement works shown on the submitted plan have been provided. The visibility splays shall thereafter be maintained free of obstruction at all times.

Reason: In the interests of highway safety

16 No development shall take place until an Ecological Survey and Assessment report together with full details of a Wildlife Protection and Enhancement Scheme produced by a suitably experienced ecologist have been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) Survey and mitigation proposals for the protection of reptiles
- (ii) Survey for habitats and all other wildlife including survey for use of the site by protected species as applicable
- (iii) Details of all necessary wildlife protection and mitigation measures
- (iv) Details of appropriate ecological enhancements

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



Reason: In the interests of securing an appropriate survey and mitigation measures for protected species which may be on the site and in accordance with policy NE.11 of the Bath and North East Somerset Local Plan (2007).

17 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i. the parking of vehicles of site operatives and visitors
- ii. loading and unloading of plant and materials
- iii. storage of plant and materials used in constructing the development
- iv. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- v. wheel washing facilities
- vi. measures to control the emission of dust and dirt during construction
- vii. a scheme for recycling/disposing of waste resulting from demolition, excavation and construction works

Reason: In order to preserve the living conditions of nearby residents and in the interests of highways safety.

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

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

#### **PLANS LIST:**

Site Location Plan

SCA-1214-001

SCA1214-002

SCA1214-003

SCA1214-004

SCA1214-005

SCA1214-006

SCA1214-007

SCA1214-010

SCA1214-011

RF-P-022-100 Revision 01

#### **REASON FOR APPROVAL**

The proposed dwelling, due to its layout, siting, design, form and materials, preserves the character and appearance of the conservation area, does not significantly harm the amenities of adjoining occupiers and does not prejudice highways safety. The proposal is therefore in accordance with policies D.2, D.4, BH.2, BH.6, GB.2, T.24 and T.26 of the Bath and North East Somerset Local Plan (2007) and guidance in the National Planning Policy Framework.

## DECISION MAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and consent was granted.

## 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).

**BATH AND NORTH EAST SOMERSET COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**31st July 2013**

**DECISIONS**

<b>Item No:</b>	01	
<b>Application No:</b>	13/01965/FUL	
<b>Site Location:</b>	Old Colliery Yard, Wick Lane, Pensford, Bristol	
<b>Ward:</b> Clutton	<b>Parish:</b> Stanton Drew	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Use of land for 12 pitches for Gypsy and Traveller use with associated works - 12 dayrooms and hardstanding (resubmission).	
<b>Constraints:</b>	Airport Safeguarding Zones, Airport Safeguarding Zones, Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Forest of Avon, Greenbelt, Sites of Nature Conservation Imp (SN), Tree Preservation Order,	
<b>Applicant:</b>	Mr T Smart	
<b>Expiry Date:</b>	7th August 2013	
<b>Case Officer:</b>	Jonathan Fletcher	

**DECISION REFUSE**

1 The proposed Gypsy and Traveller site would constitute an inappropriate form of development within the green belt which would conflict with the purpose of safeguarding the open countryside from encroachment and would be detrimental to the openness of the green belt and the character of the area. No very special circumstances have been demonstrated which would serve to clearly outweigh the harm to the green belt and other areas of identified harm and therefore the proposal is contrary to policies GB.1, GB.2 and NE.1 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the guidance within Planning Policy for Traveller Sites 2012 and the National Planning Policy Framework 2012.

2 The proposed Gypsy and Traveller site, by reason of the unsustainable location of the site which is remote from local services and public transport, would lead to future occupiers of the site being dependent on private car journeys contrary to policies HG.16 and T.1 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the guidance within the National Planning Policy Framework 2012.

3 The proposed Gypsy and Traveller site, by reason of the intensification of the use of an access with substandard visibility and the increased number of vehicular movements on a section of the highway with restricted width carriageways and substandard visibility, would have an adverse impact on highway safety contrary to policy T.24 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

4 Insufficient information has been submitted to demonstrate that the proposal would not have an adverse impact on the ecological interest of the site contrary to policies NE9, NE.10, NE.11 and NE.12 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

5 Insufficient information has been submitted to demonstrate that the proposed development would not be adversely affected by potential sources of land contamination on the site contrary to policy ES.15 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

6 Insufficient information has been submitted to demonstrate that the proposed development and adjacent sites would not be adversely affected by the potential dangers from land instability contrary to policy ES.14 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

7 Insufficient information has been submitted to demonstrate that the proposed development would not be adversely affected by flood risk contrary to the guidance within the National Planning Policy Framework 2012.

**PLANS LIST:**

1271/01, 1271/02a, 1271/03, 1271/04, 1271/05, 1271/06 received 08 May 2013.

1271/SP received 02 July 2013.

<b>Item No:</b>	02			
<b>Application No:</b>	12/05477/OUT			
<b>Site Location:</b>	Land Between Hillside View And Bath Road, Greenlands Road, Peasedown St. John, Bath			
<b>Ward:</b>	Peasedown St John	<b>Parish:</b>	Peasedown St John	<b>LB</b>
<b>Grade:</b>	N/A			
<b>Application Type:</b>	Outline Application			
<b>Proposal:</b>	Erection of 89 dwellings (72 houses/17 flats) and 288 sq m of Class B1 floorspace. Provision of public open space (including allotments) and landscaping. 2 no. vehicular accesses from Greenlands Road. Undergrounding of existing overhead lines			
<b>Constraints:</b>	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Tree Preservation Order,			
<b>Applicant:</b>	Edward Ware Homes Ltd			
<b>Expiry Date:</b>	3rd April 2013			
<b>Case Officer:</b>	Rachel Tadman			

**DECISION** DELEGATE TO REFUSE for reasons for refusal to be drafted by Officers

<b>Item No:</b>	03
<b>Application No:</b>	13/02028/FUL
<b>Site Location:</b>	Trident Works, Marsh Lane, Clutton, Bristol
<b>Ward:</b> Clutton	<b>Parish:</b> Clutton <b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Erection of two storey extension to provide new rest room and office including new roof over existing rear stores.
<b>Constraints:</b>	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Hazards & Pipelines,
<b>Applicant:</b>	MC Roberts And Sons
<b>Expiry Date:</b>	8th July 2013
<b>Case Officer:</b>	Tessa Hampden

## 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 The development hereby approved shall not be used other than for purposes ancillary to Trident Works.

Reason: To ensure that there is no significant increase in vehicular movements

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:

Plans: 001, 002 and site location plan date stamped 10th May 2013

## REASONS FOR GRANTING APPROVAL:

1. The proposed development by reason of its design, siting, scale and use of materials does not harm the character of this building, the site, or the visual amenities of the wider area. Due to limited additional accommodation which is ancillary to the main building, there are not considered to be any significant issues with regards to highway safety or residential amenity.

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.

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

D2 - Design, public realm and residential amenity.

D4 - Townscape

ET4 - Core Employment Sites

ES15 - Contaminated Land

T24 - General development control and access policy

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches limited weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework

The National Planning Policy Framework was published in March 2012 and will be given full consideration.

#### DECISION TAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and permission was granted

No materials arising from the demolition of any existing structures, the construction of new buildings nor any material from incidental and landscaping works shall be burnt on the site.

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

<b>Item No:</b>	04
<b>Application No:</b>	13/02218/FUL
<b>Site Location:</b>	Cutting Edge , 7 North Parade Passage, City Centre, Bath
<b>Ward:</b> Abbey	<b>Parish:</b> N/A <b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Change of use of No. 7 North Parade Passage at ground floor level only from Hairdressers (Use Class A1) to Tea Shop (Use Class A3)
<b>Constraints:</b>	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, Prime Shop Front, World Heritage Site,
<b>Applicant:</b>	Bath Bun Tea Shoppe
<b>Expiry Date:</b>	30th July 2013
<b>Case Officer:</b>	Rebecca Roberts

**DECISION REFUSE**

1 The proposed development for change of use from A1 to A3 would lead to the loss of an A1 use from a ground floor unit within the city centre which is protected within the Primary Shopping Frontage designation and would result in the over intensification of an A3 use which would have an unacceptable impact on the vitality and viability of the shopping area in this locality. This would be contrary to policy S.5 and S.6 of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

**PLANS LIST:**

This decision relates to drawing no's G08, G09, G10 date stamped 22nd May 2013 and G12 date stamped 4th June 2013.

**DECISION TAKING STATEMENT**

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The Local Planning Authority acknowledges the approach outlined in paragraphs 188-192 in favour of front loading and operates a pre-application advice service. Notwithstanding active encouragement for pre-application dialogue the applicant did not seek to enter into correspondence with the Local Planning Authority. The proposal was considered unacceptable for the reasons given and the agent was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application, and having regard to this the Local Planning Authority moved forward and issued its decision.

<b>Item No:</b>	05
<b>Application No:</b>	13/02112/FUL
<b>Site Location:</b>	4 Lime Grove, Bathwick, Bath, Bath And North East Somerset
<b>Ward:</b> Bathwick	<b>Parish:</b> N/A <b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Conversion of student lets into 2no maisonettes and 1no self contained apartment with first floor extension at the rear (Resubmission of 12/01925/FUL).
<b>Constraints:</b>	Agric Land Class 3b,4,5, Article 4, British Waterways Minor and Householders, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,
<b>Applicant:</b>	Mr Lionel Tonizzo
<b>Expiry Date:</b>	15th July 2013
<b>Case Officer:</b>	Rebecca Roberts

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



<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	<b>4th September 2013</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>	

**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/>.

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- [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:
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    - 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
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  - (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

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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.

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- [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:
001	13/02112/FUL 15 July 2013	Mr Lionel Tonizzo 4 Lime Grove, Bathwick, Bath, Bath And North East Somerset, BA2 4HF Conversion of student lets into 2no maisonettes and 1no self contained apartment with first floor extension at the rear (Resubmission of 12/01925/FUL).	Bathwick	Rebecca Roberts	PERMIT

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

**Item No:** 001  
**Application No:** 13/02112/FUL  
**Site Location:** 4 Lime Grove Bathwick Bath Bath And North East Somerset  
BA2 4HF



**Ward:** Bathwick                      **Parish:** N/A                      **LB Grade:** N/A  
**Ward Members:** Councillor Nicholas Coombes      Councillor David Martin  
**Application Type:** Full Application  
**Proposal:** Conversion of student lets into 2no maisonettes and 1no self contained apartment with first floor extension at the rear (Resubmission of 12/01925/FUL).

<b>Constraints:</b>	Agric Land Class 3b,4,5, Article 4, British Waterways Minor and Householders, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,
<b>Applicant:</b>	Mr Lionel Tonizzo
<b>Expiry Date:</b>	15th July 2013
<b>Case Officer:</b>	Rebecca Roberts

## **REPORT**

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

At the request of Cllr Martin, and with the agreement of the Chairman, as the Ward Member objects to the proposed contrary to the officers recommendation. This application was deferred at the last meeting of the Committee to allow Members to view the application site.

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

The application site is located to the east of the city centre within a residential suburb of the city between the A36 and the Kennet and Avon Canal. 4 Lime Grove is an end of terrace of four period properties in an area that has a mix of housing styles and types set into the rising topography. The properties are constructed from Bath Stone with stepped access off the footway which is enclosed by a low Bath Stone wall with pierced tracery stones forming the top course and gate pillars which provide an entry point. The site is within the designated Bath Conservation Area and the World Heritage Site.

Due to the sloping topography the dwellings are set into the slope with small courtyards to the rear and terraced gardens accessed by steps from ground floor level. A number of properties have small roof top terraces above.

The application proposes the conversion of the existing residential property which is used as student lets to form 2 maisonettes (1no. 5 bed and 1no. 4 bed) across the basement/ground floor and the second/third floor with a 2no. bed self-contained apartment splitting the two at first floor level. The application also proposes a two storey flat roof extension to the rear, this will replace an existing single story extension and will provide additional space at first floor level to accommodate a bedroom.

The application has been revised in light of neighbours comments and removed the hipped roof to form a flat roof to further reduce the overall height of the extension, the window at ground floor level in the boundary wall with no. 3 has been removed , the juliette balcony has been reduced in depth to be flush with the rear elevation and all bathroom windows annotated to be obscurely glazed.

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

**HIGHWAYS** - No objection. The proposed use is unlikely to generate more parking demand than its current use, however given the site's good location close to local facilities and alternative transport, and the fact that off-street parking for two cars already exists, it has been recommended by our Parking Services team that residents should not be allocated parking permits.

The area indicated for cycle parking is not clear, but would nevertheless appear to be unavailable should two cars be parked on the frontage. A more appropriate and secure area should be identified for cycle parking along the side or at the rear of the property.

**ENVIRONMENTAL HEALTH** - No comments or observations

**COUNCILLOR MARTIN** - This is a re-submission of a previous application which was refused at appeal by the Planning Inspector. This is so that consideration can be given to the potential loss of amenity and privacy to the adjoining property at 3 Lime Grove, due to the increased sense of enclosure, loss of light and overshadowing from the proposed first floor extension. The new application does not appear to deal adequately with the Inspector's findings of harm to the living conditions at 3 Lime Grove from the previous design of this extension.

**OTHER REPRESENTATIONS / THIRD PARTIES:** 8 x objections received and summarised as;

- Overdevelopment
- Ruin the unique look and symmetry of the Victorian terrace of houses
- Increase the existing problem with lack of parking along the permit bays
- Fails to address previous objections or reasons for dismissal made by the Planning Inspectorate
- The plans appear to misrepresent the situation in a number of ways
- Would cause significant harm to the living conditions at the adjoining property
- There has been a continuing nuisance problem in terms of noise / litter due to the large numbers of occupants in the house
- Out of character with the area
- The developer's economic interests to increase profit are not my concern
- The extension will shade and reduce the view from our balcony
- The flats provide substantial increased accommodation that could be used for students, exacerbating an already difficult situation in our mainly quiet neighbourhood

## **POLICIES/LEGISLATION**

**RELEVANT PLANNING HISTORY:**

02/01496/FUL - RF - 7 August 2002 - Construction of a hardstanding, retaining walls and steps after part demolition of existing garden wall

03/00358/FUL - PERMIT - 29 May 2003 - Formation of vehicular access to front (Resubmission)

12/01925/FUL - NONDET - 2 October 2012 - Conversion of student lets into 2no maisonettes and 1no self contained apartment with first floor extension at the rear. Application Appealed for non-determination after officers recommendation to refused. Dismissed at appeal.

**POLICY CONTEXT:**

#### NATIONAL PLANNING POLICY FRAMEWORK:

National Planning Policy Framework (March 2012) can be awarded significant weight however this proposes little change to the aspects of local policy that are relevant to this decision.

#### BATH LOCAL PLAN (adopted 2007)

D.2 - General Design and public realm considerations

D.4 - Townscape considerations

HG.12 - Residential development involving dwelling subdivision, conversion of non-residential buildings, re-use of buildings for multiple occupation and re-use of empty dwellings

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

BH.6 - Development within or affecting Conservation Areas

T.24 - General development control and access policy

T.26 - On site parking and servicing provision

#### CORE STRATEGY:

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches limited weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. The following policies should be considered:

B4 - The World heritage Site and its setting (will replace BH.1)

D.2, D.4, HG.12, BH.6, T.24 and T.26 of the local plan are proposed as saved policies within the submission core strategy.

#### **OFFICER ASSESSMENT**

**PRINCIPLE OF PROPOSED USE:** The property is currently used as student lets but has not been physically subdivided, multiple kitchens and bathrooms exist in the existing layout and it is proposed to keep these. The site is in a sustainable location and therefore there is no in principle objection to the conversion of the property in to multiple residences. The building can be easily converted without compromising the inherent character of the building and its relationship within the local streetscene and will not result in loss of residential space and will improve the mix of the residential in this locality.

#### **CHARACTER, APPEARANCE AND SITE LAYOUT:**

No. 4 acts as a book end to the terrace and this is reflected in the neighbouring terrace to the south. The middle properties within the terrace display a mix of three storey projections that are full or three quarter width structures, some of which have been extended further by small single storey extensions and a number of these have been utilised as raised terraces or have small staircase providing access to the garden.

The subdivision of the property will not materially alter the character and appearance of the property and the extension proposed is of scale which appears as a subservient addition and will incorporate details such as the band coursing which respects the proportions and design of the host building. The requirements relating

to design are that development should respond to its local context and in the case of extensions, respect and compliment their host dwelling. It is proposed that the extension will be constructed of materials to match the existing dwelling, and will replicate the domestic architectural style of the host building and the wider area, thereby responding to the local context. The proposed development is considered to preserve the character and appearance of the streetscene and this part of the Conservation Area.

#### RESIDENTIAL AMENITY:

The adjoining property No.3 Lime Grove does not fully extend the full width of the plot which creates a small courtyard between the rear elevation of the main building and the side of the 3 storey projection, there are a number of windows on these elevations that provide light into a kitchen/dinner, bathroom and reception room. The bookend design of No.4 Lime Grove results in the rear elevation being full width and in line with the neighbouring projections and therefore results in some overshadowing due to the orientation of the site.

The previous application which was dismissed at appeal extended off the boundary wall with no. 3 and was two and half storey's high with railings above enclosing a balcony/raised terrace. Furthermore it extended significantly into the garden and this impact was further exacerbated by a large staircase. The Inspector did not state that an extension would be unacceptable but that the harm caused by the bulk and location on the boundary would result in harm to the amenity of no.3.

The extension has been significantly reduced in response to the inspector's comments and has set the extension off the boundary at first floor level by approximately 2.1 metres so as to reduce the potential for overbearing impact and increased sense of enclosure. The agent in response to third party comments has removed the hipped roof which reduces the overall height by approximately 1.5 metres to try and minimise any overshadowing of the neighbouring property, however due to the topography, orientation of the properties and the already enclosed environment some overshadowing during the morning part of the day will be caused. However the increase in over shadowing is not considered significant enough to warrant a reason for refusal.

**PLANNING OFFICER ASSESSMENT OF HIGHWAY ISSUES:** The proposed development will utilise the existing parking area and on street parking currently available to No. 4 Lime Grove. The parking services team have advised that no further permits will be issued to the property. However the application site is within a sustainable location with easy access to local facilities and services within the City Centre and the local shopping area of Widcombe, the restriction on permits for new developments is a common approach by the parking team and an informative is proposed to bring this to the applicants attention.

**CONCLUSION:** On balance, the re-submitted scheme is considered acceptable and is of a design that respects the context of the property and the local streetscape which is considered to preserve the character and appearance of this part of the Conservation Area and the setting of the World Heritage Site; some harm will be caused to the amenity of neighbouring occupiers however it is not considered significant enough to warrant a reason for refusal.

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

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

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

Reason: In the interests of amenity and highway safety.

4 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.

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

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

## **PLANS LIST:**

1 This decision relates to drawing no's LG.1.A and LG.3.B date stamped 20th May 2013 and LG.6 date stamped 12th July 2014.

## **ADVICE NOTE:**

The applicant should be advised that residents of the development will not be considered eligible to apply for residents parking permits.



## DECISION TAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Policy Framework. For the reasons given, a positive view of the submitted proposals was taken and permission was granted.

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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>4th September 2013</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>	
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AGENDA  
ITEM  
NUMBER

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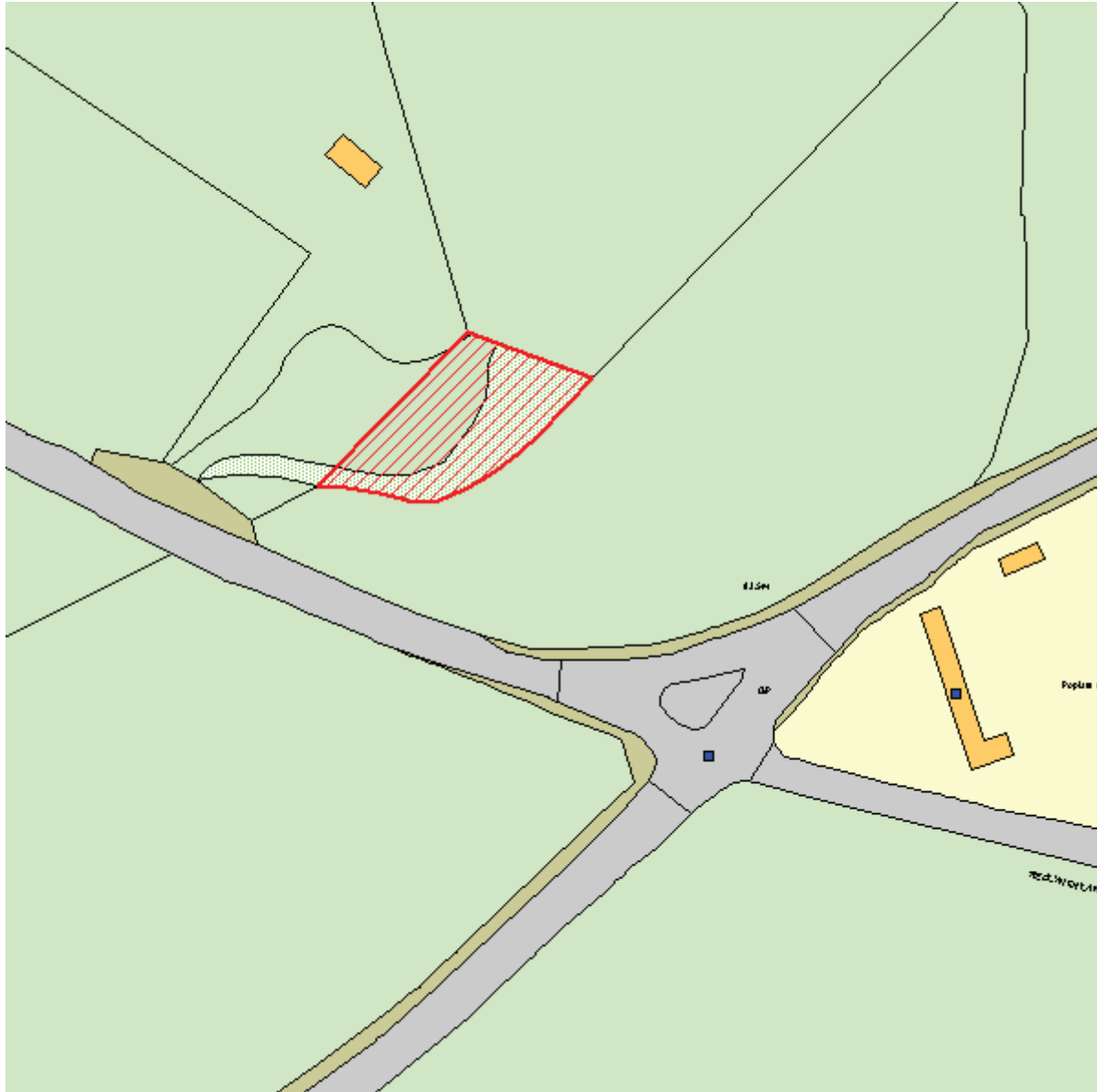
## INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	13/02781/FUL 23 August 2013	Mrs Kathleen O'Connor Rough Ground And Buildings, Queen Charlton Lane, Queen Charlton, Bristol, Bath And North East Somerset Change of use of land to private gypsy and traveller caravan site (retrospective)	Farmborough	Chris Griggs-Trevarthen	REFUSE
02	13/02098/FUL 24 July 2013	Mr P.A. Wells Private Garden, Lark Place, Upper Bristol Road, Lower Weston, Bath Erection of a pair of two storey semi-detached 3 bedroom dwellings, and a terrace of 3 no. two storey 3 bedroom dwellings, including access, parking for 5 cars, cycle storage, and amenity provision.	Kingsmead	Daniel Stone	Delegate to PERMIT
03	13/02215/REG03 29 July 2013	Bath & North East Somerset Paulton Infant School, Plumtre Close, Paulton, Bristol, Bath And North East Somerset Erection of a 3no. classroom extension	Paulton	Heather Faulkner	PERMIT
04	13/01686/FUL 12 July 2013	Mr Andrew Scurlock Parcel 8970, Tunley Road, Tunley, Bath, Bath And North East Somerset Erection of an Agricultural Storage Barn and widening of existing access.	Bathavon West	Tessa Hampden	REFUSE

05	13/02302/FUL 13 August 2013	Oldfield School Oldfield School, Kelston Road, Newbridge, Bath, Bath And North East Somerset Relocation of existing temporary classroom building within the school campus, erection of new single storey Drama Block on the current site, reintroduction of grassed area and removal of existing lighting columns to current temporary car-park at rear of site	Newbridge	Victoria Griffin	PERMIT
06	13/02395/AR 31 July 2013	Bath And North East Somerset Council Bath Urban Area, Generic Urban Areas, Dummy Street, , Display of Vertical Banners at Manvers Street, Orange Grove, High Street, Stall Street and George Street; display of Pendant Banners at Churchill Bridge, Dorchester Street and Southgate Street; and display of Cross Street Banners at Milsom Street	Newbridge	Rebecca Roberts	Split decision - check file/certificat e
07	13/02396/AR 31 July 2013	Bath And North East Somerset Council Bath Urban Area, Generic Urban Areas, Dummy Street, , Display of non-illuminated six sheet poster and temporary low level horizontal banner advertising at: B&NES Council car parks (Avon Street, Charlotte Street, Kingsmead, Manvers Street and Sports Centre); Park and Ride sites (Newbridge, Lansdown and Odd Down); and city centre compactor litter bins	Newbridge	Rebecca Roberts	CONSENT

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

**Item No:** 01  
**Application No:** 13/02781/FUL  
**Site Location:** Rough Ground And Buildings Queen Charlton Lane Queen Charlton  
Bristol Bath And North East Somerset



**Ward:** Farmborough                      **Parish:** Compton Dando                      **LB Grade:** N/A  
**Ward Members:** Councillor S Davis  
**Application Type:** Full Application  
**Proposal:** Change of use of land to private gypsy and traveller caravan site  
(retrospective)

<b>Constraints:</b>	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Forest of Avon, Greenbelt,
<b>Applicant:</b>	Mrs Kathleen O'Connor
<b>Expiry Date:</b>	23rd August 2013
<b>Case Officer:</b>	Chris Griggs-Trevarthen

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE

Councillor Sally Davis has requested that the application be determined by the Development Control Committee due to the history of similar very controversial applications in the area, the impact on the Green Belt and the sustainability of the site.

The application has been referred to the Chairman who has agreed that the application should be considered by the Committee due to the long and complicated planning history.

### DESCRIPTION OF SITE AND APPLICATION

The application site comprises an area of predominantly flat land approximately 300 metres south-east of the village of Queen Charlton and its Conservation Area and approximately 1 kilometre south-west of the edge of the urban area of Keynsham.

The information in the application form states that the site is approximately 0.5 hectares. Whilst the area currently occupied by the gypsies is of about this size (0.5 hectares), the site location plan of this planning application includes within the red line a much smaller area, without access to the highway, of less than 0.1 hectare.

The application is made on the basis that the site is required for the applicant, Mrs Kathleen O'Connor, and her four grown-up children, two of whom have partners. The survey plan submitted with the application shows one static home, three mobile homes, a trailer and a toilet block. The design and access statement states that four caravans would be required to meet the accommodation needs. However, the information in the application form indicates that 6 new residential units will be created.

The application refers to a 'Personal Statement' which deals with the family's personal circumstances in more detail. However, no such statement has been received.

Clarification on these matters has been sought from the applicant's agent and any reply will be reported to committee.

### RELEVANT HISTORY

- o WB.168811 - Stationing of residential caravans
- o Permission refused in 1994
- o Enforcement notice served re stationing of caravans - 1994

- o Appeals lodged against refusal of planning permission and enforcement notice - enforcement notice upheld but temporary permission granted for two caravans until May 1998, on basis that by then other more suitable sites would be available
- o Permanent occupation of the site ceased between 1995 and 2000, so enforcement notice complied with at that time
- o Site re-occupied in 2000 and further application submitted (00/01523/FUL)
- o Application refused in 2000
- o Appeal lodged but dismissed at inquiry in 2002 - Inspector's reasoning based on lack of gypsy status of applicants subsequently successfully challenged at High Court
- o Appeal heard again at another inquiry in 2003 and again dismissed on grounds that harm to Green Belt, visual harm, setting of Queen Charlton Conservation Area and lack of sustainability outweighed benefits of need for gypsy sites and personal circumstances
- o Site vacated in 2002 and not re-occupied until 2009, when new planning application was submitted (09/03202/FUL). Application refused in 2009.
- o Appeal against most recent refusal determined at a hearing in 2010. Appeal dismissed on grounds that harm to Green belt, the rural landscape and the setting of the Queen Charlton Conservation Area outweighed the benefits of need for gypsy sites and the personal circumstances of the appellants.
- o Appeal decision was unsuccessfully challenged at the High Court in 2012 and was subsequently dismissed in the Court of Appeal in February 2013.
- o Current application submitted.

Whilst there was an extant enforcement notice on the site from 1994, during the course of the 2010 appeal hearing it was accepted that due to a technicality this could not be relied upon for further enforcement action to be taken. The site is therefore subject to a separate recommendation for fresh enforcement action.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **HIGHWAYS OFFICER**

The site is remote from local services, shops, schools, amenities and public transport.

Furthermore, there is a lack of footway provision for those wishing to walk and, therefore, the proposed development will result in increased reliance on the use of the private motor vehicle, contrary to policies designed to promote sustainability.

The public highways in the vicinity of the site, including Queen Charlton Lane off which the site gains access, are all subject to the national speed limit of 60mph. However, visibility at the access position is restricted to less than 30 metres in either direction equating to a main road speed of traffic of less than 20mph. Further, visibility at the junction of Queen Charlton Lane with Charlton Road and Redlynch Lane is also badly restricted.



Bearing this in mind, intensification in use of the site would be contrary to the interests of highway safety and no evidence has been submitted regarding the lawful use of the site or potential to generate traffic in order to satisfy that intensification in use will not result.

Bearing in mind the above, the highway response is one of OBJECTION on grounds of sustainability and in the interests of highways safety,

#### ECOLOGIST

There do not appear to be ecological features of particular value or concern at or adjacent to the site that might be affected or harmed by the proposal, nor a likelihood of adverse ecological impacts in this location.

I would welcome any additional biodiversity features that could be added through a landscaping or planting scheme, for example native wildlife tree and shrub planting or other forms of habitat creation; provision of bird and bat boxes. This could be required via the standard landscape condition.

All external lighting should be sensitive and "wildlife friendly" ie used only when required and avoiding light spill onto hedgerows and other locations where lighting could impact on wildlife at night.

I have no objection to the proposal.

#### PLANNING POLICY

Bath and North East Somerset currently has no authorised permanent sites, nor has any transit sites available for temporary use. To address this deficiency a Site Allocations Develop Plan Document (DPD) is being progressed to specifically allocate land to meet local need for Gypsies, Travellers and Travelling Showpeople. Two stages of public consultation have been held, the second of which ('Preferred Options') involved consultation on six site options then under consideration. A number of further sites were submitted for consideration through the second Call for Sites exercise, including the application site, which took place alongside the Preferred Options consultation. The locations of these sites were published in the report to Cabinet in September 2012.

The Council has since undertaken a 'stock take' of the work on the Site Allocations DPD and an update report was presented to Cabinet on 12th June 2013 on the results, including the need identified in the Gypsy and Traveller Accommodation Assessment (GTAA) undertaken in 2012, and the options for progressing the Site Allocations DPD. The refreshed GTAA identifies an on-going need for 24 permanent Traveller pitches over the period 2012 - 2017. As the Cabinet report states the assessment of the suitability of the 27 further sites has not yet been completed and as specialist work, including archaeological assessment and land contamination investigations, is still underway it is premature to give an indication of site suitability. Furthermore conclusions cannot be reached about the selection of sites until work has been undertaken with adjoining authorities, the scope to include Traveller provision on major development sites has been concluded and opportunities outside the Green Belt have been fully explored (paras 5.14 - 5.18 of the Report).

The proposed scheme is inappropriate development in the Green Belt and therefore contrary to Policy GB.1 in the B&NES Local Plan, Policy CP8 in the emerging Core Strategy and national policy in the NPPF and the PPfTS. In the absence of the Personal Statement referred to above there is no evidence to demonstrate that there have been any change in the applicant's and her family's circumstances since 2011. Therefore it does not appear that very special circumstances exist to justify the change of use of land to private gypsy and traveller caravan site which would outweigh harm to the Green Belt should the proposal be approved. Furthermore, in terms of the Gypsies, Travellers and Travelling Showpeople Site Allocations DPD, it is premature to report on the suitability of the site for gypsy and traveller use until all outstanding studies have been completed and remaining investigations undertaken as explained above.

#### COMPTON DANDO PARISH COUNCIL

The Parish Council objects most strongly to this application. We refer the Planning Authority to previous decisions concerning this site and the appeal decision by the High Court confirming that decision. The Parish Council has grave concerns that this application is larger than that previously rejected and has received numerous objections to the development.

ODPM circular 01/2006 states that new gypsy and traveller sites in the Green Belt are normally inappropriate development as defined in Planning Policy Guidance 2: 'Green Belts' (PPG2). National planning policy on Green Belts applies equally to applications for planning permission from gypsies and travellers, and the settled population.'

This is an inappropriate development which would have a serious detrimental effect on the openness of the Green Belt. The area in question is a prominent site on the edge of a conservation village and both the village and its setting should be preserved.

The only way the site can be screened is by using earth bunds which are completely alien to the character of the surrounding countryside, which is farmland with pony paddocks.

This application would develop the Green Belt site with accommodation for a number of families in temporary homes, and by extension, for use by those families as a workplace for their traditional work in scrap metal, tarmac, etc.

Any change of use from agricultural to residential use in this area, so close to the urban fringe, and under constant threat of development further erodes the Green Belt and sets a precedent.

There have already been three public enquiries whose outcome has been to reject the change of use of this land at enormous expense and nothing material has changed since the last. While we sympathise with the health problems of the family, there are no special circumstances tied to this particular location. Moreover, the village itself does not have a shop or a school nor public transport links.

For all the above reasons Compton Dando Parish Council opposes the change of use.

#### THIRD PARTIES/NEIGHBOURS

12 letters of objection have been received. The main issues raised are:

- The site is inappropriate in the Green Belt;

- Conflicts with the purposes of safeguarding the countryside from encroachment;
- Harm to openness;
- Harm to landscape character;
- Harm to visual amenity;
- No very special circumstances which clearly outweigh the harm to the green belt;
- The site allocation DPD is near completion;
- Ministerial statement from Brandon Lewis makes it clear how GB policy should be interpreted;
- Site has already been subject of a dismissed appeal and there have been no changes;
- The site is in the open countryside;
- The site is visible from the Conservation area;
- The location is inconsistent with national policy;
- Highways safety. The existing lane is unsuitable for further traffic;
- It has poor utilities and is not close to services;
- Contrary to the purpose of the Green Belt in preserving the individual character, identity and setting of Keynsham and the villages and hamlets within the Green Belt;
- The need for Gypsy and traveller sites has been considered at previous applications and has never been found to outweigh the harm to the Green Belt

## **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

BH.6 - Development within or affecting Conservation Areas

GB.1 - Control of development within the Green Belt

GB.2 - Visual amenities of the Green Belt

HG.16 - Gypsy and Traveller Sites

NE.1: Landscape character

T.24: General development control and access policy

Bath & North East Somerset Draft Core Strategy December 2010

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD).

**NATIONAL POLICY:**

National Planning Policy Framework (NPPF) - March 2012

Planning Policy for Traveller Sites (PPfTS) - 2012

Written Ministerial Statement by Local Government Minister Brandon Lewis originally given at House of Commons - July 2013

## **OFFICER ASSESSMENT**

### **MAIN ISSUES**

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

- o Whether the proposal represents inappropriate development in the Green Belt and the effect on openness;
- o The effect on the character and appearance of the rural landscape and of the setting of the Queen Charlton Conservation Area;
- o The sustainability of the location for use as a Gypsy and Travellers site;
- o Whether the benefits of the proposal clearly outweigh any harm to the Green Belt and any other harm, such as to amount to very special circumstances.

### **GREEN BELT**

Paragraph 14 of the Planning Policy for Travellers Sites (PPfTS) states that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development. The proposed change of use is therefore considered inappropriate development in the Green Belt, contrary to Policy GB.1 of the Local Plan.

In the most recent appeal decision in 2010 the Inspector, referring to the effect upon openness, stated that:

"The proposal before me includes two single unit static caravans and three touring caravans. I therefore consider that the harm arising from the proposal to the openness of Green Belt would be greater than that arising from the proposal before the previous Inspector, which he found would be significant."

Previous appeal Inspectors (1994, 2003 & 2010) have consistently found that the use of the site as a Gypsy and Travellers site would erode the openness of the Green Belt and it is considered that the current application would have the same impact as the previous appeal proposal (2010). The impact upon openness is therefore considered to be significant.

The proposal would also, albeit to a limited extent, fail to safeguard the countryside from encroachment. It is therefore considered that the proposal would conflict with one of the purposes of including land within the Green Belt. The proposal would not significantly conflict with any of the other 4 purposes for including land within the Green Belt.

### **VISUAL IMPACT**

As noted by the two previous appeal Inspectors (2003 & 2010), the application site is not particularly prominent in the wider landscape. The site is well screened by hedgerows from views towards it from the north and the east. However, the site is readily seen from Redlynch Lane where the road passes the entrance to the site and there are further views towards it from the west along Redlynch Lane towards Queen Charlton. From this

location, the upper parts of the caravans in the proposal would be clearly seen above the bunding which has been constructed on the site's western boundary.

The submitted design and access statement argues that additional landscaping could be provided to screen the site. However, it is considered that indigenous trees would take a long time to grow to the size where they would perform this function, whilst fast-growing evergreen trees and bunding would appear as alien features in the landscape and would be unacceptable in their own right. This point was supported by the previous appeal Inspector who stated that

"the combination of the caravans and the bunding would result in the site being readily identifiable as an unattractive feature. As such the proposal would bring about material harm to the local rural landscape"

The current proposal is similar to the 2009 proposal. The siting of caravans, mobile homes and other paraphernalia associated with the Gypsy and Traveller site appears incongruous within the surrounding open, rural landscape. It is therefore considered that the proposal would be harmful to the open rural character of the area and detrimental to the surrounding rural landscape.

Although some distance away, the application site can also be seen from the Queen Charlton conservation Area. The rural landscape surrounding Queen Charlton forms part of the setting of the conservation area. It is considered that the Gypsy and Traveller site, because of its harm to the rural landscape, also harms the setting of the Queen Charlton conservation area. However, the extent of this harm is limited to a degree because the majority of views towards the application site from the conservation area are from private properties. In light of the above, and in accordance with the previous appeal inspector's comments, it is considered that the proposal would result in some limited harm to the conservation area.

The previous appeal Inspector considered that there was some limited harm to the setting of the conservation area. It is therefore considered that there is some limited harm to the setting of the conservation area.

## SUSTAINABILITY

In the 2003 appeal decision, the Inspector noted that Queen Charlton lies within a reasonable walking distance but that the village has very few facilities. He said that Keynsham lies further away to the north and not within reasonable walking distance. He concluded that "anyone living at the appeal site would be highly dependent on the private car to gain access to all sorts of local services and facilities".

Subsequent to that appeal decision Circular 01/06 was adopted which appeared to accept that most gypsy sites will generate private car journeys and sought instead to ensure that such sites are located in areas where appropriate facilities are within easy reach, albeit by car. It also accepted that gypsy sites located in the open countryside are acceptable as a matter of principle. In light of this change in policy, the site's location was considered to be reasonably sustainable for use as a gypsy site in accordance with the revised policy position.

However, Planning Policy for Travellers Site, adopted in 2012, revoked Circular 01/06 and the guidance within it. The PPfTS revokes much of the previous guidance and takes a stricter view of sites within the countryside. Paragraph 23 states that "Local Planning Authorities should strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan".

It is considered that the 2003 Inspector's conclusions in respect of the relationship of the site with Queen Charlton still hold true, in that the village continues to provide very few facilities. Although Keynsham does provide a full range of local services and is reasonable close, there is no footway along this route and it is highly likely that the use of this site will result in increased reliance on the use of the private motor vehicle, contrary to policies designed to promote sustainability. In light of the revocation of Circular 01/06 and the adoption of PPfTS, it is considered that the site can now be seen as car dependent, due to its isolated location in the open countryside, and is considered unsustainable for use as a gypsy site.

#### HIGHWAYS SAFETY

The Highways Officer has raised an objection to the proposal on the grounds of poor visibility from the site access. However, previous applications and inquiries on this site have not raised highways objections. There is no material difference to this application than previously, and therefore it would be unreasonable to raise a highway objection at this stage. It is therefore considered that there is no highways safety objection to the current proposal.

#### VERY SPECIAL CIRCUMSTANCES

As discussed above, the application is inappropriate development in the Green Belt and can only be justified if very special circumstances exist which clearly outweigh the harm to the Green Belt and any other identified harm. The application is supported by a design and access statement which sets out the applicant's case for very special circumstances. These are discussed below.

#### NEED FOR GYPSY AND TRAVELLER SITES

There is an argued need for further authorised Gypsy and Traveller sites nationally, regionally and locally. There are currently no allocated sites within Bath and North east Somerset and the evidence included within the GTAA indicates that 24 permanent pitches are required between 2012 and 2017. The proposed development would deliver 4 permanent pitches and would go some way to meeting the unmet housing need which is a clear benefit of the scheme. However, The Written Ministerial Statement by Local Government Minister, Brandon Lewis which was published in July this year provides confirmation in relation to the weight to be attached to the supply of deliverable sites when considering whether very special circumstances exist. This statement was issued in response to a number of decisions which had been taken by local planning authorities and the Planning Inspectorate where ministers' had considered that the protection of the green belt had not been given sufficient weight. The following extract is taken from this statement.

"The Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh

harm to the green belt and other harm to constitute the 'very special circumstances' justifying inappropriate development in the green belt".

This statement prescribes a clear direction to the interpretation of planning policy in this area. It is recommended in this case that the current lack of allocated sites in Bath and North East Somerset cannot be relied upon, in isolation, to establish very special circumstances associated with the development. Moreover, the possibility of allocating sites within the Green Belt through the DPD process does not support the case to approve such developments through the determination of a planning application. Paragraph 15 of the PPfTS provides the relevant guidance on this issue:

"Green Belt boundaries should be altered only in exceptional circumstances. If a local planning authority wishes to make an exceptional limited alteration to the defined Green Belt boundary (which might be to accommodate a site inset within the Green Belt) to meet a specific, identified need for a traveller site, it should do so only through the plan-making process and not in response to a planning application."

Furthermore, the site has been assessed as part of the DPD process and was rejected as a potential allocated site for the following reason:

"No access from a public highway except through land in third party ownership. The site would have an unacceptable impact on landscape character".

The applicant's agent has also asserted that the application is supported by Paragraph 25 of the PPfTS which states that "if a Local Planning Authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission". However, this is an application for permanent permission and is not an application for temporary permission. As such, the provisions of paragraph 25 do not apply.

The application must still be considered in light of the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF, as would be the case if this were an application for a new house within the settled population. Paragraph 14 states that where the development plan is considered out-of-date permission should be granted unless specific policies in the framework indicate otherwise. Footnote 9 indicates that this includes policies within the framework relating to protecting Green Belt land which have been discussed previously. Significant weight therefore needs to be attached in this case to protecting the Green Belt in line with the framework (NPPF).

#### PERSONAL CIRCUMSTANCES

The application did not include any details of the applicant's personal circumstances (despite the mention of a 'Personal Statement' in the DAS). However, it is known from the site's history and previous appeal decisions that there are number of personal circumstances which must be weighed in the balance.

During the 2003 appeal, the Inspector noted the need for Mrs O'Connor (the current applicant) to have regular check-ups and other medical needs amongst the rest of the family. However, he also pointed out that there was no evidence to suggest that the family's health had suffered materially from a prolonged voluntary absence from the site.

He also noted the educational needs of the then school-age children. In 2003, the Inspector concluded that "these personal circumstances weigh in favour of the appeal to some extent". The Inspector in 2010 appeal took a similar view and it is considered that the family's personal circumstances do still weigh in favour of the proposal to a similar extent to what was the case in 2009.

#### **HUMAN RIGHTS:**

The right to a home as set out in Article 8 of the Human Rights Act is acknowledged. However, it is considered that the interference with that right that refusing this application would entail is justified on the grounds of the protection of the environment in the public interest. The refusal of planning permission is considered to be proportionate.

#### **CONCLUSION**

It is considered that the proposal is inappropriate development in the Green Belt. It would harm the openness of the Green Belt, the rural landscape and, to a limited extent, the character and appearance of the Queen Charlton Conservation Area. There would also be some limited conflict with the Green Belt purpose of safeguarding the countryside from encroachment.

Against this harm is the unmet need for gypsy and traveller sites and the personal circumstances of the application and her family which weigh in favour of the application. Although there have been changes in policy with the publication of the NPPF and the PPfTS and the revocation of Circular 01/06, the substantive points of this application have not significantly changed since the 2009 appeal. It is considered that the benefits of this current proposal do not clearly outweigh the harm to the Green Belt by reason of inappropriateness and harm to openness, and the other harm identified above.

As far as alternative sites are concerned, the Council is continuing to progress its Gypsies, Travellers & Travelling Showpeople Site Allocations DPD as set out above. This has begun to identify alternative sites and should be adopted during 2014. Consideration has been given to whether a temporary permission should be granted on this site to allow time for this process to produce more acceptable sites. However, even after having regard to paragraph 25 of the PPfTS, it is considered that the level of harm on this site has already been on-going for a number of years and that it should not be allowed to continue for a further 4 - 5 years.

#### **RECOMMENDATION**

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

1 The proposal amounts to inappropriate development in the Green Belt, which would cause significant harm to its openness and would be contrary to its purpose of safeguarding the countryside from encroachment, contrary to policies GB.1 and GB.2 of the Bath and North East Somerset Local Plan (2007) and guidance within the National Planning Policy Framework (2012) and Planning Policy for Traveller Sites (2012).

2 The proposal would harm the character and appearance of the rural landscape and of the setting of the Queen Charlton Conservation Area, contrary to policies GB.2, NE.1, HG.16 and BH.6 of the Bath and North East Somerset Local Plan (2007) and guidance



within the National Planning Policy Framework (2012) and Planning Policy for Traveller Sites (2012).

3 The benefits of the proposal, including the unmet national, regional and local need for gypsy and traveller sites, and the personal circumstances of the applicant and her family, do not clearly outweigh the harm to the Green Belt, rural landscape and Conservation Area and so do not amount to very special circumstances.

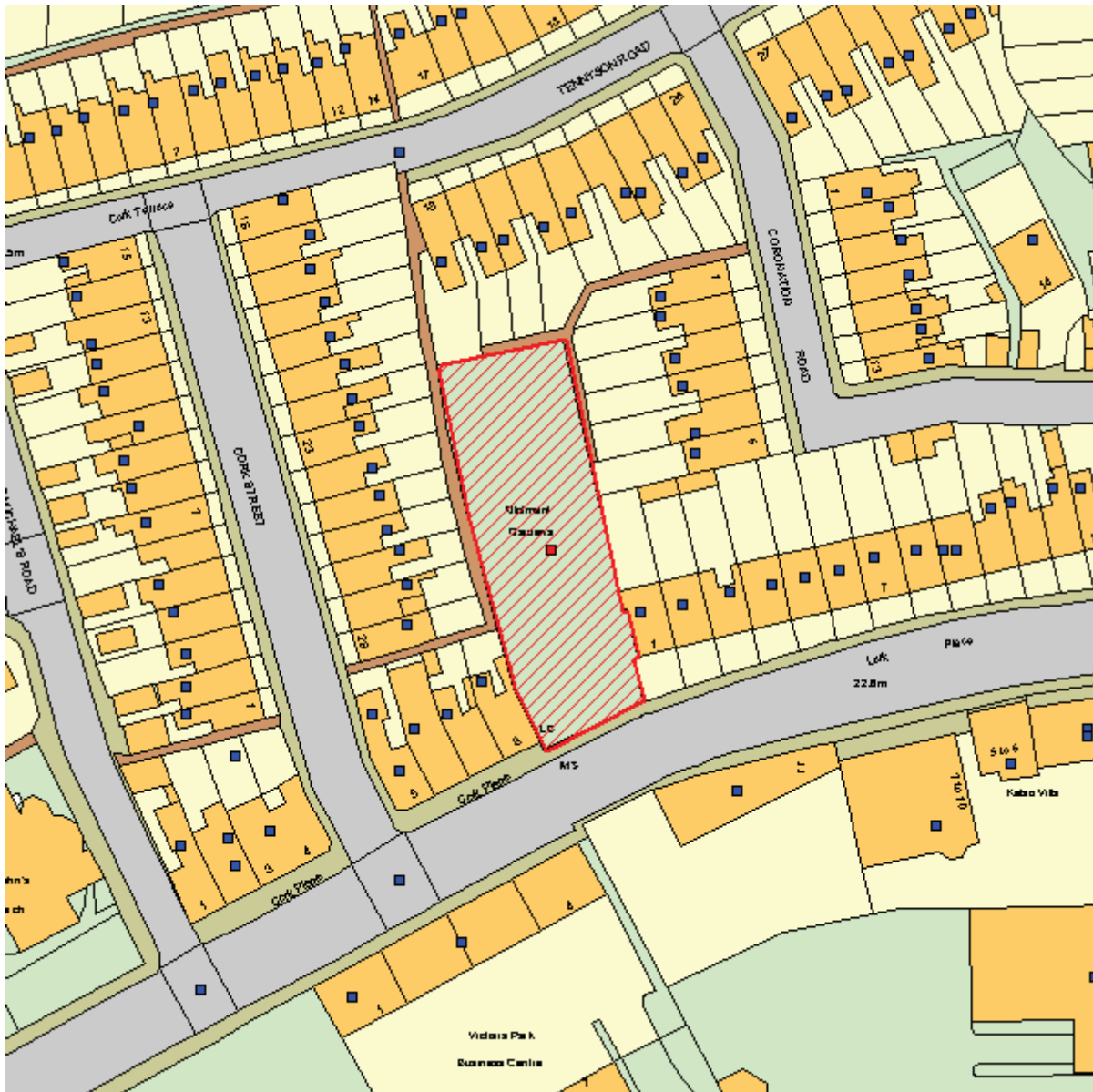
**PLANS LIST:**

0 Basic Survey  
Site Location Plan 1:2500  
Site Location Plan 1:1250

**DECISION MAKING STATEMENT**

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The Local Planning Authority has entertained a number of similar applications over a period of years which have been subsequently dismissed at appeal. The Local Planning Authority have acted positively by requesting information to clarify the applicant's case and have thoroughly reviewed the case on its own merits despite the very recent dismissal of a similar scheme at appeal in 2009.

**Item No:** 02  
**Application No:** 13/02098/FUL  
**Site Location:** Private Garden Lark Place Upper Bristol Road Lower Weston Bath



**Ward:** Kingsmead      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Douglas Nicol      Councillor A J Furse  
**Application Type:** Full Application  
**Proposal:** Erection of a pair of two storey semi-detached 3 bedroom dwellings, and a terrace of 3 no. two storey 3 bedroom dwellings, including access, parking for 5 cars, cycle storage, and amenity provision.  
**Constraints:** Agric Land Class 3b,4,5, Article 4, British Waterways Major and EIA, Conservation Area, Forest of Avon, Hazards & Pipelines, Hotspring Protection, World Heritage Site,  
**Applicant:** Mr P.A. Wells  
**Expiry Date:** 24th July 2013

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE:

Councillor Andrew Furse requested that if the application is to be recommended for approval it should be brought to committee due to the impact upon many residents in Cork Street, Tennyson Road, Coronation Road and Lark Place (not including other local residents who had an allotment on the proposed site), and the fact that it is a significant development within the Conservation Area.

### DESCRIPTION OF SITE AND APPLICATION

The site consists of an undeveloped space fronting onto the Upper Bristol Road, surrounded by housing. The applicant describes the site as a private garden that is rented out to an adjoining resident, but surrounding residents describe the land as allotments. The land is not designated as allotments in the Local Plan. The Council's allotment manager describes the site as private allotments, not within the control of the Council.

The site is within the World Heritage Site, and Bath Conservation Area, and additionally the stone fronted terrace to the east is a Grade II Listed building. A Cast iron "milestone" set onto a stone post in the front boundary wall of the site is also Grade II Listed.

The site frontage consists of a high stone boundary wall, above which fruit trees and scrub within the site can be seen. There is currently no access to the site off the Lower Bristol Road, but alleyways run around the perimeter of the site, accessed off Coronation Road to the east, Cork Street to the west and Tennyson Road to the north.

The proposals consist of a pair of semi-detached dwellings to be erected on the site frontage, adjoining the listed terrace and an additional 3 dwellings to be erected towards the back of the site. Openings would be formed in the wall on the road frontage to allow a pedestrian access for the right hand dwelling and to allow the vehicular route through to the dwellings, parking and turning areas to the rear of the site. The listed "milestone" would be removed from its current location and re-erected in the new wall near to its current location.

### RELEVANT HISTORY

- 0/5177 - Change of use from allotments to residential purposes - refused 1957. Reason for refusal "The land is zoned for allotment purposes in the Development Plan and the proposed use would conflict with that zoning.
- 6540 - erection of a timber building to be used as joinery workshop, the existing garden to remain as such - refused 1961 - Reason for refusal "The land is zoned for allotment purposes in the Development Plan and the erection of an industrial building on the land would be detrimental to the amenities of the adjoining properties.

- 6540/1 - erection of a timber building to be used as joinery workshop - Reason for refusal "The land is zoned for allotment purposes in the Development Plan; the erection of an industrial building on the land would be detrimental to the amenities of the adjoining properties and the proposal would lead to vehicles standing on the adjoining classified road creating a traffic hazard on this very busy stretch of road.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Summary of Consultation/Representations:

### CONSULTATION:

Consultation letters were sent out to 33 properties, a notice was placed in the local press and additionally a site notice was displayed on the site frontage on Upper Bristol Road.

### REPRESENTATIONS:

To date 68 letters of objection have been received, plus a petition objecting to the development with 68 signatories. No letters of support have been received.

### OBJECTIONS (Summarised):

#### Existing Use of the site / Loss of Allotments

- Object to the loss of Allotments and to the lack of any alternative provision to make up for the loss.
- The site is incorrectly described as a private garden. It's always been allotments, since before 1960 and was used by 7 residents until being given notice to quit a few months ago.
- There is a shortage of allotments for those who want them in Bath, with a 2 - 3 year waiting list for the nearby allotments: Lower Common West, High Common, Sion Hill. Growing our own food is increasingly important for health and to help families budget.
- The individual allotments are / where maintained by over 7 local resident households and provide a great sense of community
- Object to loss of the green space, which is a useful social and community contact point for the surrounding houses and attractive open space.
- The OS 1:1250 sheet dated December 1950 (some 13 years before the brothers Walkington bought the plot) contains the notation "Allotment gardens" in the area of the proposed development and this notation continues on the current OS sheet.
- The site was allocated as open space / allotments in the 1953 Town Plan
- Regardless of what the tenancy agreement says, the land was sub-divided and sub-let into individual plots for use as allotments, and 4 years ago a resident asked the tenant whether he could be added to his waiting list for allotments.

#### Conservation and Heritage impacts

- The development would necessitate a Victorian wall being knocked down, which adds to the character of the street.
- Object to the milestone being re-sited from its historical position. The listing includes the fact that it is by definition 1 mile from the Guildhall; exact map references are

sited in the listing, and it is farcical to think that placing it elsewhere will not impact its historical importance.

### Design

- 
- This is an overdevelopment of the site involving the loss of garden areas which in OS maps are described as allotments and are used by the local community
- The design of the houses (in particular the rear three units) is not in keeping with the character of the Conservation Area, the character of adjoining Georgian terrace (Lark Place) or the Victorian / Edwardian houses of Cork Place, Tennyson Road and Coronation Road.
- Unacceptably high density/overdevelopment of the site, especially as it involves a loss of garden land and the open aspect of the neighbourhood.

### Amenity Impacts

- Proposed dwellings would overlook and overshadow the surrounding properties, resulting in an unacceptable loss of privacy and daylight.
- The rear units would particularly overshadow the adjoining gardens, 2 metres to the east, belonging to Coronation Road.
- Construction would result in noise pollution for surrounding residents.
- Concerns raised regarding the proposed excavation works and potential subsidence problems.
- Loss of outlook over green space for surrounding dwellings
- Insufficient detail is shown regarding the relationship between the existing and proposed ground levels and no. 8 Cork Place.
- Concerned about the installation of external lighting within the development.
- There is a known problem in Cork Terrace where the ground has been found to be less than solid. To remove this amount of soil and change the structure of the ground between the two lines of terraced houses could put these houses in danger of a further subsidence or heave particularly by a very busy road which carries very large vehicles thus causing vibration.

### Highway Safety / Parking

- It was wrong at pre-application stage to suggest to the Applicant that parking bays lost on the Upper Bristol Road due to the construction of the driveway could be regained by "tacking-on" bays to the east of the existing. This should not happen and a TRO to this effect will not succeed. The parking as it stands extends as far as it physically can eastwards. Even at present, I have observed eastbound traffic encroach into the westbound lane of Upper Bristol Road when passing a vehicle parked at the eastern end of the bays.
- It is not appropriate in highway safety terms to create a residential access (to a small infill development) directly onto an arterial road.
- The driveway into the site is too steep - introducing such a steep access directly onto an arterial road introduces the risk for cars to build up significant momentum prior to having to stop at the entrance to the site.

- The application proposes a very bad access to the site with poor visibility. A swept path analysis should be carried out for fire appliances, refuse trucks and a plan should be submitted showing sight lines for vehicles exiting the site onto Upper Bristol Road.
- Development would cause congestion at the entrance of the site on the Upper Bristol Road
- The access of the Upper Bristol Road is difficult, with high traffic flows and difficult junctions with Park Lane, Cork Street and St Michael's Road
- A vehicle trying to exit the site will have to block the pavement in order to gain the necessary sight lines to make the manoeuvre safely.
- Concerned about inadequate parking - parking in the area is already very difficult. 1 Space per dwelling is not enough
- No traffic assessment has been submitted with the application nor data relating to the impact the proposed access road and crossover will have on the Upper Bristol Road.

#### Adjoining Businesses

- Object to the loss of parking spaces on the site frontage, which are vital for the survival of the adjoining shops.
- Hair by Dular, the adjoining shop, provides hairdressing particularly to the elderly, some of whom are disabled and arrive by car.
- Starcol Services, the adjoining computer repair shop, raise concerns about the loss of parking, which is essential to their business, allowing customers to pick up and drop off computers / printers.

#### Consultation process

- Insufficient consultation has taken place

#### Landscaping / Ecology

- Object to loss of habitat for local wildlife and fruiting trees.
- The landscaping shown on the proposed plans offers an inadequate replacement of the trees and shrubs currently on site and blocks off what has become a wildlife corridor

#### Other

- The development would reduce property values (Officer Note: Within the existing legislation, the effect of development on property values is not a material consideration).
- The development would add further pressure to local schools.
- If consent is granted, conditions should be attached covering noise, disturbance, dust and the management of construction traffic during the construction period.
- The site is of archaeological importance.
- The private drive giving access to units 3, 4 and 5 will open up easier access to the rear of neighbouring properties

## COUNCILLOR FURSE - OBJECT

My objection is based on the following:

- Loss of allotments - already there is a significant deficit with allotment provision in Bath, this would lead to further reduction.
- Loss of natural habitat which complements local gardens.
- Loss of residential amenity for dwellings adjacent to the development site who will suffer significant overlooking.
- Significant visual impact on adjacent dwellings and an over development of the site.
- Difficult and potentially dangerous access and egress to Upper Bristol Road.
- Removal of historical milestone (1 Mile to Guildhall) and wall to gain access to site.
- Increased pressure on current parking zone.
- Impact on the number of limited waiting parking spaces on UBR which are in situ to support local businesses and the reduction of on street parking used during evenings by residents.
- Design of proposed dwellings is not in keeping with either terraced housing in Cork Street/Tennyson Road or Coronation Rd, or with Lark Place as viewed from the UBR. Blending with the local dwellings would be expected within this conservation area. The application is presented as a private garden but is in fact allotments.

## BATH PRESERVATION TRUST

Bath Preservation Trust notes that the land to be developed may currently be used as allotments and therefore protected under Local Plan policy CF.8. This clearly needs to be clarified before any planning permission could be granted. Our comments on the design proposals are made without prejudice to the issue of whether the land is available for development.

In general, Bath Preservation Trust supports the development of housing on unused land within the city which will alleviate pressure to build within the Green Belt. We therefore broadly support this proposal, but only subject to clarification of the status of the land.

We do, however, regret the intention to move the Guildhall milestone so far from its current position. Whilst we understand that the marker may have to be moved, it ought to be re-installed far closer to where it sits currently.

We feel strongly that this development must be tightly conditioned in terms of materials including sample panels and that more attention must be given to the related highway proposals as per the highways consultation response if permission is to be given.

HIGHWAYS DEVELOPMENT CONTROL - No objection subject to conditions and contributions being sought towards strategic transport measures.

The submission was the subject of considerable pre-application discussion with the applicant's agent some months ago, particularly in respect of the access from the Upper Bristol Road.

This length of the A4 is very busy at all times, but especially at peak hours, and traffic queues on the westbound approach to the Windsor Bridge Road signal-controlled junction (opposite the proposed access). In addition, it will be necessary to remove a length of existing on-street parking in order that access can be achieved.

In respect of the principle of access from the Upper Bristol Road, I have observed access for vehicles to/from Cork Street and St. Michael's Road, both of which serve many more dwellings than that proposed at this development. While sometimes drivers need to be patient in waiting for an appropriate opportunity to proceed, there do not appear to be safety issues arising (there is no injury-accident record at either junction). In some instances there is a small delay to queuing traffic while a car waits to turn right into the side-road, however the likelihood of this occurring (when access for only five dwellings is required) is very low.

A yellow box-junction is proposed to address the issue of obstruction to queuing traffic. While this was previously thought to be an appropriate way forward, I would now suggest a simple 'Keep Clear' marking should be introduced, secured by way of a contribution to allow the location and extent of the marking to be considered by colleagues. The access is wide enough for a distance into the site to allow one car to enter the site if another is waiting to emerge. A centre-line should be provided on the access to ensure this works efficiently.

The Head of Parking Services and the Area Traffic Engineer have been consulted in respect of the loss of on-street parking. The Head of Parking Services has advised that although the most recent data (2009) shows this is not parked at capacity, he would nevertheless want the lost parking to be replaced. The Area Engineer concurs and has stated that the required changes to the Traffic Regulation Order will have to be funded by the developer. There is a risk in the delivery of the Traffic Regulation Order as the statutory consultation process does not guarantee a positive outcome - I would therefore recommend a Grampian condition to ensure the development cannot commence until there is a successful outcome to a TRO process. The funding for the TRO legal and administrative costs, as well as signs, lines etc. will need to be secured through a Section 106 agreement.

In terms of detail, the low-key design of the access i.e. the footway running across the frontage giving pedestrian priority, is appropriate. Visibility from the access will be compromised by parked vehicles to a certain degree, however Manual for Streets 2 suggests this is a common occurrence in built-up areas and it does not appear to create problems in practice. The site layout allows for emergency access and is designed as a shared-space to minimise speeds and create a low-key environment. It is not required that this road be offered for adoption as a public highway due to the level of development served. The level of parking provided is appropriate as it is consistent with the parking provision at the Western Riverside development (across the other side of the Upper Bristol Road), and the site is located convenient for local facilities as well as alternative forms of travel (a frequent bus service, access to the riverside cycle path, a level walk/cycle to the city).

To reinforce this principle, and to ensure parking doesn't overflow onto Cork Street etc. the applicant should be advised that the occupants will not be entitled to apply for resident's parking permits. The development meets the threshold by which it must contribute



towards strategic transport measures. A development of 5 dwellings is required to contribute a sum of £17,648.40 (5 x 7 multi-modal movements per day, x £504.24). Subject therefore to this being secured, together with the cost of the Traffic Regulation Order and installation of parking restrictions (£6500), and the introduction of the 'Keep Clear' marking on the Upper Bristol Road (£1500), which allows for traffic management), no highway objection is recommended.

#### FURTHER COMMENTS - 12th August 2013.

I refer to the copy of a letter from Mr Bubb in which he raises a number of highway concerns in relation to the development proposal. I have also considered other objections which have been received following the highway recommendations dated 10th June 2013.

Concerns has been expressed in relation to the additional traffic generated by the development; loss of parking on Upper Bristol Road affecting businesses, insufficient parking on site for the development; steepness of access drive; level of visibility for new access; and the use of the box junction causing more problems on the Upper Bristol Road.

The proposal is for 5 dwellings, where the level of traffic generated by such a development would not result in a material increase in traffic using the Upper Bristol Road. Whilst a new junction would be created from the Upper Bristol Road, resulting in turning movements onto, and off, the highway, the impact of this has been considered in detail.

A yellow box junction has been proposed, but it is now considered that a "keep Clear" marking is sufficient. The means of access, in terms of its geometry and visibility have been considered, having regard to current guidance, and is considered to be appropriate for the level of development.

With regard to the impact on the parking on Upper Bristol Road, the Parking Services Manager has advised that any parking lost as a result of the development would need to be replaced, and a Grampian condition to ensure that Traffic Regulation Orders can be made to secure this before development commences has been suggested.

The level of parking spaces within the site accords with current standards, and reflects the sustainable location of the site, whereby residents would not need to be wholly reliant on the private car. The provision of cycle storage facilities would also help to encourage cycle use.

The gradient of the access drive is proposed with a 1 in 15 gradient for the first 5m, and an average gradient of 1 in 8 beyond, and whilst this would provide a steeper access drive, it falls within acceptable limits.

Therefore, whilst the access to serve the development may not be considered to be ideal, the previous highway recommendations are maintained.

URBAN DESIGN - not acceptable in its current form.

- Support continuation of building line, but I think there should be two access points from the Upper Bristol Road - one for each frontage house as there are along the rest of the terrace.
- Units 1 and 2 roof features double mansard with no chimneys: this makes the roof space unable to be adapted in future, and does not create the articulation chimneys provide. A pitched roof like those to the east of the site could be adaptable in my view and the addition of stack ventilation chimneys would provide a source of natural ventilation that would help reduce the noise from opening windows and provide the articulation roofscapes in the city should have. The patio area, dining area and kitchens of these houses would lack natural daylight due to a sunken area facing north. There appears to be an opportunity to bring these lower level rooms out into the patio area a little to allow rooflights in? This could also allow slightly bigger balconies above.
- Units 3, 4 and 5 have a very shallow roof that appears to compromise the efficiency of the proposed PV array, which is supported. A higher pitch with deeper overhanging eaves could serve to improve the proportions of the roof, make pvs more efficient (30% ideal) as well as provide solar shading for south facing windows.
- The arrangement of the public realm exactly follows the line of vehicle turning circles. There is no need to compromise the quality of the public realm by replicating these curves in the line of walls - the appearance of the scheme would be improved if the space required for vehicular movements is maintained whilst incorporating walls that are squared off to relate to the buildings and not to the highway.
- Cycle stores should be in areas of the curtilage of buildings adjacent to access road so that cycles can be moved easily. The undercroft areas of units 1 and 2 look like they could accommodate cycle stores.
- Where would rubbish be deposited for collection? Should not be on Upper Bristol Road unless appropriately contained.

LANDSCAPE OFFICER -No objection subject to conditions to secure a landscaping scheme.

The loss of allotment space is to be regretted and there does not appear to be any material public benefit in its place. This needs to be considered in the overall balance. I would not object to the terrace across the front of the site as this would generally appear as a continuation of the existing. However, I think the rear is very tight for three dwellings as well as turning and access.

The planted areas to the rear may need to be amended to allow for overrun especially in respect of spaces 3 and 4. Having said that, I would not object to the principle, but would want to see a high quality hard and soft landscape scheme. It will specifically need to address the public domain and very particularly the road frontage elements. The boundary wall must also be designed and built to the highest standards.

## TREE OFFICER - NO OBJECTION

The trees on and adjacent to the site are protected by the conservation area status. The existing trees are predominantly fruit trees which collectively contribute towards the green infrastructure but are of limited arboricultural merit to support the making of a tree preservation order.

The layout results in a net loss of green infrastructure within the World Heritage Site. The Green Infrastructure Strategy includes a number of principles which include: 'Green infrastructure should be central to the design of new developments. Proposals should respect and enhance green infrastructure within the site and demonstrate strong links to the wider network.' No objection is raised on arboricultural grounds.

## ARCHAEOLOGY - NO OBJECTION SUBJECT TO CONDITIONS.

The proposed development lies in close proximity to a number of Roman burials (HER: MBN4562) discovered when the area was developed in the 19th century, indicating a possible area Roman-British activity/occupation. I would therefore recommend that that conditions are attached to any planning consent, to ensure (1) a field evaluation of the site, (2) a subsequent programme of archaeological work or mitigation, and (3) publication of the results.

## CONTAMINATED LAND OFFICER - NO OBJECTION SUBJECT TO CONDITIONS.

I have reviewed the planning application for the above referenced site. Due to the sensitive nature of the development (i.e. residential) and the potentially contaminative historical uses in the vicinity of the site (former gas works and depot to south), I advise that conditions are applied to any permission to secure a site investigation, reporting and remediation where necessary.

## ECOLOGY - No objections subject to the submission of a Wildlife Protection and Enhancement Plan

A comprehensive ecological survey and assessment have been submitted. No further surveys are required prior to determination of this application. Recommendations, including recommended survey (and mitigation if applicable) for reptiles, are made, along with a range of measures to prevent harm to wildlife.

## ENVIRONMENTAL PROTECTION (NOISE) - No objections subject to conditions detailing noise mitigation measures

The development is likely to be affected significantly from noise from traffic on the A4 Upper Bristol Road. We advised prior to the submission of the application the constructed building must meet the criteria within BS8233:1999. 'Sound insulation and noise reduction for buildings - Code of practice', which provides guidance upon appropriate design values for internal and external noise at residential properties.

It is anticipated after a review of the design and access statement that the applicable acoustic criteria will be readily achievable by way of noise control measures incorporated into the site and building design. The principal method of mitigating noise will be by way of adequately specified sound insulating external building fabric, particularly the glazing and ventilation systems.

**HEALTH AND SAFETY EXECUTIVE** - The HSE does not advise, on safety grounds, against the granting of planning permission in this case.

**EDUCATION** - No objection subject to contributions of £20,307.23 being provided towards primary school and Youth Services provision.

**PARKS OFFICER** - No objection subject to contributions of £11,770.20 being provided towards the enhancement of public open space (Formal green space and natural green space) and allotment provision.

This quantum of development will result in a projected occupancy of 15no. persons who will generate demand for formal green space, natural green space and allotment provision of 225m<sup>2</sup>, 225m<sup>2</sup> and 45m<sup>2</sup> respectively.

The Council's data shows that there is currently a surplus within the Kingsmead Ward in respect of formal green space, natural green space and allotment provision. As such, and in accordance with the Council's Planning Obligations SPD, the applicant would be required to make a capital contribution to the Council, to be used for the enhancement of existing facilities within the area.

## **POLICIES/LEGISLATION**

Policies/Legislation:

### **NATIONAL PLANNING POLICY FRAMEWORK**

The NPPF came into effect on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's). The NPPF is of primary consideration in the determination of this application. Whilst the NPPF confirms at Para 214 that full weight can be given to relevant (local) Policies for a period of 12 months from the date of its publication, this is conditional on those policies having been made in accordance with the 2004 Planning and Compulsory Purchase Act. In the case of the B&NES Local Plan, although adopted in 2007 this was made in accordance with 1990 Town and Country Planning Act and therefore Para 215 of the NPPF is applicable where it is stated "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

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

D.2: General design and public realm considerations  
D.4: Townscape considerations  
IMP.1: Planning obligations  
CF.8 - Protection of Allotments  
CF.3: Contributions from new development to community facilities  
BH.2 - Listed buildings and their settings  
BH.6 - Development within/ affecting Conservation Areas  
BH.8 - Improvement work in Conservation Areas  
BH.12 - Important archaeological remains  
ES.2: Energy conservation and protection of environmental resources  
ES.5: Foul and surface water drainage  
ES.14: Unstable land  
ES.15: Contaminated land  
HG.1: Meeting the District housing requirement  
HG.7: Minimum housing density  
SR.3: Provision of recreational facilities to meet the needs of new developments  
NE.1: Landscape character  
NE.9: Locally important wildlife sites  
NE.10: Nationally important species and habitats  
NE.11: Locally important species and their habitats  
NE.12: Natural features: retention, new provision and management  
T.1: Overarching access policy  
T.24: General development control and access policy  
T.26: On-site parking and servicing provision

DRAFT CORE STRATEGY, MAY 2011

The Draft core strategy is currently suspended following an Examination in Public however remains a material consideration. At this stage the Core Strategy has limited weight but should be read in conjunction with ID28, the Inspector's Preliminary Conclusions on Strategic Matters and Way Forward, June 2012:

CP2: Sustainable construction  
CP6: Environmental quality  
CP9: Affordable housing  
CP10: Housing mix

A green infrastructure strategy for Bath & North East Somerset - March 2013

## **OFFICER ASSESSMENT**

Officer Assessment:

IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN PRINCIPLE?

### **HOUSING POLICY CONTEXT**

The National Planning Policy Framework advises at paragraph 47:

"to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework; and identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land."

Paragraph 49 of the NPPF advises subsequently: "housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

The National Planning Policy Framework stresses a presumption in favour of sustainable development. "Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted 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 specific policies in this Framework indicate development should be restricted."

In 2010 the Council published the draft Core Strategy for consultation and latterly the document has been undergoing its Examination in Public. The Inspector assessing the Core Strategy has advised that the approach of the Core Strategy to assessing the housing requirement is unsound, leading to a requirement to make up a shortfall of 850 houses and to make provision for a 20% buffer to the 5 year housing land supply, and the Council has accepted that it is not currently able to demonstrate a 5-year housing land supply.

As a consequence, the Council accepts that a presumption in favour of Sustainable Development applies to housing proposals, and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework.

The site is located in a relatively accessible location, within walking distance of the city centre, and with good access to public transport and cycle infrastructure. Consequently, officers consider that the site is a sustainable location for residential development. However many residents have objected to the development of the site, and on the loss of

benefits the site provides in terms of residents growing their own food, and this is considered to be the primary issue in the determination of the application, to be balanced against the benefits the development offers in terms of the delivery of additional housing.

## LOSS OF EXISTING LAND USE

### Policy Context

The National Planning Policy Framework (NPPF) advises at paragraph 74. "existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision."

The NPPF does not specifically discuss allotments except to exclude them from the definition of Previously Developed Land, but at paragraph 70 the document advises that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments, and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

Local Plan policy CF.8 advises "Development resulting in the loss of land used for allotments will not be permitted unless:

- (i) the importance of the development outweighs the community value of the site as allotments and suitable, equivalent and accessible alternative provision is made; or
- (ii) the site is allocated for another use in the Local Plan and suitable, equivalent and accessible alternative provision is made. Development resulting in the loss of vacant land last used for allotments will not be permitted unless the existing and foreseeable local demand for allotments can be met by existing suitable and accessible sites. New allotments will be permitted provided that they are accessible to the area they are intended to serve and suitable for productive use."

Whilst the Adopted Local Plan pre-dates the NPPF, policy CF.8 (which safeguards allotments unless equivalent replacement provision is made), is in full compliance with the NPPF and can be afforded significant weight in assessing the application.

The Core Strategy identifies the lack of allotments as a strategic issue and emphasises the role allotments can play as Green Infrastructure, and residents correctly identify a shortage of allotments in the Bath area. It is clear from the planning history of the site that at the time of the historical applications (1957 - 1964) the land was designated as allotments, however the land carried no such designation in the 1997 Adopted Local Plan, and additionally was not identified as allotments in the 2007 Green Space Strategy.

## Status of Existing Use

### Current Appearance and Use

At the time of writing, the site has the appearance of allotments, with vegetables planted in strips on either side of a central walkway, extensive areas of fruit trees at the southern end of the site, plus compost bins and several large greenhouses and sheds. At the time of the Officer site visit, there was an occupied bee hive site on the land and the majority of the land evidently had been in active cultivation, though was starting to become overgrown. It is however of note that there are no obvious signs of separate plots being set out within the land, such as plot numbers or individual small sheds being erected on individual plots.

The applicants confirm that between 2003 - 2013 the site has been privately let to a local resident as a private garden, and have submitted a copy of the tenancy agreement covering this period, which confirms that the whole site was rented to an individual person. In a telephone conversation on 16th July 2013, the tenant confirmed these arrangements. Between 2003 - 2013 he was the sole tenant of the land, with clauses on the lease to prevent him sub-letting the land, but due to ill health he allowed family, friends and adjoining residents to assist him in cultivating the land, with them taking a share of the produce as compensation.

Surrounding residents dispute the applicant's description of the use, some residents commenting that the land was divided up into individual plots, others commenting that they helped the tenant tending the plot, taking produce as compensation for their assistance. No documentary evidence has been produced to substantiate that the land was sub-divided and rented out in the normal manner of allotments, for instance rent receipts or allotment agreements.

Subsequently the applicants have written to challenge objectors assertion that the land was used as allotments, and confirming that any community use of the land was without their consent.

### Past Use of the Land

The applicant states that the land was owned by two brothers and used for vegetable growing until 2000 when he bought the site. Officers have undertaken an analysis of aerial photographs of the site in 2009, 2006, 2005 and 1999. Additionally residents have sent in additional aerial photographs from 2000. In all of these photographs, the majority of the site appears to be in cultivation, with the same basic layout as appears today. Several residents have suggested that the site has been consistently cultivated for a substantial period of time, since 1960, 1950 or even back to the second world war, and this is consistent with the information available within the planning office.

### Legal Status of Land

The land is privately owned and is not controlled by the Council as a Statutory Allotment. A letter has been received from the applicant's solicitor stating that the land is a private garden rather than an allotment, and that therefore the use is not protected by policy. The



solicitors also submitted a copy of the tenancy agreement covering the period 2003 - 2013. The key points from the letter and tenancy agreement are as follows:

- The site has been rented to an individual tenant
- The tenancy describes the land as a private garden rather than an allotment, and makes no mention of the Allotment Acts
- Clauses on the lease prohibited the tenant from assigning, underletting or parting with possession of any part of the premises, or permitting trespass on the land, and there was no evidence of the land being subdivided or sub-letted to form individual plots.
- An allotment is commonly meant to be a plot let out to an individual within a larger allotment field. The land doesn't fall within this description and therefore isn't an allotment in the legal sense of the word
- The land has no community value, in that it has been let to a single person only, the tenancy of the land has been terminated and the owner cannot be compelled to let his land.

Officers have sought a legal opinion on the weight to be given to the tenancy agreement, to the community use of the land, and the robustness of a possible recommendation to refuse consent for the development. The legal opinion advised the following:

- 1) The fact that there is tenancy agreement in itself is not conclusive as to the planning use of the land but it is material factor in its establishment.
- 2) Whether the site is an allotment is a matter of interpretation. The law requires the policy to be interpreted objectively in accordance with the language used and read in its proper context.

The relevant policy appears to be written under the local plan chapter concerning community facilities and services. Chapter B3.40 of the local plan itself states there are a few allotments in private ownership pre-supposing the majority of allotments whether statutory or non-statutory are publicly controlled in the context of the policy. The site is evidently privately owned without any apparent public rights or valid sub-letting to individuals of the community akin to an allotment. The context of the policy states allotments are an important leisure resource bringing in the community value aspect of the underpinning policy objective.

I could not find that the site was assessed as an 'allotment' in the Council's Green Space Strategy to which paragraph B3.41 of the local plan refers. The community value point seems to underpin the policy and in my view this is important. Objectively it appears there is a limited basis to support that the site is a proper allotment in the context of the policy and even less of a basis to uphold that the site is a valid community facility. Overall on the available information you now have, I consider that the Council would have to adopt a very wide approach as a matter of interpretation to bring the site within the meaning of an allotment in terms of the policy.

Also importantly it appears a refusal would not result in the use (if there is an allotment use in terms of the policy) being continued.

So far as material to the application and considering the information made available to me I do not consider that, on balance, the site should be considered an 'allotment' under the policy, however, the exercise of that judgment/decision is a planning one.

I would comment that the applicant's lawyer's letter dated 23 July 2013 seems a fair representation of the position when summarising definitions of allotments.

3) In terms of the desirability of retaining an existing use as a material consideration in *Westminster City Council v British Waterways Board* Lord Bridge expressed the view that it was necessary to show as 'a balance of probability' that a refusal would result in the preferred use being continued. In *London Residuary Body v Lambeth London Borough Council* the House of Lords held that, even where it has been shown that there is a need for and desirability for preserving the existing use and there is no need or desirability for the proposed change of use, it was still open to the Secretary of State to determine that the planning objections were not of sufficient importance to overcome the presumption in favour of granting permission.

The key facts that emerge from this, and which are central to the determination of the application are as follows:

- The land is in private ownership, with clauses in the lease covering a 10-year period preventing trespass on the land and sub-letting of the land. Whilst not conclusive in determining the planning use of the land, the tenancy is material in establishing the established use of the land.
- Despite the tenancy agreement, the land has community value for adjoining residents and has had a degree of community use over the last 5/6 years, however it appears that this community use/access was informal and was not officially sanctioned by the owner of the land.
- Whilst safeguarded for allotment use in previous Development Plans, the land is not designated as allotments in the Adopted Development Plan.
- As the land does not form a statutory allotment, and is privately owned, irrespective of this planning decision there is no planning mechanism through which the Council can "force" the owner of the land to rent it out to the community. Therefore whilst the land has had a degree of community use and access, this access (and the community value of the land) was not secure.
- It is within the rights of the landowner to erect a 2 metre fence around the land to prevent access, for which planning permission would not be required.

In conclusion, whilst the land has the appearance of an allotment, it is not designated as such in the Adopted Local Plan, and appears not to have been managed as an organised allotment. Whilst the land has had a community use by some surrounding residents, the use was informal and the community value correspondingly insecure.

Officers consider the deciding factor is that even were the application to be refused, the current use of the site (and the community access to the land) would be very unlikely to be continued, and there is no planning mechanism through which the Council could force the land to be rented out to surrounding residents.

As a consequence in assessing the balance between the benefits delivered by additional housing and the harms resulting from the development, lesser weight can be given to the loss of the existing use and the "loss" of community access to the land.

## ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THEIR IMPACT ON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA, THE SETTING OF THE WORLD HERITAGE SITE AND ADJOINING LISTED BUILDINGS?

### Front Terrace and Works to Form Vehicular Access

To the east of the site lies a Grade II Listed Georgian terrace. The proposals feature a pair of semi-detached dwellings adjoining this terrace, faced in dressed stone, with a slate roof and a double valley gutter roof. The design and form of the property would relate well to that of the adjoining terrace and the height of the building at eaves and ridgeline would match that of the adjoining listed terrace. The addition of chimneys would further improve the appearance of the development and add articulation to the roof design, but the proposals are not considered to be unacceptable because of this.

Plot 2 would be accessed on foot via a flight of steps set at a right angle to the pavement in the same way as the other properties on Lark Place. Plot 1 would be accessed via a flight of steps coming off the vehicular opening into the site. Whilst this differs in design from the way the adjoining listed buildings are accessed, officers do not consider that this would detract from the setting of the adjoining listed buildings or the Conservation Area.

Overall this building and the associated works at the front would preserve the setting of the Conservation Area, would not detract from the setting of the adjoining Listed Buildings or that of the World Heritage Site.

### Proposed Dwellings at Rear and Landscaping

The dwellings at the rear (units 3 - 5) would be faced in dressed stone at ground floor level, render at first floor level with a pantile roof, and in general is modern in appearance. The building appears to have been designed to minimise its height and its impact on adjoining residents and therefore the roof is low in pitch. This roof-form does contrast with that of other buildings in the vicinity, but relates well to the modern design and appearance of the building. The rear building is located in a backland location, would be dug into the site, and would not be viewed prominently within the streetscene. Therefore it is not considered to detract from the character or appearance of the Conservation Area, or the setting of the World Heritage Site.

Concerns have been raised about the layout of the public realm within the development, the layout of which follows the tracking movements of vehicles turning within the site. It is correct that the shape of external spaces is defined by vehicle tracking, and this could be amended, however this would necessitate the private gardens of the properties being reduced in size. Given the confined nature of the site, it seems preferable to leave the layout as submitted, and maximise the amount of private garden space provided.

### Re-location of Mile-Marker

In order to create the vehicular access it would be necessary to re-locate the milestone set into the front boundary wall. The Mile marker and the stone backing plinth would be removed and re-set into the new wall, bedded in lime putty mortar. The new location of the mile-marker would be 14.1 metres to the east of its existing location. Whilst the re-location would affect the accuracy of the mile measurement, this would be unnoticeable,

and officers do not consider that the relocation of the mile marker this would affect the significance of this heritage asset.

However, as the mile-marker is individually listed, Listed Building consent would need to be sought for the re-location of the marker before these works can go ahead and no such application has been lodged.

IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN TERMS OF ITS IMPACT ON THE AMENITY OF SURROUNDING RESIDENTS AND AMENITY LEVELS IN THE PROPOSED DWELLINGS?

Adjoining residents have objected to the impact the development would have in terms of loss of privacy and loss of light to their properties.

#### Overlooking

Given the relationship between plots 1 and 2 (on the site frontage) and the adjoining properties, it is not considered that these proposed dwellings would have any significant impact on the amenity of the adjoining residents, and there would be an acceptable facing distance (21 metres) between plots 1 - 2 and 3 - 5.

Regarding plots 3 - 5, these dwellings would be designed with windows in the front and rear elevations and obscure glazed bathroom windows in the side elevations at first floor level, as a consequence no overlooking issues would arise properties overlooking the site from Coronation Road and Cork Street to the east and west. The facing distance between plots 3 - 5 and the rear elevation of the properties in Tennyson Road is a minimum of 18.5 metres. From the proposed sections submitted with the application, these rear plots would be dug substantially into the site approximately a storey height below the external ground level in the gardens to the north. Taking these factors into account, proposed plots 3 - 5 would not overlook the adjoining properties to the north.

#### Overshadowing

The most significant potential overshadowing impact would arise between the gable end of plot 3 and numbers 3 - 6 Coronation Road. Given the size of the gardens of these properties, and the distance between the properties themselves and plots 3 - 5, the development would not unacceptably harm the amenity of these residents by virtue of overshadowing.

#### Quality of Dwellings

The proposed dwellings would offer a good standard of amenity for future residents. Concerns have been raised about limited light levels within the dwellings, due to their being dug into the hillside. Light levels at the rear of the proposed dwellings at ground floor level would be restricted by the terraced land to their rear, and in the case of plot 3 by the retaining wall next to the plot, however all the properties have large full height openings on their rear elevations, and plots 1 and 2 are open plan on the ground floor, and this would compensate for the overshadowing experienced. The rear ground floor windows of plot 3, which would have the most potential to be overshadowed by the

adjoining retaining wall, do not fail the 45 rule test, indicating that these rooms will receive sufficient daylight.

#### ARE THE PROPOSALS ACCEPTABLE IN TERMS OF HIGHWAY SAFETY AND PARKING CONSIDERATIONS?

The Councils transport team advise that the proposed development would not generate a significant amount of additional traffic and that there are no objections to the proposals from a highway safety or transport perspective, subject to contributions being provided towards strategic transport measures and subject to a "Grampian" condition being applied to require a Traffic Regulation order to be processed to secure changes to the road markings.

The proposals show that an 8.5 metre stretch of existing on-street parking would have to be lost in order to make room for the access, but this would be compensated by changes to the road layout (agreed through the Traffic Regulation Order) to provide additional on-street parking space to the east.

In total the development would result in the loss of approximately 1 metre of on road parking. Transport officers raise no objection to this, and it would be unlikely to make any noticeable difference to the parking available for the adjoining rank of shops, and therefore the viability of the rank of shops. The application proposes 1 parking space per dwelling, a level of parking provision which is considered to be appropriate given the relatively accessible location of the site in the city and the availability of public transport.

#### ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THEIR IMPACT ON ECOLOGY AND WILDLIFE?

As advised by the Council's ecologist, the proposals are considered to be acceptable in terms of ecology impacts.

#### ARE THE PROPOSALS ACCEPTABLE IN TERMS OF SUSTAINABLE DESIGN AND CONSTRUCTION CONSIDERATIONS?

Core Strategy Policy CP2 requires sustainable design and construction to be integral to new development in Bath & North East Somerset. All planning applications are to address the following issues:

- Maximising energy efficiency and integrating the use of renewable and low-carbon energy;
- Minimisation of waste and recycling during construction and in operation;
- Conserving water resources and minimising vulnerability to flooding;
- Efficiency in materials use, including the type, life cycle and source of materials to be used;
- Flexibility and adaptability, allowing future modification of use or layout, facilitating future refurbishment and retrofitting;
- Consideration of climate change adaptation.

In this case, the proposals would incorporate the following features:

- Roof mounted photo-voltaic cells
- Air source heat pumps to provide heating and recovery of heat from waste air
- Development to be highly insulated with air tightness maximized, exceeding 2013 Building Regulations
- Use of water saving fittings
- Incorporation of grey water system, harvesting rain water to use in watering landscaping, washing cars etcetera.
- Inclusion of permeable paving and on site infiltration to minimise discharges to sewers.

The proposals are in accordance with draft Core Strategy policy CP2.

#### CONCLUSION:

The site is in a sustainable position, within walking distance of the city centre, with good access to public transport provision. The proposals would preserve the setting of the adjoining Listed Terrace and the character and appearance of the Conservation Area. The Council's transport team advise that the proposals are acceptable in terms of highway safety. There are likewise no objections on ecology or noise grounds.

The determining issue for the application is whether the value of the land to the local community outweighs the benefits of housing delivery. Whilst it is evident that the land has had a degree of community use and community value, this community use is insecure and apparently without the owner's permission, and even were the application to be refused, there would be no guarantee of the current use being continued, or continued community access to the land being allowed.

The Council accepts that there is a significant need for additional housing in Bath, and at present the Council is unable to demonstrate a 5-year housing land supply. As a result of the policy situation, with no up-to-date Local Plan and no Adopted Core Strategy, National Planning guidance advises that in such situations planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework.

Against this test, it is not considered that the benefits of the proposed development would be significantly and demonstrably outweighed by the adverse impacts of consent being granted. Therefore the application is recommended for approval.

## **RECOMMENDATION**

A. Authorise the Planning and Environmental Law Manager to enter into a Section 106 Agreement to secure:

### 1. Education

Contributions £20,307.23 to fund the need for primary school places and Youth Services provision places arising from the development. The agreed contributions shall be provided prior to the commencement of development.

### 2. Open Space and Recreational Facilities

Contributions of £11,770.20 to fund the enhancement of Formal green space and natural green space and allotments off-site to serve the population. The agreed contributions shall be paid prior to the occupation of the development.

### 3. Transport

Contributions of

- £17,648.40 towards the implementation of strategic transport measures.
- £6500 towards the cost of the Traffic Regulation Order and installation of parking restrictions on Upper Bristol Road.
- £1500 towards the introduction of the 'Keep Clear' marking on the Upper Bristol Road

B. Subject to the prior completion of the above agreement, authorise the Development Manager to PERMIT subject to the following conditions (or such conditions as she may determine):

## **CONDITIONS**

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

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

2 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include hours of operation, details of the management of deliveries (including storage arrangements and timings), contractor parking, traffic management and wheel washes. The development shall be carried out in full accordance with the agreed construction management plan.

Reason: To ensure the safe operation of the highway and protect the amenity of surrounding residents.

3 Sample panels of all the external materials and finishes and demonstrating coursing, jointing and pointing to the masonry and all hard paved surfaces (including roads and footpaths) are to be erected on site and shall be approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. The development shall be completed in full accordance with the approved details and sample panels.

Reason: To ensure that the external appearance of the development is satisfactory in order to protect the character and appearance of the Conservation Area, the setting of adjoining Listed Buildings and the setting of the World Heritage Site.

4 Drawings to a minimum 1:10 scale (also indicating materials, treatments and finishes) of the following items shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the work is begun, unless otherwise agreed in writing by the Local Planning Authority:

- Windows - to include types, sections and method of opening (including lintol detailing and wall returns), materials, colour and finishes and surrounds
- External doors - to include joinery details, materials, colour and finishes and external architraves and margin lights (if any)
- porch canopies
- Rainwater goods

All details shall show relationship to adjoining materials in plan and section. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory in order to protect the character and appearance of the Conservation Area, the setting of adjoining Listed Buildings and the setting of the World Heritage Site.

5 No development shall commence until on-street parking along the site frontage has been revised in accord with the details shown on the approved layout plan, secured through the successful delivery of a Traffic Regulation Order.

Reason: To ensure the introduction of a safe access.

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

Reason: In the interests of amenity and highway safety.

7 The area allocated for cycle parking on the submitted plan shall be kept clear of obstruction. These areas shall be secure, sheltered and shall not be used other than for the parking of cycles in connection with the development hereby permitted, and shall be provided prior to the first occupation of the development and thereafter retained.

Reason: In the interests of sustainable development.



8 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 member 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.

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

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

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

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

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

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

12

A Desk Study and Site Reconnaissance (walkover) survey shall be undertaken to develop a conceptual site model and preliminary risk assessment of the site. The Desk Study shall also be submitted to and approved in writing by the Local Planning Authority. 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 in

accordance with a methodology which shall previously have been agreed in writing by the Local Planning Authority. 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 and a remediation validation report submitted for the approval 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.

13

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.

14

On completion of the works but prior to any occupation of the approved residential development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise in accordance with BS8233:1999. The following levels shall be achieved: Maximum internal noise levels of 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 exceed 45dB<sub>L</sub>A<sub>max</sub>. The completed development shall not be occupied until sound attenuation has been installed to achieve these standards, to the written satisfaction of the Local Planning Authority.

Reason: In the interests of ensuring that the development offers an acceptable living environment for future residents, and that adequate mitigation is in place to limit noise levels to an acceptable level.

15 No development shall take place until full details of a Wildlife Protection and Enhancement Scheme, in accordance with the recommendations of the approved ecological report entitled Extended Phase 1 Survey dated May 2013, have been submitted to and approved in writing by the local planning authority. These details shall include:

- Reptile survey findings and mitigation proposals as applicable
- All other measures for the protection of wildlife
- All other proposed ecological enhancements as applicable

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

Reason: To ensure that adequate provision is made for habitat provision and wildlife protection within the development.

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

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

17 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.

18 No development shall commence until details of refuse storage have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the refuse storage has been provided in accordance with the details so approved, and thereafter shall be retained solely for this purpose. No refuse shall be stored outside the buildings other than in the approved refuse stores.

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

## **PLANS LIST:**

1 This decision relates to drawing nos

DRAWING CL 463-1 / 100 LOCATION PLAN  
DRAWING 1000 SURVEY AS EXISTING - SITE PLAN  
DRAWING 1001 SURVEY AS EXISTING - SITE SECTIONS  
DRAWING 1002 EXISTING SEWER OVERLAY PLAN  
DRAWING 3000 SITE PLAN AS PROPOSED  
DRAWING 3001 SITE SECTIONS AS PROPOSED  
DRAWING 3002 PROPOSED UNITS 1 AND 2  
DRAWING 3003 PROPOSED UNITS 3,4 AND 5

DRAWING 3004 PROPOSED CYCLE STORE  
DRAWING 463-1 DESIGN AND ACCESS STATEMENT  
ARBORICULTURAL REPORT  
EXTENDED PHASE 1 SURVEY  
NOISE ON CONSTRUCTION SITES - CODE OF PRACTICE

## 2 FURTHER LISTED BUILDING CONSENT REQUIRED

Listed Building Consent is required for the relocation of the Listed Milestone on the site frontage onto the Upper Bristol Road. No works affecting the milestone should be begin ahead of Listed Building Consent being obtained.

## 3 LICENCE REQUIRED FOR VEHICULAR CROSSING

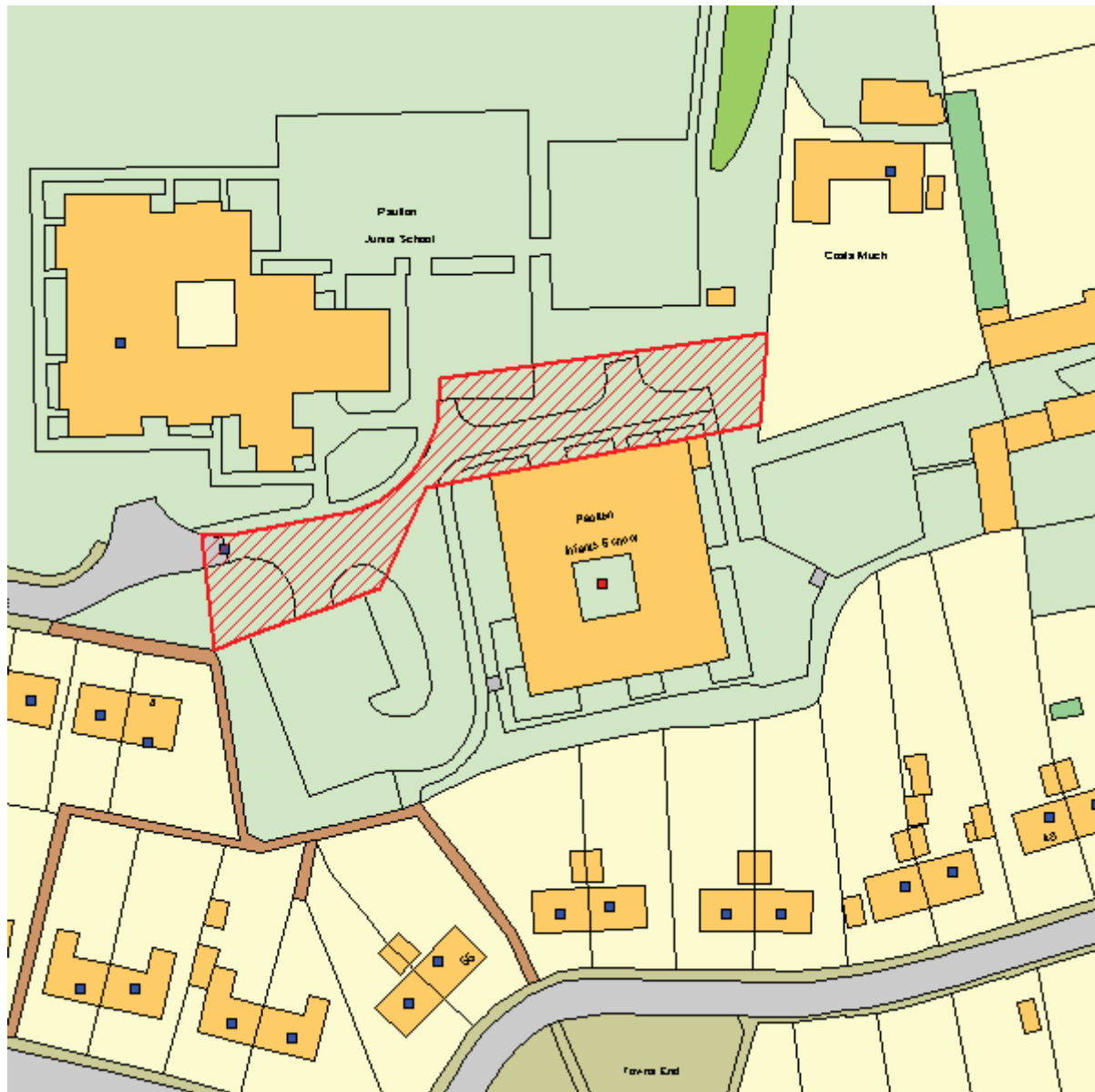
The applicant should be advised to contact the Highway Maintenance Team on 01225 394337 with regard to securing a licence under Section 184 of the Highways Act 1980 for the construction of a vehicular crossing. The access shall not be brought into use until the details of the access have been approved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

4 o No materials arising from the demolition of any existing structures, the construction of new buildings nor any material from incidental and landscaping works shall be burnt on the site.

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

o The requirements of the Council's Code of Practice to Control noise from construction sites shall be fully complied with during demolition and construction of the new buildings.

**Item No:** 03  
**Application No:** 13/02215/REG03  
**Site Location:** Paulton Infant School Plumptre Close Paulton Bristol Bath And North East Somerset



**Ward:** Paulton                      **Parish:** Paulton                      **LB Grade:** N/A  
**Ward Members:** Councillor J A Bull    Councillor Liz Hardman  
**Application Type:** Regulation 3 Application  
**Proposal:** Erection of a 3no. classroom extension  
**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,  
**Applicant:** Bath & North East Somerset  
**Expiry Date:** 29th July 2013  
**Case Officer:** Heather Faulkner

## **REPORT**

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

The application is being referred at the request of Councillor Hardman and Councillor Bull. The application has also been objected to by Paulton Parish Council.

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

The proposed development will result in extension and alteration to Paulton Infant School. The school site includes the Infant and Junior Schools and are both accessed via Pumptre Close off Plumptre Road. There is a carpark in front of the school and some parking to the side.

The proposed extension would be constructed to the north of the existing school building. The extension would be single storey and accommodate three new classrooms and two new sets of toilets. Whilst not requiring the need for planning consent the internal arrangements of the school will also be amended to increase the size of the hall and remove the kitchen to create a 'servery' and store.

The application also includes the construction of a bin store at the front of the entrance to the carpark.

### **RELEVANT HISTORY**

Planning application 13/00084/REG03 was submitted in January 2013 for a similar extension and this application was subsequently withdrawn.

The planning history below relates to both the Infant and Junior Schools:

98/02147/REG03 - Erection of single storey extension to provide toilet and cloakroom accommodation -PERMITTED

98/02784/REG03 - `Erection of single storey extensions to provide toilet and cloakroom accommodation (revised scheme) - PERMITTED

02/01041/FUL - Infilling of external courtyard to provide additional classroom space (Infant School) - PERMITTED

04/01998/FUL - Single storey extension to form improved entrance (Junior School) - PERMITTED

05/03111/FUL - Single storey extension to provide new entrance (Infant School) - PERMITTED

06/03913/FUL - Erection of a single storey extension to enlarge existing store to provide a new adult learning room (Junior School) - PERMITTED

08/01925/FUL - Installation of a portakabin ultima single classroom block (Junior School) - PERMITTED

10/00323/FUL - Erection of infill extension to courtyard to provide additional hall and mezzanine storage (Junior School) - PERMITTED

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Highways- No objection subject to conditions.

Highways Drainage - No objection or comment.

Arboriculture - No objections subject to tree protection conditions.

Environmental Health - no observations.

Contaminated Land - no objections subject to conditions.

Paulton Parish Council - OBJECTION on the grounds of highway safety. Comments summarised below:

- Supports principle that Paulton Children should attend Paulton Schools
- The Transport Statement does not mention the future expansion of the Junior school which would be necessary.
- Local knowledge of the site is against the conclusions of the Highways Officer
- Transport Statement does not provide any proposals that will have a significant beneficial impact on the severe additional traffic issues that will ensue. The Transport Statement does not include any future solutions and therefore make the development unsustainable.
- The proposed introduction of a 20mph limit is irrelevant as speed is not the issue.
- The pick-up drop/off areas in Elm Road and Plumtree Road are part of an existing scheme to deal with existing issues not future ones.
- Walking bus schemes are unreliable and weather dependent
- 'Park and Stride' sites may be unworkable and no guarantee of site being available.
- Objections to closure of any roads in the area.
- Application fails to comply with NPPF requirements.
- Travel Plan cannot be achieved.
- A Construction Management Plan would be required.

Representations:

A total of thirty representations were received in respect of the application including an objection from the Infant and Junior Schools's governing bodies.

The representations made are summarised as follows:

- Over development of the site and cramped conditions for both pupils and staff.
- Outdoor play facilities are not large enough
- Parking and Traffic issues have not been properly considered

- The area is already very congested at pick up drop off time and local residents are affected. It would be more difficult for emergency vehicles to access the area.
- Children must be escorted to/from school by parents. The 2m wide "access path" from where children would be dropped/collected is not safe or adequate to allow this. At capacity this will cause a significant safety risk for both security and in the event of fire
- There is already additional traffic with the Children's Centre in the area
- Traffic is already hazardous with 13 reported incidents in the last 5 years.
- The expansion will effect the playspace
- The swimming pool will not be able to cater for more children
- The expansion of the Infant School will lead to expansion of the Junior School
- An alternative needs to be considered whether it is building another school or providing transport to another school accessible for children
- School hall will not be large enough to include extra children and family involvement
- Shared tution areas in the school are already inadequate
- Safety risk with access to severy
- There is no direct access to outside areas for reception children and this is an Ofstead requirements
- The 'Park and Stride' scheme may not be viable
- Quaility of edcuation will decrease with extra pupil numbers
- Disrution during construction
- The proposed transport solutions are not realistic or viable.
- Concerns over used of Elm Rpad for parking
- The traffic has an impact on the Swimming Pool business

Comments from Paulton Infant School Governors:

- Governing Body supports the principal that Paulton children should be able to attend Paulton Schools
- Having hosted consultations with parents it is not believed that an acceptable Travel Plan can be achieved on the basis of the information available and object on the grounds of highway safety.
- Concerns that the Junior School expansion is not expressly considered by the by the Transport Consultant.
- There will be additional pressure for staff parking
- The measures proposed to improve the traffic situation are either unworkable, unenforceable, will not work or are unrealistic.
- Some options are positive however there are no firm proposals in place and these will take time to come to fruition if they are possible and the benefits may only be limited.
- There are potential problems with the 'Park and Stride' proposals due to land ownership.
- Some of the initiatives given in the Travel Plan have been trialled and have not been successful. A successful travel plan has not been identified and is not therefore a workable condition.
- Comments on concerns in respect of consideration of the Travel Plan.



Comments from Paulton Junior School Governors:

- The proposals are not fully evidenced and mitigation measures are not proven to be viable or successful
- If both schools are at maximum capacity this would be around 630 pupils which is approximately as many as attend Somervale, where you would expect more independent travel and buses.
- The Paulton Schools do not have the luxury of space and have a slimmer management structure and do not have the skills or budget for a 'director of traffic'
- The Governors of Paulton Junior School believe that both schools have the capability and the desire to deliver outstanding education opportunities to the children of Paulton. However we may try to influence model behaviours among the parents, carers and residents in our community; without a firm and positive commitment from the various Local Authority's departments that gives us all confidence in the likely delivery of measures to ensure that safety is paramount we are unable to support this application.

## **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

CF.2: Provision of new or replacement community facilities

T.6 Cycling Strategy: Cycle Parking

T.24 General development control and access policy

T.25 Transport assessments and travel plans

T.26 On-site parking and servicing provision

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches limited weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. The following policies should be considered:

B4 - The World Heritage Site and its Setting

CP6 - Environmental Quality

National Planning Policy Framework (March 2012) - The NPPF was published on 27 March 2012 and has been considered in relation to this application. The NPPF guidance in respect of the issues which this particular application raises is in accordance with the Local Plan policies set out above.

## **OFFICER ASSESSMENT**

### **PRINCIPLE OF DEVELOPMENT**

Policy CF.2 relates to the provision of community facilities. It states that community facilities will be permitted where they are within or well related to a settlement. In this case the proposed development is located within the existing school boundary within the urban area and therefore the proposed development complies with policy CF.2.

There are no policies within the plan relating to schools which are specifically related to the expansion of schools. Therefore provided that the proposals accord with other policies within the plan they can be regarded as acceptable in principle.

The main issue raised in the representations is in respect of traffic and congestion and this is addressed below.

## DESIGN

The existing school has a functional design. The proposed extension to the side of the building is considered to be of a scale and design which is considered to be appropriate for the building. Further details would be required in respect of the materials and this can be conditioned.

Concerns have been raised that the site would be over developed and cramped. However, there is sufficient room on the site to accommodate the extension and it does not significantly result in the loss of green space or play space around the building.

The application also includes the relocation of a bin store and there is no objection to this in terms of its visual impact.

Overall the proposed development will not significantly harm the appearance of the existing site or the surrounding area.

## HIGHWAYS

The main area of contention with this application from the local residents and the school governors perspective is the issue of traffic and highway safety. The responses to the application suggest that there are already problems around the school at picking up and dropping off times.

When the previous application was submitted there were concerns raised by the Council's Highways Team however following the resubmission of the application a Transport Statement has been submitted and the Highways Team no longer offer an objection.

The proposed extension is required to accommodate the increased demand for places as a result of the nearby residential redevelopment of the former Polestar site from which the Council has secured significant funds to pay for or contribute to additional school provision within Paulton. In this respect, the impact of this development is a direct consequence of that residential development and monies to mitigate the effect of increased traffic and demand to travel arising are being provided by the developer of that site. Bearing this in mind, no financial contributions are required.

Further, given that the need to accommodate the increase in pupil numbers arises from nearby residential development, the expansion of this school is the most sustainable option in highway terms as it maximises the opportunity for sustainable travel.

It is understood that it is the current aim of the Council to put in place TRO's etc. in the vicinity of the school, sufficient to mitigate the effect of this development proposal, by the end of this financial year. As this provision is under the control of the Council, as Highway Authority, no condition is necessary to facilitate this.

An up to date Travel Plan is an essential tool to minimise demand to travel by private motor vehicles and to minimise the impact of the proposed development. In this respect, it is noted that the applicant proposes to review and produce an updated School Travel Plan prior to first occupation of this development, with ideas for inclusion set out in the Transport Statement forming part of this application.

Further, it is proposed that the Infant and Junior Schools work together to produce the new Travel Plan. This is to be commended and complies with our recommendations given that, in transport terms, the schools tend to act as one entity. It is also something that would be required at such time that the expansion of the Junior School is proposed in order to accommodate the increase in pupils moving up from the Infants School. This should form a condition of any planning permission.

The Governors of the school have raised a number of concerns about the implementation of the proposals in the Travel Plan and this has been referred to the Highways Team. The feedback has been that there has been a concern in respect of the commitment of schools to their Travel Plans. Highways report that there have been discussions with the school and that the school have committed to review their Travel Plan, produce a joint Travel Plan for both of the schools, and to produce the Travel Plan in co-ordination with Council's Highways Department and with their agreement. It is acknowledged that as part of this process, the commitment of the school is important. However, Highways have commented that it should not be assumed that the Travel Plan will fail before it has even been implemented and, in this respect, the Governors should be taking a lead in showing commitment and support.

Finally, Highways have stated that should problems still arise, this would be a matter for the Council as Highway Authority to resolve and which could include quite onerous measures to prevent parking, pick-up and drop-off in close proximity to the school. However, Highways would not recommend a Travel Plan approach and risk additional expenditure if they did not think it could be made to work with appropriate commitment of all concerned.

In light of this it is considered appropriate to condition the Travel Plan and that the details of this must be agreed before the new classrooms are occupied.

In order to minimise conflict between construction traffic and pupils arriving at and leaving the school and to manage parking demand, in the interests of both highway safety and operation, construction will need to be carefully managed and therefore a construction management plan will be conditioned.

## AMENITY

The proposed building is a reasonable distance from the nearest residential property and as such the building itself would not have a significantly harmful impact on amenity in terms of any loss of light or being overbearing.

Local residents have also raised concerns in respect of the additional traffic disturbance. It is not considered that the situation would be significantly altered from the level of disturbance caused at dropping off and picking up times. The level of disturbance caused would be more limited to the peak times during the school day and not at evening and weekends. Whilst it is acknowledged that these times can be disruptive for local residents this is usual around schools and would not constitute sufficient reason to reject this application.

## TREES

The submissions indicate the loss of one Hornbeam ( identified as 055890 ) within a group of three and a number of Mountain Ash. There is no objection from the Arboricultural Officer to the loss of the Mountain Ash, however, the three Hornbeams are visible from outside of the site and the school in general is poorly provided with mature trees.

The proposal also impacts on a second Hornbeam identified as 055885 within the submitted Tree Survey which is currently shown as retained. This tree is already confined by hard surfacing with retaining walls on two sides. A longer term view may be to remove both of these trees and develop a replacement planting strategy for the whole school as suggested within 5.4 of the Arboricultural Report. Therefore a landscaping plan will be conditioned to ensure additional planting to mitigate for this loss.

Tree protection methods will be required during construction.

## LAND CONTAMINATION

Due to the sensitive nature of the development the Land Contamination Officer has advised that conditions be attached in respect of ensuring the site is not contaminated and that appropriate remediation is considered if required.

## FLOOD RISK

The site is within Flood Zone 1 which means it is of low risk in terms of flooding probability. Given that a proportion of the area for the development is already hard standing it is not considered that there would be any significant increase in flood risk.

## OTHER MATTERS

Comments have been made by local residents and parents in respect of the functioning of the school and the potential impact on the quality of the education/environment should the proposals be approved. It is not for the planning process to dictate to a school how it should internally function. The proposals show alterations to the school hall and kitchen facilities and parents have raised concerns about the provision of school meals. This is a matter for the school to determine and manage as they consider necessary.

## CONCLUSION

The principle of 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 proposals will provide an additional 3 classrooms for the school so that it can increase its intake in accordance with growing population.

The physical alterations are considered to be acceptable. It is acknowledged that there are serious concerns from the school as well as residents and parents in respect of highway matters and whilst there may be some addition disruption this when considered with the provision of a Travel Plan is not considered on balance to be so severe to warrant the applications refusal.

The application is therefore recommended for permission.

## 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 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 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 construction access, deliveries (including storage arrangements and timings), contractor parking, traffic management, signing, etc. Thereafter, the development shall not be constructed other than in full accordance with that approved plan.

Reason: To ensure the safe operation of the highway

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

Reason: In the interests of sustainable development.

#### 5 Desk Study and Site Walkover

A Desk Study and Site Reconnaissance (walkover) survey shall be undertaken to develop a conceptual site model and preliminary risk assessment of the site. The Desk Study shall also be submitted to and approved in writing by the Local Planning Authority. 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 in accordance with a methodology which shall previously have been agreed in writing by the Local Planning Authority. 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 and a remediation validation report submitted for the approval 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.

#### 6 Reporting of Unexpected Contamination

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.

7 No development or ground preparation shall take place until an arboricultural method statement with tree protection plan identifying measures to protect the trees to be retained, has been submitted to and approved in writing by the Local Planning Authority. The statement shall include details of the path retention method by the retained Hornbeams; proposed tree protection measures during site preparation (including clearance and the control of potentially harmful operations such as the position of service

runs, storage, handling and mixing of materials on site, burning, location of site office if considered necessary, and access and movement of people and machinery). The method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant.

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.

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

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

9 No development shall be commenced on site until a soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation.

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

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 Prior to the commencement of the relocated bin store further details shall be submitted and approved in writing by the Local Planning Authority showing elevation details and construction materials. 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.

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:

1 Received 22nd May 2013  
CE033A3/AL/01 Rev A Location Plan  
CE033A3/AL/02 Rev A Block Plan  
CE033A3/AL/03 Existing Part Site Plan and Roof Plan  
CE033A3/AL/04 Existing Floor Plan  
CE033A3/AL/05 Existing Elevations  
CE033A3/AL/06A Proposed Floor Plan and Part Site Plan  
CE033A3/AL/07A Proposed Elevations  
CE033A3/AL/08 Roof Plan  
CE033A3/AL/09 Section Through A-A Hidden South Elevation  
CE033A3/AL/11-Rev A Relocated Bin Store

## EDUCATIONAL AND OTHER SUPPORTING STATEMENT TRANSPORT STATEMENT

E033A3 - TS TREE SURVEY ABOR REPORT  
E033A3-DAS PLANNING ACCESS DESIGN STATEMENT Public  
E033A3-FRA FLOOD RISK ASSESSMENT Public  
E033A3-PS PHOTOGRAPHIC SURVEY

## Decision taking statement:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in the case officer's report, a positive view of the revised proposals was taken and consent was granted.

## 2 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).

3 The proposed development lies within an area that has been defined by The Coal Authority as containing potential hazards arising from former coal mining activity. These hazards can include: mine entries (shafts and adits); shallow coal workings; geological features (fissures and break lines); mine gas and previous surface mining sites. Although such hazards are seldom readily visible, they can often be present and problems can occur in the future, particularly as a result of development taking place.

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is



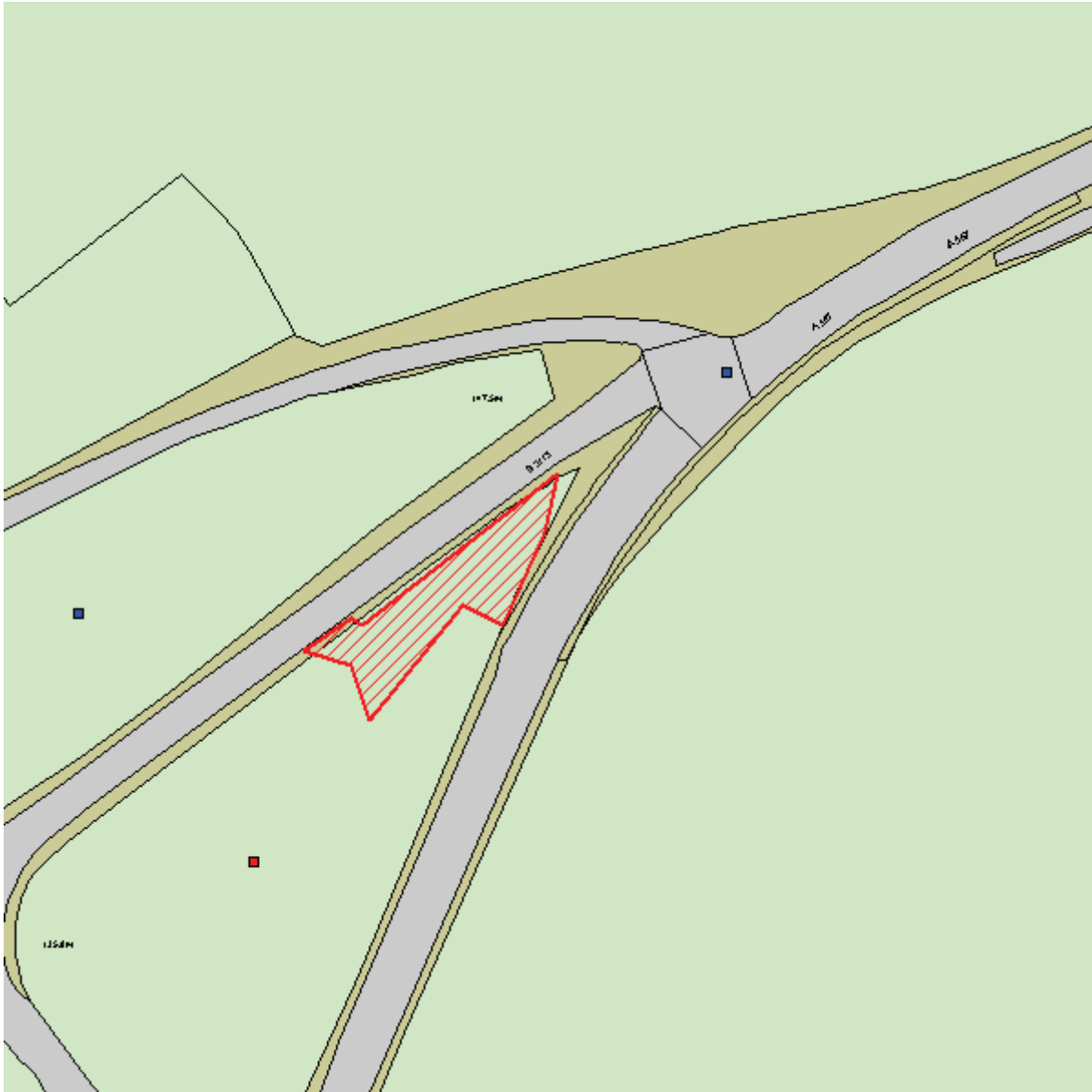
drawn to the Coal Authority policy in relation to new development and mine entries available at [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

Any intrusive activities which disturb or enter any coal seams, coal mine workings or coal mine entries (shafts and adits) requires the prior written permission of The Coal Authority. Such activities could include site investigation boreholes, digging of foundations, piling activities, other ground works and any subsequent treatment of coal mine workings and coal mine entries for ground stability purposes. Failure to obtain Coal Authority permission for such activities is trespass, with the potential for court action.

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

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is available on The Coal Authority website [www.coal.decc.gov.uk](http://www.coal.decc.gov.uk)

**Item No:** 04  
**Application No:** 13/01686/FUL  
**Site Location:** Parcel 8970 Tunley Road Tunley Bath Bath And North East Somerset



**Ward:** Bathavon West                      **Parish:** Englishcombe                      **LB Grade:** N/A  
**Ward Members:** Councillor David John Veale  
**Application Type:** Full Application  
**Proposal:** Erection of an Agricultural Storage Barn and widening of existing access.  
**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt, Sites of Nature Conservation Imp (SN),  
**Applicant:** Mr Andrew Scurlock  
**Expiry Date:** 12th July 2013  
**Case Officer:** Tessa Hampden

## REPORT

Reason for application being heard at Committee:

The application is being brought to committee due to the varying responses of the local Parish Councils, including Englishcombe Parish Council who support the application which is contrary to the recommendation of the case officer.

### Site description

This application relates to a prominent triangle of land dividing the Tunley Road and the A 367, situated to the south of Bath en route to Peasedown St John and beyond. The land forms part of Ashes Hill Farm, which is located approximately half a mile to the west of the application site. Ashes Hill Farm comprises approximately 150 acres of land. The site is located within the designated Green Belt and in close proximity to Crossways House, a Grade II listed building.

Planning permission is sought for the erection of an agricultural storage barn and the widening of the existing access. The building will be used for the storage of feed and machinery and will measure 18.3 metres by 12.19 metres, with an eaves height of 4.27 metres and ridge height of 7.0 metres.

The agent cites that the lanes surrounding Ashes Hill Farm are narrow and steep in places and not suited to heavy goods vehicles and large deliveries from lorries are problematic. The applicant has stated that he is facing greater difficulty in receiving deliveries of hay, straw and fertiliser. The previous barn which the applicant used as a 'satellite' base, is no longer available. The deliveries were made to this satellite barn, and the farmer was then able to use a tractor and trailer, to move materials to the farm. This proposed barn would have the same function as the previous satellite barn.

### Planning history

DC - 08/00704/FUL - RF - 13 May 2008 - Erection of agricultural storage barn

DC - 10/01136/AGRN - AP - 6 April 2010 - Erection of farm fodder storage unit

DC - 10/01748/FUL - RF - 8 July 2010 - Erection of fodder storage barn and alterations to access

The most recent application for a barn on this site was refused under delegated powers for the following reasons:

1 By virtue of its siting in this prominent location, the proposed storage barn fails to preserve the openness of the green belt, contrary to Policy GB.2 of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007

2 By reason of its siting and design, the proposed barn is poorly connected with the surrounding area, fails to maintain the character of the public realm, fails to respond to the local context or and would have an adverse impact on the visual amenities of this area, contrary to Policies D.2 and D.4 of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007

3 By reason of its size, siting and design in this prominent location the proposed barn would adversely affect the setting of the adjacent Listed Building to the local scene, contrary to Policy BH.6 of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007

4 In the absence of any robust justification for the need or benefit to the rural economy of the storage barn that outweigh the visual harm of the proposed scheme, the proposal is contrary to Policy ET.6 of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007

The submission states that this application has been resubmitted in an attempt to overcome these reasons for refusal and to reduce the burden on the narrow lanes leading to Ashes Hill Farm

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

Highway Development - no objections

Ecology - no objections

Englishcombe Parish Council - Support the application subject to a screening/planting condition.

- barn for agricultural purposes is not inappropriate development in the Green Belt. With additional trees not visually detrimental to the Green Belt. The character of the public realm is maintained and it responds to the local context

- no issues with regards highway safety

- sufficient distance away from listed building as to not impact upon its setting

Dunkerton Parish Council - No objection subject to strict conditions, but if specific conditions are not included then the Parish would object.

- development not inappropriate development in the Green Belt as for agricultural purposes
- conditions should be included relating to digging the barn into the slope of the hillside; investigation of a landscaping scheme, field gateway to be removed, and replaced with hedgerow; access designed as to allow a pull in greater than the length any HGV.

- development is harmful to highway safety

- justification for barn at this location not fully accepted/lack of evidence for this location

Priston Parish Council - Objects to the application

Previous application was deemed contrary to policies. This development is larger than that previously refused.

- The development does not maintain the public realm or preserve the visual amenity of the area. The development sits on rising ground and thus will be clearly visible.

- adverse environmental impact on the surrounding landscape and exacerbate traffic congestion

- adverse impact on the openness of the Green Belt

- compromise the setting of the nearby listed Grade II building

- highway safety issues resulting from the use of the access

- preferable locations for this building

13 letters of objection has been received. The comments can be summarised as follows:

- building detrimental to setting of listed building
- increase in traffic/highway safety issues
- impact on Green Belt
- lighting issues
- impact upon character and appearance of area

## **POLICIES/LEGISLATION**

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

D.2 - General Design and Public Realm Considerations

D.4 - Townscape Considerations

BH.2 - Listed Buildings and their Setting

GB.1 - Control of Development in the Green Belt

GB.2 - Visual Amenities of the Green Belt

ET.6 - Agricultural Development

T.24 - General Development Control and Access Policy

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches limited weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework

The National Planning Policy Framework was published in March 2012 and will be given full consideration.

## **OFFICER ASSESSMENT**

Principle of development

The development lies within the designated Green Belt where strict controls over development exist. Policy GB.1 which echoes national policy, states that permission for development within the Green Belt will not be granted except in very special circumstances or unless it falls within several specific criteria. Subsection (i, b) of the policy states that one of the exceptions to the policy is the construction of new buildings required for agriculture. With this in mind, it is considered that the proposal is in accordance with what constitutes acceptable development in the Green Belt and thus complies with Policy GB.1.

However, careful consideration needs to also be given to the impact of the development upon the openness and the visual amenities of the Green Belt. Policy GB2 states that developments will not be granted permission within the Green Belt where, by virtue of their siting or design, there would be a visually detrimental impact to the Green Belt. In this instance, by virtue of its prominent location, this barn, on a relatively small parcel of land would represent a form of development that would be harmful to the openness of, and the visual amenities of the Green Belt and is therefore contrary to Policy GB.2.

Whilst the agent has cited that the barn is needed to reduce the impact on the adjacent rural road network, limited evidence has been put forward to justify this argument. It has

not been demonstrated that other, more appropriate locations within the farm holding, which would have a reduced impact upon the Green Belt, have been explored.

### Character and appearance

In terms of the overall scale of the building, this has increased from that which was previously refused. As a building to be constructed for agriculture purposes, the proposed development represents a form that is common place in the rural landscape. There are concerns however about the incongruous siting, bulk and mass of the proposed building, which due to the topography of the land and the relatively small size of the plot would appear unduly prominent in the location resulting in a detrimental impact on the visual amenities of the area. The building would be highly visible from the adjoining roads, and although it is noted that there is a level of screening to the site, particularly to the north east of the site, this is not to an extent to mitigate against the visual harm identified.

### Setting of the listed building

Concern has previous been raised with regards to the setting of Crossways House which is a Grade II listed building. Although it is recognised that the proposed building has been moved further back into the site, than that previously refused, it is still considered that the proposed building will have a detrimental impact upon the setting of the listed building.

The landscape setting is important to the overall setting of the listed building, a former public house dating from the late 18th Century. The protected building is a prominent and striking feature when travelling on the roads around the application site. In terms of the impact of the proposed barn, it is felt that the barn would become the visually prominent feature of this area to the detriment of the setting of the listed building. Policy BH.2 states that developments affecting listed buildings or their settings will only be permitted where they do not adversely affect the (listed) building's contribution to the local scene. With this in mind, it is considered that this proposal fails to respect the setting and is therefore contrary to Policy BH.2.

### Highway safety

It is proposed to use the existing vehicular access off Tunley Road, and this will be widened in order to achieve visibility. The entrance gates to the site will be site back by 10 metres. Although the comments of the third parties are noted with regards to the highway safety impact, no objections have been raised by the Highway Development Officer. Subject to the access being property bound, the development is not considered to result in harm to highway safety.

### Ecology

The proposal affects a part of a field that does not appear to support significant habitats, and does not appear to affect the boundary habitats which is where more significant ecological impacts would occur, although it is noted the proposal includes setting back the existing gateway. Provided this work is carried out at a time of year that will not disturb nesting birds, and replanting is implemented to replace any affected hedgerow, there are no objections to the proposal. A landscape condition could be used to secure this if planning permission were to be granted.

## Residential amenity

The development is set a sufficient distance from any neighbouring occupiers to ensure that the residential amenity currently enjoyed by these occupiers is not harmed.

## Agricultural need

In consideration of Policy ET.6 an emphasis is placed on the Local Planning Authority to ensure that when considering proposals for new agricultural units that regard is had for any adverse environmental impacts and where harm is identified or there is a conflict with other policies in the Plan, that there is a need or benefit to the enterprise or the rural economy put forward. It has already been identified that this scheme conflicts with other policies contained in the Development Plan and looking at the application, there does not appear to be a robust justification made as to why this site is essential. On balance, it is considered that in conflicting with other policies, in the absence of any specific need or justification that this application conflicts with the requirements of ET.6.

## Other issues

Whilst the statements made in the supporting documents are noted, there are not any material planning considerations raised in that statement which outweigh the concerns as expressed above. There are considered to be potentially other locations within the farm holding that would be more appropriate and where the barn would have less of an impact on the Green Belt.

It is not considered that the reasons for refusal attached to the previous planning decision have been overcome, and as such this application is again recommended for refusal.

## **RECOMMENDATION**

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

1 By virtue of its siting in this prominent location, the proposed storage barn fails to preserve the openness of the Green Belt, contrary to Policy GB.2 of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007

2 By reason of its siting and design, the proposed barn is poorly connected with the surrounding area, fails to maintain the character of the public realm, fails to respond to the local context and would have an adverse impact on the visual amenities of this area, contrary to Policies D.2 and D.4 of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007

3 By reason of its size, siting and design in this prominent location the proposed barn would adversely affect the setting of the adjacent Listed Building, contrary to Policy BH.6 of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007

4 In the absence of any robust justification for the need or benefit to the rural economy of the storage barn that outweigh the visual harm of the proposed scheme, the proposal is contrary to Policy ET.6 of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007

**PLANS LIST:**

SITE LOCATION PLAN, 1403/13/01, 1403/13/03, 1403/13/04, date stamped 22nd April 2013, and 1403/13/09, 1403/13/10, 1403/13/11 date stamped 17th May 2013

<b>Item No:</b>	05
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**Application No:** 13/02302/FUL

**Site Location:** Oldfield School Kelston Road Newbridge Bath Bath And North East Somerset



**Ward:** Newbridge

**Parish:** N/A

**LB Grade:** N/A

**Ward Members:** Councillor L Morgan-Brinkhurst Councillor C M L Roberts

**Application Type:** Full Application

**Proposal:** Relocation of existing temporary classroom building within the school campus, erection of new single storey Drama Block on the current site, reintroduction of grassed area and removal of existing lighting columns to current temporary car-park at rear of site

**Constraints:** Agric Land Class 1,2,3a, Forest of Avon, Greenbelt, Hotspring Protection, Major Existing Dev Site, World Heritage Site,

**Applicant:** Oldfield School

**Expiry Date:** 13th August 2013

## **REPORT**

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

This application is being referred to Committee on the basis of a Member request (Councillor Roberts) which refers to the overbearing effect on the neighbouring property, 130 Kelston Road and concerns raised which refer to the over development of the site. Furthermore, unauthorised works are currently taking place on site, specifically footings for one of the new buildings is underway prior to the grant of any planning permission.

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

The application relates to:

- the relocation of an existing temporary classroom building within the school campus,
- erection of new single storey Drama Block on the current site which includes 2 no. classrooms, staff work room and a drama studio, and
- the reintroduction of grassed area and removal of existing lighting columns to an existing temporary car-park at the rear of site.

The site falls outside of the Conservation Area but is situated within the Green Belt, Forest of Avon, Hotspring Protection Zone and the World Heritage Site. It is also identified as a Major Existing Development Site within the Green Belt. The land to the south, north and west of the site is located within an Area of Outstanding Natural Beauty.

The application is supported by a number of documents including:

- Design & Access Report
- Flood Risk Assessment
- Planning Statement
- Sustainable Construction Checklist
- Travel Plan (School)
- Archaeological Desktop Study (ARUP)
- Ecological Report & Bat Study (ARUP)

It is noted that some of the documents include omissions related to new development within the site, namely the sports hall building situated to the front of the site. The site location plan submitted with the proposal however is an up to date survey of buildings contained on the site and includes this building. Furthermore a revised Archaeological Desktop study has been received which reflects the listing of 130 Kelston Road which shares a western boundary with the school.

### **RELEVANT PLANNING HISTORY:**

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

DC - 11/02504/FUL - Permission - 29 September 2011 - Erection of a new 4 court sports hall incorporating changing rooms, car park, multi use game area, associated external works and landscaping

DC - 11/02952/FUL - Permission - 21 September 2011 - Installation of solar panels on the roof and electrical inverters.

DC - 12/00322/FUL - Permission - 29 March 2012 - Erection of two teaching blocks to replace existing temporary classroom buildings.

DC - 12/01279/FUL - Withdrawn - 27 July 2012 - Installation of temporary construction access to facilitate delivery of construction materials for proposed Muga Pitch (Retrospective)

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

Highways: On the basis that the existing Drama Studio would not be brought back into any use, there would be no increase in teaching space, and it is recommended that no highway objection is raised subject to the following condition being attached to any permission granted:-

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.

Heritage Officer: No objection, it is not felt that the proposed development would adversely impact the setting of either of the listed properties (Penn Hill House and 130 Kelston Road).

Penn Hill House is some distance to the west of the application sites and between it and the sites to be development lies a tree /shrub belt and also additional modern school buildings.

The site for the new Drama school lies closer to 130 Kelston Road but between it and the listed building is also a tree/shrub belt, the new development also appears to be in part set down into the site, with higher ground level to the north to reduce its visual impact. Although acknowledging the new Drama block is larger than the existing two class room blocks, there are buildings already on the application site, as well as also directly to the east, south east, and south.

Views over to the site from the large garden of 130 Kelston Road will no doubt to a degree become more open in the winter months, when the trees/shrubs are not in leaf, and due

to the larger building on the school site, on balance , it may be appropriate to consider additional timber fencing at the boundary, and if possible additional planting to reinforce it?

The scale of the Drama building when seen from the west, and facing the boundary to 130 Keslton Road, has to a degree been broken down by changes in height and elevation treatment, this should also help reduce its impact. It also follows a design theme established by other recent modern buildings on the site in the use of render and external timber cladding. It may also be appropriate for the building to have a sedum roof, as already used in the larger modern building adjacent to it, and directly to the east . When viewed from higher ground to the north this has the effect of softening the large expanse of the flat roof and adding interest .

Archaeology: No archaeological investigation or conditions are required.

Ecology: No objection subject to condition:

Prior to the commencement of development or removal of buildings a "toolbox talk" on bats and wildlife issues shall be given to site workers by a suitably experienced ecologist. The development shall thereafter be carried out only in accordance with all necessary ecological precautionary measures and good practice methods. Reason: to safeguard wildlife and protected species.

Arboricultural officer: No objection

Representations: 2 main letters of objections (summarised) from the neighbour at the nearest residential premises, 130 Kelston Road which is a grade II listed building and shares a western boundary with the site.

- Concern over the cumulative impact of new buildings due to their size and height including the impact upon views from neighbouring listed property
- Extremely visible from listed property
- Detrimental impact upon the setting of a grade II listed building
- Overlooking of listed status of Halfway House as no reference to this listed building within supporting documents
- Poor design of proposed building with no architectural merit
- Cumulative impact of works including sports hall have had an adverse impact on the Green Belt and AONB
- Support reinstatement of grassed area
- Information fails to show sports hall
- Size of plans unhelpful to members of the public without printing facilities
- Concern over the noise impact of the drama studio on residential amenity
- There is lack of information and evidence within the submission of more recent developments within the school site
- Works have already commenced on site
- Concern over wider community use outside of school hours as has been the case with the sports hall
- Adverse impact upon highway safety caused by an increase in traffic generation
- Unclear about use of building for large audiences or groups visiting the site
- Light pollution impact upon neighbouring property caused by drama studio

- Re-use of existing areas that have been developed within the site should be utilised away from sensitive premises

Other letters and pictures have been received from the neighbour which supplement original objections raised and also document unauthorised works taking place by the applicant on the site.

## **POLICIES/LEGISLATION**

The following policies are a material consideration:

- D.2 - General Design and Public Realm Consideration
- D.4 - Townscape Consideration
- NE.4 - Trees and Woodland Conservation
- GB.1 - Control of Development in the Green Belt
- GB.2 - Visual Amenities of the Green Belt
- GB.3 - Major Existing Development Sites
- BH.1 - World Heritage Site
- BH.2 - Listed Buildings and Their Settings
- BH.9 - Parks and Gardens of Special Historic Interest
- BH.12 - Important Archaeological Remains
- SR.1A - Protection of Playing Fields and Recreational Open Space
- SR.4 - New Sports and Recreational Facilities
- T.24 - General Development Control and Access Policy
- T.26 - On-site Parking and Servicing Provision

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

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

The following policies should be considered:

- CP6 - Environmental quality
- CP8 - Green Belt
- DW1- District-wide spatial Strategy

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan, the Council attaches limited weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. Policies BH.1, D.2, D.4, GB.1, GB.2 of the local plan are proposed as saved policies within the submission core strategy.

## **OFFICER ASSESSMENT**

## GREEN BELT CONSIDERATIONS

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

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

It is recommended that as a matter of logic, the decision-taker should follow a sequential approach to deciding whether planning permission can be granted. The approach may satisfy the judgement of the case as a whole in terms of its impact on the Green Belt. With this in mind a number of questions need to be considered;

WHETHER THE PROPOSAL IS INAPPROPRIATE DEVELOPMENT IN THE GREEN BELT: The NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include:

limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

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

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

The proposal involves the erection of a single storey drama block to the western side of the site and the re-siting of an existing temporary classroom building within the school campus to be placed between two existing school buildings located quite centrally. Other minor works include the reintroduction of a grassed area to the north of the site and removal of existing lighting columns to an existing temporary car-park. When viewed from within the site and from the open views to the north and from Kelston Road the proposed buildings would be viewed against the backdrop of the existing school buildings and would not lead to a significant increase in the developed part of the site. Therefore it is not considered to represent a conflict to the purposes of including land in the Green Belt.

Furthermore both proposals are for school buildings and are not of a domestic scale, the roof line of the proposed buildings would not exceed the height of the immediate existing buildings that surround it and will not project above the existing roof lines. The proposed

buildings would utilise an area of the site currently occupied by a temporary building and a small area of ground between two existing buildings.

It is concluded that due to the siting, design and scale of the proposed drama studio and resited building would not lead to a major increase in the developed proportion of the site. The site falls within a MEDS and the proposal is considered to represent limited infilling within the site for educational purposes in compliance with GB.3 and the NPPF. The proposal is therefore not regarded as inappropriate development within the Green Belt.

**VISUAL AMENITY OF THE GREEN BELT/CHARACTER AND APPEARANCE OF THE AREA:** The proposal would be visible from parts of the site to the north, east and west. It would not be visually prominent within the site and in part utilises an area of the site that is currently developed. It is considered that the proposal would not raise significant harm to the special landscape qualities of the Green Belt or AONB that surrounds the site.

**HISTORIC ENVIRONMENT:** The Heritage officer considers that the proposed development would not adversely impact the setting of either of the listed properties situated in close proximity to the application proposal (Penn Hill House and 130 Kelston Road).

Penn Hill House is separated from the main part of the site which is some distance to the west and between it lies a tree/shrub belt and also additional modern school buildings. By reason of the distance between the proposed development and Penn Hill House it is considered that the proposed development would not adversely impact on its setting. The drama building is however in close proximity to the residential boundary shared with no. 130 Kelston Road to the west of the school site, which is a grade II listed building and is situated within established grounds.

Between the site and the listed building are established trees and shrubs, that although provides some screening during the summer months although it would be visible to a degree when the trees/shrubs are not in leaf in the winter. It is considered however that the existing buildings already on the application site have some visual impact and it is not considered that this proposal would result in additional harm to the historic setting.

The applicants has been asked to consider the introduction of a sedum roof and additional planting to the western boundary, however this is not regarded as essential insofar that without it the application would be regarded as unacceptable. Nevertheless it would be a desirable feature and Members will be advised if a revised proposal is to include these elements.

**RESIDENTIAL AMENITY:** Objections received have referred to potential amenity issues that may arise as a result of the use of the drama building close to the boundary with no.130 Kelston Road. The proposed building would be situated approximately 10m from the shared boundary (measured off plan). The existing buildings to be replaced provide technology and languages blocks which are within the operations and function of the school. The proposal is not considered to lead to any significant changes to how this part of the site is operated within the parameters of a school site. It is considered therefore that the proposal would not raise a significant increase in harm to residential amenity over what currently exists on this part of the site.

**TREES AND LANDSCAPE:** There are no trees affected by the proposals whilst the resited building is proposed on an area of open space situated between two existing school buildings. This area has previously been used as a grass verge and walk through to the adjacent school building however more recently has been adapted to accommodate unauthorised works progressing on site.

A condition is attached however for planting and landscaping details to be submitted in respect of the western boundary.

**ECOLOGY:** The Ecological officer is satisfied that the ecological assessment submission demonstrates that no adverse impact would be caused to protected species however it is identified that there may be potential for animals to be concealed beneath buildings, and a toolbox talk to contractors is recommended. The condition put forward however would not satisfy the '6' tests set out as the general criteria for the validity of planning conditions (Circular 11/95: Use of conditions in planning permission) and accordingly can not be applied to this recommendation.

**OFFICER ASSESSMENT OF HIGHWAY ISSUES:** The highways officer has raised no objection to the proposal on the basis that the proposal does not seek to bring back into use the existing drama studio and that a construction management plan is submitted to manage the works undertaken on the site. It is not considered that the new buildings would justify a highways objection in this respect.

Members are advised that an objector has raised additional concerns related to the increase in pupils at the school, which would impact upon highway safety which is not covered here. Further comments are currently awaited from the highways team and will be reported in an update to committee.

**ARCHAEOLOGY:** No objections or additional comments are raised in respect of archaeological issues on the site.

The proposal is acceptable and can be granted permission, subject to conditions..

## **RECOMMENDATION**

PERMIT with condition(s)

## **CONDITIONS**

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

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

2 Prior to the 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 and traffic management.

Reason: To ensure the safe operation of the highway.



3 No development shall be commenced until a soft landscape scheme for the new drama studio has been first submitted to and approved in writing by the Local Planning Authority, such a scheme shall include details of trees, hedgerows and other planting which are to be retained and a planting specification to include numbers, density, size, species and positions of all new trees and shrubs

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

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 following plans/documents:

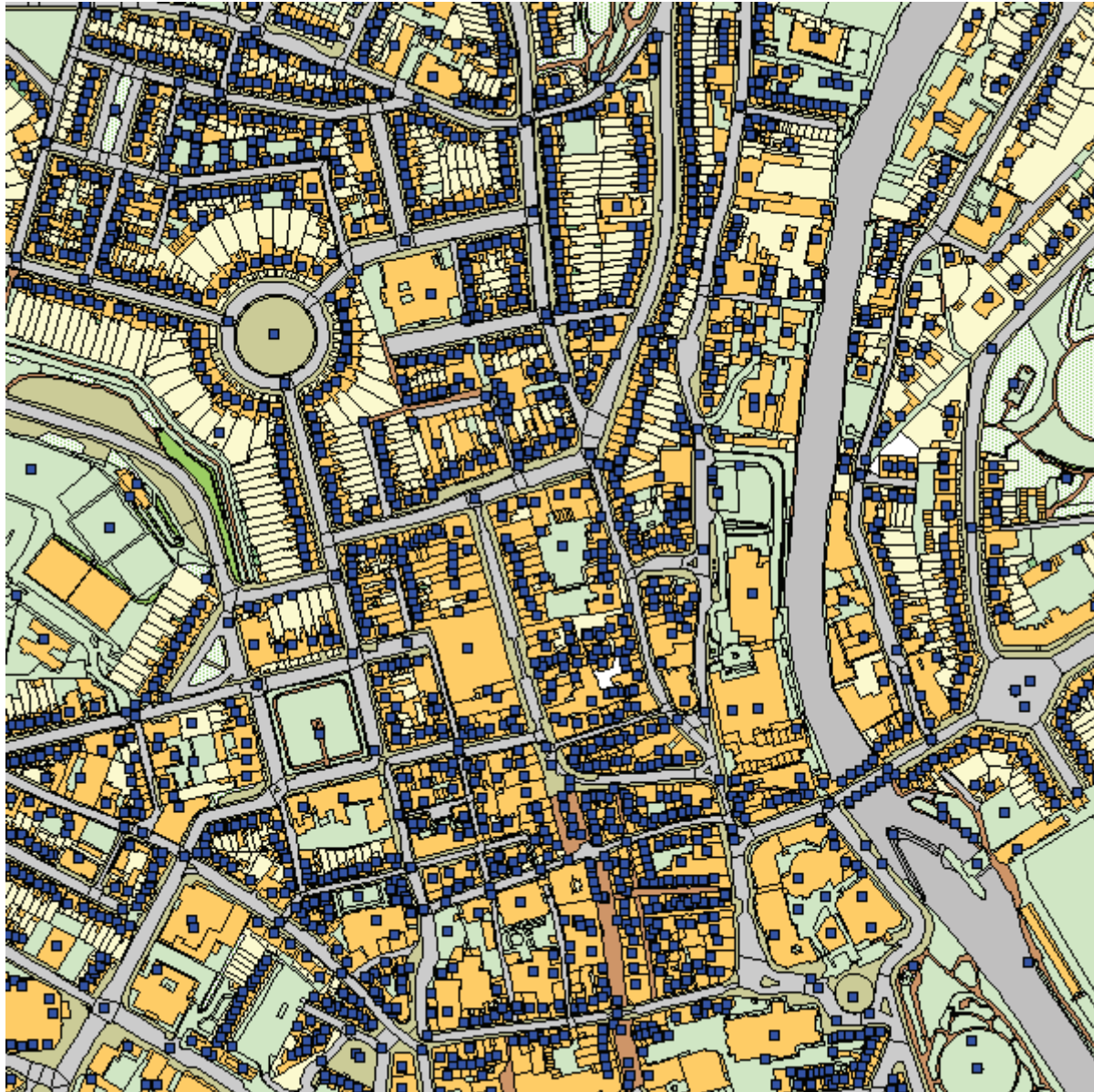
Drawing ref. 2102 issue A, 2040 issue A, 2100 issue A, 2001 issue A, Travel Plan, Archaeological Desk study, Ecological Walkover Assessment, 2050 issue A, 2103 issue A, 2302 issue A, 2101 issue A, 2060 issue A, Planning Statement, Design & Access Statement, 001D, Site Map, Flood Risk Assessment date received 31/05/13

Drawing ref 2300 issue B, 2052 issue A, 2301 issue B, 2051 issue A date received 18/06/13

#### **DECISION TAKING STATEMENT**

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Policy Framework. For the reasons given, a positive view of the submitted proposals was taken and permission was recommended.

**Item No:** 06  
**Application No:** 13/02395/AR  
**Site Location:** Bath Urban Area Generic Urban Areas Dummy Street



**Ward:** Newbridge      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor L Morgan-Brinkhurst    Councillor C M L Roberts  
**Application Type:** Advertisement Consent  
**Proposal:** Display of Vertical Banners at Manvers Street, Orange Grove, High Street, Stall Street and George Street; display of Pendant Banners at Churchill Bridge, Dorchester Street and Southgate Street; and display of Cross Street Banners at Milsom Street  
**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, World Heritage Site,  
**Applicant:** Bath And North East Somerset Council

<b>Expiry Date:</b>	31st July 2013
<b>Case Officer:</b>	Rebecca Roberts

## **REPORT**

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

The agent is employed as a consultant by the Local Authority with direct links to Planning Services

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

The application relates to various locations around the City Centre including Milsom Street, North Parade, High Street, Orange Grove, Manvers Street, Stall Street and Churchill Bridge.

The application is part of a programme for 'dressing the city' which aims to put in a place an overall programme for temporary advertisements relating to the promotion of events within the city. The application seeks consent for the display of flags and banners in two axial routes connecting city centre gateways and venues for a total of 12 weeks spread across the year to promote events in the City.

It proposes

- 1 x cross street banner on Milsom Street
- 1x vertical banner on George Street
- 3x vertical banners on the High Street
- 2x vertical banners on to the north side of the Abbey
- 5x vertical banners on Orange Grove
- 2x vertical banners on Terrace Walk/Bog Island
- 5x vertical banners and 2x temporary columns on Manvers Street
- 1 x vertical banner on Stall Street
- 1x vertical banner and 14x pendant banners on southgate
- 6x pendant banners in Brunel Square
- 4x pendant banners on Churchill Bridge

All of the sites are within the City of Bath Conservation Area and the designated World Heritage Site. A number of the signs will be fixed to lighting columns adjacent to listed buildings.

Culture and events play an important part in the city's economy and identity. Festivals and events are a significant part of this and in animating the city. The cultural forum and Festival organizers consider flags and banners to be important in the lead up to and during events. They contribute to promotion and amplifying a sense of celebration. They also assist in legibility, helping guide visitors to venues. However the most effective place to locate festival banners is within the city centre which is a sensitive location and so a balance must be found between the promotion and protection of the City and its historic assets.

To ensure listed buildings are protected it is proposed to utilise existing lighting columns from which the banners can hang. Two types of banners are proposed vertical (rectangular) banners which will sit in a two bar frame approx 800mm x 2000mm and

pendant (triangular) banners which will be fixed by a single bar and will be approx 600mm x 1200mm. The cross street banner will be approx 7000mm x 1000mm and will be fixed to listed buildings.

The statement accompanying the application states that all proposed equipment including fixings will be required to meet structural safety standards associated with lamp columns. All banners will meet the BS standards and the vertical banners have been designed to move during windy conditions which reduces any stress/loading on the lighting columns. As previously consented, the area for sponsorship message will be limited to 30% of the total area of the banners.

Design Manual for Roads and Bridges sets the criteria for assessing the loading potential of lighting columns (BS EN 40).

Whilst these standards may be updated, no banner will be permissible if it exceeds safe loading limits.

The time frame for the advertisements being displayed will be greater than that previously consented, as it is considered that the limited period for displaying the banners is the reason for the application not being implemented as sponsors are not willing to pay/endorse an event within a small timeframe. Therefore it is proposed to display the banners for 12 weeks total display period per year, providing capacity for the existing festival and event programme whilst protecting 40 weeks of the year free of displays. 3 week maximum period of single display to create a viable publicity period and attraction of corporate sponsorship (which is vital to funding festivals). 3 week minimum period of break between individual displays to ensure periods of display do not overwhelm any season of the year.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

**HIGHWAYS:** The proposed banner sizes are stated as being the same as previously consented under application 09/02576/AR, although not implemented, and whilst it is stated that highway safety issues have been addressed through pre-application consultation, there are still concerns raised by colleagues in the Highways Service regarding the proposals. The advice from colleagues in Highway Electrical, Highway Maintenance and Traffic & Safety is that the banners erected on lighting columns should not exceed 0.3sq.m, although the pendant signs at 0.36sq.m are considered acceptable. Furthermore, the locations of the pendant banners at Churchill Bridge would not overhang the footway at an unacceptable distance to the carriageway edge, and the banners within Southgate are within a pedestrianised area, and therefore pose no highway safety hazards. The banners to the front of the railway station are within private land, and therefore do not affect the highway. The proposed pendant banners are therefore considered acceptable.

With regard to the vertical banners, these are shown to be of 1.6sq.m which has been advised to result in unacceptable loading on the existing lighting columns. Furthermore, there is concern that the current locations of the majority of the lighting columns are too close to the road, such that the banners would overhang the carriageway with insufficient clearance. Therefore the vertical banners are not considered acceptable.

The proposed cross street banner over Milsom Street provides an acceptable level of clearance above the highway, which exceeds the required 5.3m, and previous approvals

have been in place for such banners. The proposed cross street banner is therefore considered acceptable. It is noted that there are no details of the type of information to be displayed on the banners, and this has previously been raised as a point of concern by Highways colleagues. Details will need to be submitted to ensure that there is not too much and too detailed information on signs, which could result in driver distraction.

CONSERVATION OFFICER: No justification for signs outside of the guildhall and north side of the Abbey, this view of the Abbey from the north end of the High Street is one of the most important views of the listed building with the buttresses fully visible and the true scale of the Abbey dominates the skyline. The Signage would be harmful to the setting of the listed buildings and we have restricted signage in this area in the past. Banner close to corner of Guildhall is acceptable on balance due to its stepped back profile, 3 signs need to be removed. Others proposed are considered acceptable on a temporary basis. Agents correspondence does not provide clarification or sufficient justification in terms of economic vitality and tourism awareness to outweigh the harm caused to these important and iconic historic assets.

URBAN DESIGN OFFICER: Not acceptable in current form. Vertical banners on lamp posts adjacent to the kerb with lamps facing towards the road could be hit by tall vehicles. Are posts strong enough to withstand wind load on the banners even with strong fixings. The vertical banner proposed in front of the Guildhall is on a historic looking lamp post - there are other lamp posts on the other side of the road that would be more appropriate to use. Many of the proposed locations for banners have CCTV attached on to the posts and it is difficult to see how this would not be obstructed during the time the banners are up. Pendant banners in Southgate will be above benches and the fixings on the drawings appear to come down to height of 2.4m, which could be an easy target for vandalism. There appears to be a missed opportunity to fix banners on to buildings in Southgate such as the Debenhams pilasters. The temporary post at the junction with South Parade and Manvers Street is sited within the canopy of a tree and should be omitted. However the principle of introducing banners to advertise cultural events is very much supported.

BATH PRESERVATION TRUST: Welcome a planned approach to 'dressing the city' during the festival period and we are pleased to see that the more contentious banner sites have been removed. The festivals are an important aspect of Bath's cultural offering, therefore, we have no objection to making an event of the festivals in the public realm. We are pleased that the area for sponsorship promotion on the banners is limited, and hope that the design of the banners will be carried out creatively as they have the potential to be a cultural commission in their own right

#### OTHER REPRESENTATIONS:

12x support comments

It has long been a major concern to Bath Festivals that there is such minimal visibility in the City for major national cultural events such as the Bath International Music Festival, the Independent Bath Literature Festival, and Telegraph Bath Children's Literature Festival. Events like these are vital to the City's national and international profile, and they have a major economic impact on the City. It's vital that they have greater visibility. The introduction of these banners will enhance the streetscape and provide a welcome boost to local events. We applaud the inclusive and open consultation process that has informed the development of these proposals. We desperately need to have a strong visible

presence for our audiences, our supporters and sponsors, and for promoting culture in Bath

## **POLICIES/LEGISLATION**

### **RELEVANT PLANNING HISTORY:**

There have been various applications for advertisements of a similar nature, i.e. cross street banners, railing banners, pendant signs and vertical signs, but these have been for individual events rather than an overall programme for the city.

### **POLICY CONTEXT:**

#### **NATIONAL PLANNING POLICY FRAMEWORK:**

National Planning Policy Framework (March 2012) can be awarded significant weight however this proposes little change to the aspects of local policy that are relevant to this decision. The NPPF reflects on the key aspects of the 2007 advertisement regulations. It emphasises the importance of appropriately placed and designed adverts and the need for proposals that respond to context.

#### **BATH LOCAL PLAN (adopted 2007)**

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 seBH2 - Listed buildings and their settings

BH.2 - Listed buildings and their settings

BH.6 - Development within or affecting Conservation Areas

BH.17 - Advertisement consent

T.24 - General development control and access policy

### **CORE STRATEGY:**

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches limited weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. The following policies should be considered:

B4 - The World heritage Site and its setting (will replace BH.1)

D.2, D.4, HG.12, BH.6, T.24 and T.26 of the local plan are proposed as saved policies within the submission core strategy.

Bath Public Realm and Movement Strategy 'Creating the Canvas for Public Life in Bath and Transforming Streets project is

a 15-20 year approach to investing in streets and spaces of Bath city Centre. The strategy and programme seek to deliver high quality and de-cluttered streets and spaces. Management of advertising is one part of this strategy.

Adopted Guidance - Cross Street Banners - Guidelines in respect of the need to apply for advertisement consent and how to apply for it. (1999)

## **OFFICER ASSESSMENT**

### **PLANNING ISSUES:**

Key factors taken into account when assessing advertising proposals are;

- Visual amenity and
- Public safety

Amenity is generally considered to be visual appearance and the pleasance of the environment generally, including the general characteristics of the locality and any feature of historic, architectural, cultural or similar interest there. If the advertisement is in a conservation area, special attention must also be given to the desirability of preserving or enhancing the character of appearance of the designated area.

In terms of public safety, location and design of advertisements must be considered against requirements of The Highways Act 1980 this includes:

- Scope for driver distraction
- Visibility and Obstruction and
- Structural Integrity

The adverts will also be assessed against requirements of the Design Manual for Roads and Bridges (Volume 2 Highway Structure Design BS EN 40 which addresses design standards in relation to lighting columns.

### **VISUAL AMENITY**

It is recognised that a balance needs to be struck between the promotion of the numerous events/festivals within the City and the visual amenities of the area. The provision of so many advertisements however has the potential to have a significant impact on the buildings/structures, on which they are placed, and the character and appearance of the surrounding buildings, the City of Bath Conservation Area and the setting of the World Heritage Site. A proliferation of advertisements can significantly detract from the appearance of the building and the street scene. The special visual qualities of the World Heritage Site, listed buildings and the Conservation Area, which are internationally renowned, need to be protected against indiscriminate advertisements.

Whilst similar advertisements to those proposed under this application have been granted consent in the past, these have been on an individual basis for a single event and their timing and duration in particular have been strictly controlled by the Local Planning Authority. It is noted that guidelines have been submitted with this application with regards to when the advertisements will be displayed throughout the year and duration which over a year will be limited to 12 weeks, and there is concern that if the pendants, vertical banners and cross street banner are displayed at the same time, or on consecutive occasions, they would detract significantly from the visual amenities of the area, however the agent has given specific details of the duration of the banners, the time between events being displayed to ensure that there is not an over proliferation of advertisements within the City.

The placement of vertical banners specifically outside of the Grade I listed Abbey and the Guildhall, with limited control over their content is considered to have a significant impact on the setting of these buildings. Whilst these may be considered acceptable for a one off

event, where any detrimental visual impact is temporary, the use of these sites as a regular means of advertisement is considered to be inappropriate. This street scene from the north of the Abbey is a very important vista which encompasses the north elevation of the Abbey with a number of architectural features and the entrance into the Guildhall and market. The number of advertisements being proposed in this area has been restricted due to the potential harm to the setting of the listed buildings. However with regard to the advertisements being proposed the agent has put forward an argument in favour of them. The agent recognises that the banners will make a visual impact, but considers there are significant benefits of promoting a cultural economy, that the banners will be focused and contained within set axial routes, cover a small area and will be displayed for a limited period to outweigh any harm.

However in the officers opinion the harm caused to the setting of these very important listed buildings which are set within the historic core of the city is considered significant enough to outweigh the benefits. There is less concern over the other banners and subject to a condition controlling the frequency of when these are hung, the banners will not cause harm to the visual amenity of the local streetscene.

The Local Planning Authority adopted planning guidance in 1999 with regards to cross street banners which currently forms the basis for assessment of any application for consent, together with all relevant material considerations. In summary, the guidance states that consent will not normally be granted for banners to be displayed for more than a one week period, for banners to be displayed in one site within one month of any previous or subsequent banner at that site, be of a high standard, printed on both sides, and ideally be opaque, priority will be given to charity banners in the event of a conflict of dates, consent will not be given in a street or immediate area in which Christmas lights are being displayed, and finally consent will not be granted for banners which relate to events not held in or not directly related to the town or city in which they are displayed.

Milsom Street has been used to display cross street banners in the past. The banner here is located between two listed buildings. However banners are commonly located in this location for short periods of time with an acceptable impact on the character of the area. The application notes however that the banners would be displayed for up to 3 weeks per month in this location, which is contrary to the adopted Local Planning Authority Guidance. Given the use of this site has been considered to be acceptable in the past, it is considered acceptable to allow the continued use of this site, and a compromise can be made to allow a more flexible use of this site to allow a longer display period.

With regards to the pendant and vertical banners the benefits of promotion needs to be balanced against the temporary impact on the visual amenities of the area. There is again a concern that the cumulative impact of these advertisements will lead to a proliferation and cluttering of the City Centre, which will result in undue harm to the character and appearance of the Conservation Area, the setting of the surrounding listed buildings, and the setting of the World Heritage Site. As long as the frequency of these advertisements can be controlled, this hanging of pendent banners and vertical banners are considered to be acceptable. A condition can be added to any approval to control this.

It is recognised that there is a need to advertise particularly significant events on a wider scale. The above means of advertisements have therefore been considered acceptable (excluding the 1x Guildhall and 2x Abbey banners) for one off event. For a 3 week period



over a total of 12 weeks of the year, the detrimental visual impact is considered to be temporary and is further mitigated by the purpose of the banner and the economic and other benefits brought about by the events which the banner is to advertise. The proposed advertisements are therefore considered to preserve the character and appearance of the Conservation Area and setting of the World Heritage Site.

## PUBLIC SAFETY

There are concerns raised by the Highways Officer surrounding the loading limits of the existing lighting columns to be used for the vertical banners as they exceed the 0.3sqm considered appropriate as a maximum. The applicant has commissioned the Environmental Services team to carry out strength tests on all the columns proposed to be used to determine if they meet the British Safety standards. The agent has sent details of the proposed banners which themselves meet BS EN 40 safety criteria, they will be set in a frame that can move in windy conditions which ultimately reduces the loading on the structure it is attached to. Therefore a condition will be attached to ensure this information is submitted prior to any advertisements being displayed. The outcome of the tests may result in the need to replace the vertical banners with pendant banners. However it is important to note that due to the size of the vertical banners, technical approval will be needed from the Council's Highways Maintenance team.

Concern is also raised regarding the positioning of the banners above the highway. This has been addressed by the agent and it is proposed to rotate the position of the vertical banners so as to hang above the pavement whereby sufficient clearance is given.

The pendant and cross street banners are considered acceptable and will preserve public safety.

## CONCLUSION:

The previous applications were supported by a management plan, although this has been recognised in the supporting statement, the applicant states that it will be controlled by the Council team and they will maintain a diary of bookings, manage the quality and safety of proposed banners and also manage the display and decommissioning of banners. This will ensure adherence to consented locations, safety standards and display programming. However no further detail is provided, but the applicant is willing to submit a management statement as part of a condition if required. Therefore a condition will be attached for the submission of a management plan to ensure that the dressing of the city for events is actively managed and the essence of the World Heritage Site is protected.

The need for the promotion of events within the City is recognised, but it is important that a balance is struck between the need to promote these events and the impact of the advertisements on amenity and public safety. It is considered that the advertisements proposed outside the entrance to the Guildhall and to the north elevation of the Abbey, due to their sensitive location and limited control over display periods and content/colour, will result in a significant individual and cumulative impact on the character and appearance of this part of the Conservation Area, the setting of the Listed Buildings and the setting of the World Heritage Site. The display of these banners therefore cannot be supported.

All other banners have been spread across the city away from the iconic historic assets of the City and are considered on balance to be appropriate in scale and siting and will have a neutral impact on the character and appearance of the Conservation Area and setting of the World Heritage Site whilst provide a benefit to the promotion of cultural/sport events within the City that inform both locals and visitors to the City that is considered to be a long term economic benefit.

## **RECOMMENDATION**

### **CONDITIONS**

#### 1 Cross Street Banner at Milsom Street

Approve subject to the banner not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

1x vertical banner at Guildhall entrance and 2x vertical banners between Cheap Street and Orange Grove to the North elevation of the Abbey.

Refuse - The proposed banners, by reason of their siting in prominent locations adjacent to listed buildings, detract from historical character of the listed buildings and compromise their setting and have a significant detrimental impact upon the character and appearance of the City of Bath Conservation Area and the setting of the World Heritage Site. This is contrary to policies D2, D4, BH1, BH2, BH16 and BH17 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted 2007.

#### 2 Pendant banners - Stall Street

Approve subject to the banners not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

#### 3 Pennant banners - Brunel Square on Dorchester Street

Approve subject to the banners not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

#### 4 Pendant banners at Churchill Bridge

Approve subject to the banners not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

#### 5 Vertical banner on George Street

Approve subject to the banner not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

#### 6 Vertical banners on the High Street (1x banner adjacent to TK maxx and 1x banner on the corner of the Guildhall)

Approve subject to the banners not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

#### 7 Vertical banners on Orange Grove (x5)

Approve subject to the banners not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

#### 8 Vertical banners on Terrace Walk (x3)

Approve subject to the banners not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

#### 9 Vertical banners on Manvers Street (x7 including temporary posts)

Approve subject to the banners not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

## 10 Vertical Banners on Stall Street (x2)

Approve subject to the banners not being displayed for more than a 3 week continuous period and once the banner has been removed it shall not be displayed again for at least 3 weeks.

Reason: In the interests of the visual amenities of the area

11 No advertisement shall be displayed until a Management Plan including details of how and who will control the diary for the placement of the banners at the specified locations, implementation of guidelines to ensure a balance between periods when the city is dressed and when it is free of decoration, resolving clashes within the programme and ensuring there is an appeals mechanism and details of maintenance and repair, shall first be submitted to and approved in writing by the Local Planning Authority.

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

12 a. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

b. No advertisement shall be sited or displayed so as to -

- (i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
- (ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
- (iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

c. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

d. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

e. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: These conditions are specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

13 This consent shall expire at the end of a period of five years from the date of this approval.

Reason: This condition is specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

14 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 drawing no's 1301/BC\_ED\_9030, 1301/BC\_ED\_9031, 1301/BC\_ED\_9032, 1301/BC\_ED\_9034, 1301/BC\_ED\_9035 and support statement date stamped 6th June 2013 and drawing no. 1301/BC\_FB\_5500 and banner technical specifications date stamped 12th August 2013.

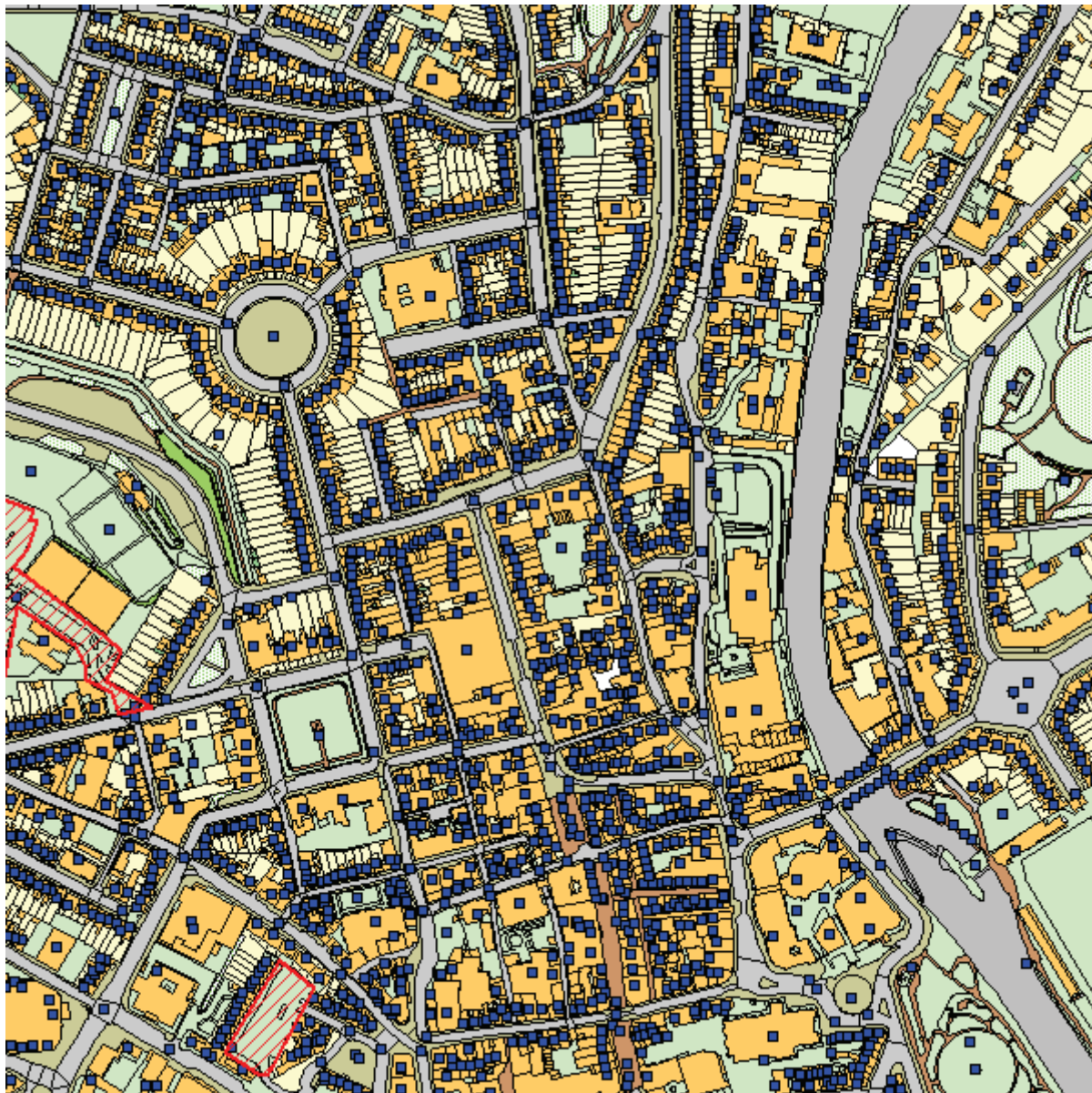
**ADVICE NOTE:**

Please advise the applicant that formal consent of the Highway Authority is required under the Highways Act for anyone to erect a sign or similar structure which will overhang the highway and this may be obtained from the Highway Maintenance Team who can be contacted on 01225 394337. Furthermore, separate approval will be required from the Highway Electrical Team with regard to fixing the banners to street lighting columns - contact 01225 394342.

**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:** 07  
**Application No:** 13/02396/AR  
**Site Location:** Bath Urban Area Generic Urban Areas Dummy Street



**Ward:** Newbridge      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor L Morgan-Brinkhurst    Councillor C M L Roberts  
**Application Type:** Advertisement Consent  
**Proposal:** Display of non-illuminated six sheet poster and temporary low level horizontal banner advertising at: B&NES Council car parks (Avon Street, Charlotte Street, Kingsmead, Manvers Street and Sports Centre); Park and Ride sites (Newbridge, Lansdown and Odd Down); and city centre compactor litter bins  
**Constraints:** ,  
**Applicant:** Bath And North East Somerset Council  
**Expiry Date:** 31st July 2013

## **REPORT**

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

The agent is employed as a consultant by the Local Authority with direct links to Planning Services

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

The application is part of a programme for outdoor advertising and event promotion on land and assets managed by B&NES and is proposed alongside the 'Dressing the City' programme. The application seeks consent for a number of advertisements for Commercial and cultural advertising fixed to equipment in the public realm that are to be displayed permanently. These can be split into 3 packages

- City Centre Car Parks
- Park and Ride Sites and
- City Centre Big Belly solar bins

All sites with the exception of Lansdown and Odd Down Park and Ride sites are located within the City of Bath Conservation Area and the designated World Heritage Site. Some of the signs will be located adjacent to Listed Buildings. The Lansdown and Newbridge Park and Ride Sites are located in the Green Belt and Lansdown is also in the Area of Outstanding Natural Beauty.

This proposed advertisements form a comprehensive approach to harnessing opportunities to raise income through increasing the scope and amount of advertising associated with the councils media, buildings, its land and bus shelters.

Avon Street, Manvers Street Car Parks and the Sports Centre are identified as a major city centre regeneration sites. The Sports Centre has been linked with development to deliver enhanced rugby facilities. However, there are no active permissions for redevelopment that proposed advertising would conflict with. Charlotte Street and Kingsmead Car Parks complete the city car park sites that form part of this application.

The car park and park and ride advertisements will incorporate non-illuminated six sheet posters approx 1200mm x1800mm and will be mounted within an aluminium frame with a perspex front, the full structure will be approx 1400mm x 2000mm and will be mounted on posts. The bottom of the frame being approx 500mm above the ground, The poster signs can be double sided or single sided (post or wall mounted).

The number and type of poster sheet adverts will alter per site:

- Avon Street to display 3 double sided posters and 9 wall mounted posters
- Kingsmead to display 1 double sided poster
- Charlotte Street to display 5 double sided posters, 13 single sided posters and 1 A0 poster sign on the toilet building at the exist to the car park
- Leisure Centre to display 2 double sided posters and 3 wall mounted posters
- Manvers Street to display 5 wall mounted posters

The Park and Ride Sites are proposing low level banners in addition to the 6 sheet posters, the banners will be set within a frame that is secured to the ground and will sit

200mm above the ground, the banner will be approx 4680mm in length and 600mm in height and will be positioned within the park and ride sites:

- Odd Down park and ride to display 2 double side posters, 1 single sided poster and 2 banners
- Newbridge park and ride to display 2 banners
- Lansdown park and ride to display 2 double sided posters, 2 single sided posters and 1 banner

"Big Belly" Solar Compactor litter bins are currently being installed across Bath city centre. They are replacing approx. 80 smaller older bins approx 55 of these with Big Belly solar bins. These are being installed by B&NES Council Environmental Services as permitted development and therefore fall outside of the control of the Local Planning Authority. The replacement of existing bins is an ongoing process and a number of those that form part of this application have yet to be installed. It is proposed to utilise 42 belly bins across the city for advertisement purposes. It is proposed to install an A2 poster within an aluminium frame with perspex front to only one side of the bin, all will be non-illuminated. 14 bins within sensitive locations such as the Abbey, Queen Square, Pulteney Bridge, Gay Street and Parade Gardens have been excluded to reduce the visual impact on historic assets that form part of the setting of the World Heritage Site.

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

**CHARLCOMBE PARISH COUNCIL:** Support. Lansdown Park and ride side is well screened by trees around the perimeter and is considered that the proposed signs by virtue of their size and location will not be visible from outside of the site and will not have an adverse visual impact on the Green Belt and AONB.

**HIGHWAYS:** No objection. The locations of the proposed adverts are generally all contained within the car parks, and not within the highway. There are two single sided poster adverts to be attached to the side of Avon Street Car Park, on its western side, but they would not cause a problem for highway users. The locations for the signs have been considered by the Parking Manager, and are deemed to be acceptable.

**BATH PRESERVATION TRUST:** Object. Appreciate that the Council wishes to increase its revenue earning capability from commercial advertising. However, Bath Preservation Trust regrets a number of elements of this application. The Trust was expecting that within the proposals for Avon Street car park, the 96 sheet advert would be removed in order to improve the amenity of the Green Park Road, for which the trade-off was the locating of new advert banners on the car park structure, so the addition of further advertising only serves to increase street clutter and reduce visual amenity rather than replacing the regrettably sited, overly dominant billboard. Do not hold any strong objection to the proposals on the park and ride sites as the intention to place them in areas which are obscured and away from the historic centre is to be welcomed. Whilst the Trust appreciates that this planning application is not concerned with the installation of the bins, we strongly object to the placement of advertising on the side of these incongruous structures. We are highly dubious of the value to the advertiser of promoting their business on the side of refuse receptacles and therefore, remain concerned that these bins will introduce down market advertising into the public realm. The protection of the public realm from incongruous signage and advertising is not a matter of choice or payoff in a World Heritage City. Feel strongly that before any new advertising structures are erected, that the old and largely scruffy council advertising boards should be removed.



#### OTHER REPRESENTATIONS:

1x objection - The impression gained is that these proposals are not integrated with the Public Realm and Movement Strategy, Pattern Book, and Landscape Programmes. It is important that the case officer is aware of our concerns over the siting of the bins, whole big belly bin rollout has been badly handled. The design of the bins is frankly 'brutal' and appears to have been carried out again without any liaison with the 'Public Realm' programme. If permission is granted for advertisements to appear on big belly bins, then the products advertised and the colours used can make a bad situation much worse. With a plain bin these photographs show the adverse impact. We have no objection (in principle) to advertising in car parks and at park and ride sites, but there are caveats: there should be minimal illumination and scale and appropriate design should be considered. It is also regrettable that commercial advertising takes precedent over visitor information. request that the 96 sheet advertising boards are removed from Avon Street. The new boards will only add to visual clutter.

5x Support - Great Idea. Opportunity for Arts Organisations to be able to advertise cultural events. We accept that the Council will want to raise additional revenue; however, by foregoing some of this new revenue, it can provide invaluable support in kind to the district's events and cultural sector and provide a new way of communicating with both visitors and tourists. We would suggest that certain sites at key entrance points and car parks are handed over to partnership organisations, such as Cultural Forum for the Bath Area and Bath Tourism Plus, at a much reduced rate, who would then be able to co-ordinate marketing campaigns encompassing the whole sector. Opportunity to reach new audiences at key locations in and outside the city that have hitherto not been available.

#### **POLICIES/LEGISLATION**

##### RELEVANT PLANNING HISTORY:

There have been various applications for advertisements of a similar nature, i.e. cross street banners, railing banners, pendant signs and vertical signs, but these have been for individual events rather than an overall programme for the city.

##### POLICY CONTEXT:

##### NATIONAL PLANNING POLICY FRAMEWORK:

National Planning Policy Framework (March 2012) can be awarded significant weight however this proposes little change to the aspects of local policy that are relevant to this decision. The NPPF reflects on the key aspects of the 2007 advertisement regulations. It emphasises the importance of appropriately placed and designed adverts and the need for proposals that respond to context.

##### BATH LOCAL PLAN (adopted 2007)

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.2 - Listed buildings and their settings

BH.6 - Development within or affecting Conservation Areas

BH.17 - Advertisement consent

T.24 - General development control and access policy

## CORE STRATEGY:

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches limited weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. The following policies should be considered:

B4 - The World heritage Site and its setting (will replace BH.1)

D.2, D.4, HG.12, BH.6, T.24 and T.26 of the local plan are proposed as saved policies within the submission core strategy.

Bath Public Realm and Movement Strategy 'Creating the Canvas for Public Life in Bath and Transforming Streets project is a 15-20 year approach to investing in streets and spaces of Bath City Centre. The strategy and programme seek to deliver high quality and de-cluttered streets and spaces. Management of advertising is one part of this strategy but it should be noted that this strategy is not an adopted planning policy document.

## OFFICER ASSESSMENT

### PLANNING ISSUES:

Key factors taken into account when assessing advertising proposals are;

- Visual amenity and
- Public safety

Amenity is generally considered to be visual appearance and the pleasance of the environment generally, including the general characteristics of the locality and any feature of historic, architectural, cultural or similar interest there. If the advertisement is in a conservation area, special attention must also be given to the desirability of preserving or enhancing the character of appearance of the designated area.

In terms of public safety, location and design of advertisements must be considered against requirements of The Highways Act 1980 this includes:

- Scope for driver distraction
- Visibility and Obstruction and
- Structural Integrity

The Council has the power to remove implemented consented advertising at these locations through its ownership and management powers to enable wider regeneration objectives during potential future development including Avon Street and the Leisure Centre

Comments have been received requesting the removal of the existing council advert structures, however it is a long term aim to renew these on an incremental basis and therefore have not been included as part of the proposal.

## VISUAL AMENITY

It is recognised that a balance needs to be struck between the promotion of the numerous events/festivals within the City, the visual amenities of the area and the generation of income for the council as an economic benefit to the City. The provision of so many

advertisements however has the potential to have a significant impact on the buildings/structures, on which they are placed, and the character and appearance of the surrounding buildings, the City of Bath Conservation Area and the setting of the World Heritage Site. A proliferation of advertisements can significantly detract from the appearance of a building and the street scene. The special visual qualities of the World Heritage Site, listed buildings and the Conservation Area, which are internationally renowned, need to be protected against indiscriminate advertisements.

It is noted that no guidelines have been submitted with this application with regards to the management of the advertisements proposed. Therefore a condition will be attached for a management/maintenance plan.

The use of the council own car parks and park and ride sites and the siting of the advertisements within these spaces as a regular means of advertisement is considered to be appropriate in principle.

#### City Centre Car Parks

There are multiple signs proposed for the car parks, with the bulk within Charlotte Street, it is proposed that the bulk of the advertisement will be situated within the vicinity of the pay stations. The existing toilet block and retaining walls will be utilised for wall mounted advertisements, due to the size of the site and the landscaping within Charlotte Street car park, the proposed advertisements are considered acceptable in terms of visual amenity and public safety. The signs will be spread across the site to reduce the potential cumulative impact, and overall it is considered that the proposed advertisements, and their associated fitting and fixtures will have a neutral impact on the character and appearance of this part of the Conservation Area and the setting of the World Heritage Site.

The advertisements are limited in Manvers Street and have been confined to within the parameters of the boundary and their visibility is restricted from outside of this space. The advertisements in this locality are therefore considered appropriate and will not cause harm to the character and appearance of the nearby listed buildings including St John's RC Church.

It is a similar situation for the Leisure Centre and Kingsmead car parks, a limited number are proposed and these will be positioned so as to have limited visibility from outside of the site and will preserve the character and appearance of this part of the Conservation Area and Setting of the World Heritage Site.

Some concerns have been raised regarding the existing 96 sheet sign to the side of the multi storey complex within Avon Street and encourage its removal; this is an existing sign which has a long standing permission and does not form part of the proposal. Its removal was considered during the pre-application process, however the proposal involved moving it onto the side of the multi storey complex which would have made it more prominent and overbearing and result in a more negative impact than its current location. The landscaping surrounding the existing 96 sign helps soften its impact and furthermore the Avon Street Car Park is identified as a major development site which will inevitably result in the removal of the 96 sheet hoarding. The bulk of the 6 sheet posters will be positioned against the building or adjacent to the pay stations. Some signs will be located close to the exit/entrance adjacent to Ambury (bus lane) and one on the corner of Corn Street, some of these will replace existing signage and a map stand. Overall the proposed signs have

been carefully positioned to ensure maximum exposure to users of the car park but limited impact to the environment surrounding this space. Consequently, the signs and the cumulative impact of these signs are considered to have a neutral impact on the surrounding visual amenity and character and appearance of this part of the Conservation Area and setting of the World Heritage Site.

#### Park and Ride Sites

All park and ride sites are outside of the Conservation Area but fall within the Green Belt, Newbridge Park and Ride also falls within the World Heritage Site. The advertisements are centred around/close to the bus stops and are limited in numbers; the banners proposed are low level and will not be readily visible from outside of the sites. The advertisements are well proportioned and would not result in a negative cumulative impact that would cause harm to the rural character of the Green Belt. Overall the proposed advertisements preserve the rural character of the Green Belt and the local distinctiveness of the surrounding AONB and the setting of the World Heritage Site.

#### Big Belly Solar Bins

A number of concerns have been raised regarding these bins, but it appears that the main objection is the siting of these structures. However the location of the bins falls outside of the control of the Local Planning Authority although it is recognised that a number of the bins have not been sensitively located. Consideration has been given to the sensitive location of a number of these bins, including Queen Square and Abbey Churchyard. As a result it is not proposed to utilise a number of these bins for advertisement purposes.

Only one side of the bins will be used and it is important that a condition be attached for final details of which side the advert will be placed to ensure there is not a proliferation of advertisements on these bins.

A revised plan has been received removing the bin from the small park area adjacent to the weir and rugby ground as this area is void of adverts and sits on the edge of the City Centre.

Overall the proposed advertisements on the belly bins are, on balance, considered acceptable and are set away from the main historic assets within the City and are located on street furniture to minimise the potential for street clutter and will result in a neutral impact to local streetscene. Some harm will be caused to the visual amenities of the Conservation Area however this will be localised and not considered significant enough to warrant a reason for refusal.

#### PUBLIC SAFETY

Careful consideration has been given to the location, size and design of the advertisements and structures so as to limit any obstruction or cause distraction to users (pedestrian and vehicular) of the highway; this has been supported by the Highway Officer's comments.

## CONCLUSION:

The need for the promotion of events within the City is recognised and the opportunity for harnessing income through the use of Council sites and structures, but it is important that a balance is struck between the need to promote these events and the impact of the advertisements on amenity and public safety. It is considered that the advertisements proposed, due to their location, cumulative impact and scale are considered acceptable and will preserve the character and appearance of the Conservation Area and historic assets in the City and will not cause detriment to the setting of the World Heritage Site.

## RECOMMENDATION

CONSENT with condition(s)

## CONDITIONS

1 a. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

b. No advertisement shall be sited or displayed so as to -

(i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or

(iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

c. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

d. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

e. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: These conditions are specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2 This consent shall expire at the end of a period of five years from the date of this approval.

Reason: This condition is specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3 No advertisement the subject of this consent shall be displayed other than in accordance with a Display Strategy setting out details of the locations and display programme, including period of advertisement and the maintenance of these which shall first have been submitted to and approved in writing by the Local Planning Authority. The submitted Display Strategy shall also specify the actions that will be taken in the event that any advertisement the subject of this consent becomes damaged or defaced.

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

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

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

**PLANS LIST:**

1 This decision relates to drawing no's BC\_CP\_2100 date stamped 5th June 2013, BC\_CP\_2101, BC\_CP\_2102, BC\_CP\_2110, BC\_CP\_2115, BC\_CP\_2116, BC\_CP\_2117, BC\_CP\_2118, BC\_CP\_2120, BC\_CP\_2125, BC\_CP\_2205, BC\_CP\_2210, BC\_CP\_2215, BC\_ED\_9010, BC\_ED\_9025, BC\_ED\_9036, BC\_BB\_6000, BC\_CP\_2010, BO\_CP\_2200, BO\_CP\_2201, BO\_CP\_2202 and the supporting statement date stamped 6th June 2013 and drawing no. 1301/BC\_BB\_6100 date stamped 12th August 2013

**2 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).

<b>Bath and North East Somerset Council</b>			
MEETING: <b>Development Control Committee</b>	AGENDA		
MEETING DATE: <b>05 September 2013</b>	ITEM NO:		
REPORT OF <b>David Trigwell, Divisional Director of Planning and Transport Development.</b>			
REPORT ORIGINATOR: <b>Ms Lisa Bartlett, Development Manager (Tel. Extension No. 7281).</b>			
DATE PREPARED: 22nd August 2013			
AN OPEN PUBLIC ITEM			
BACKGROUND PAPERS: <b>Enforcement file 09/00168/UNAUTH</b>			
TITLE: Enforcement Report: <b>Rough Ground and Buildings, Queen Charlton Lane, Queen Charlton</b>			
WARD : Queen Charlton			

### 1.0 PURPOSE OF REPORT

To seek Members' view on unauthorised development comprising the use of land as a Gypsy and Traveller site. Officers are seeking Authority from Members to issue an enforcement notice to remedy the breach of planning control.

### 2.0 LOCATION OF PLANNING CONTRAVENTION

Land adjacent to The Poplars, Redlynch Lane, Queen Charlton ("the Land"), as outlined in bold on the attached site location plan (Appendix 1).

### 3.0 OUTLINE OF PLANNING CONTRAVENTION

Without planning permission the use of land as a gypsy and traveller site, including the stationing of caravans, structures and vehicles.

### 4.0 BACKGROUND / HISTORY

The site has a long and complicated history stretching back to 1994 when the site was first occupied. An enforcement notice was served in 1994 requiring the cessation of the unauthorised use; and the removal of caravans, trailers, vehicles and materials associated with the use.

Appeals were lodged in respect of both the planning refusal and the enforcement notice. The notice was upheld, although temporary planning permission was granted for the stationing and occupation of two residential caravans, by one gypsy family. The temporary planning permission required, inter alia, the cessation of the use by no later than May 1998.

Permanent occupation of the Land ceased however between 1995 and 2000. At time of re-occupation in 2000, a further planning application was submitted (00/01523/FUL). The application was refused; and subsequently dismissed at appeal in 2003. Meanwhile, in August 2002, the Land was again vacated.

The Council was advised of re-occupation in early March 2009. A subsequently planning application, submitted on the 30<sup>th</sup> April, was deemed invalid due to inadequate details; and was returned to the applicants' agent on the 16<sup>th</sup> July 2009. The agents were advised, by letter dated 5<sup>th</sup> August 2009, that should they wish to proceed, then a further (complete) planning application would be required.

A valid application was then received on the 1<sup>st</sup> September 2009. This application was refused on 29<sup>th</sup> October 2009. An appeal was lodged against this refusal in April 2010. The planning appeal was dismissed on the 3<sup>rd</sup> February 2011, but was then challenged in the High Court. The case was heard on 20 March 2013 and the challenge was considered unsuccessful.

The most recent planning application was received on 28<sup>th</sup> June 2013 and has been included within the main agenda for the committee's determination.

Levels of occupation/activity on the Land have varied since March 2009. At a site visit on the 20<sup>th</sup> May 2009, an officer noted 6no touring caravans; 1no static caravan; 1no utility/portacabin; and various vehicles. The touring caravans however, moved away after a relatively short period. During a more recent site visit on the 4<sup>th</sup> June 2013 officers noted 4no touring caravans; 1 no static caravan; 1no utility/portacabin; 1 covered lean-to store; 3 garden type sheds; 1 corrugated stable building; and various vehicles. A similar level of activity was observed during the most recent site visit on the 6<sup>th</sup> August.



## **5.0 DEVELOPMENT PLAN**

Of particular relevance to this matter is the Bath and North East Somerset Local Plan 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  
BH.6 – Development within or affecting Conservation Areas  
GB.1 – Control of development within the Green Belt  
GB.2 – Visual amenities of the Green Belt  
HG.16 – Gypsy and Traveller Sites  
NE.1: Landscape character  
T.24: General development control and access policy

Bath & North East Somerset Draft Core Strategy December 2010

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD).

**NATIONAL POLICY:**

National Planning Policy Framework (NPPF) - March 2012  
Planning Policy for Traveller Sites (PPfTS) - 2012

Written Ministerial Statement by Local Government Minister Brandon Lewis originally given at House of Commons - July 2013

## **6.0 EXPEDIENCY OF ENFORCEMENT ACTION**

It is necessary to consider whether the following issues:

- Whether the proposal represents inappropriate development in the Green Belt and the effect on openness
- The effect on the character and appearance of the rural landscape and of the Queen Charlton Conservation Area
- The sustainability of the location for use as a Gypsy and Travellers site;

- Whether the benefits of the proposal clearly outweigh any harm to the Green Belt and any other harm, such as to amount to very special circumstances

The use of the site as a gypsy and traveller site is considered to be inappropriate development in the Green Belt and does not fall within one of the categories of exempted development in the NPPF. Previous appeal decisions have concluded the same and have determined that the use of the land and the stationing of caravans and mobile homes have a significantly detrimental impact upon the openness of the Green Belt.

The site is well screened by hedgerows from views towards it from the north and the east. However, the site is readily seen from Redlynch Lane where the road passes the entrance to the site and there are further views towards it from the west along Redlynch Lane towards Queen Charlton. From this location, the upper parts of the caravans on the site can be clearly seen above the bunding which has been constructed on the site's western boundary. The site is also visible from the Queen Charlton conservation area, albeit primarily from private properties.

Previous appeal decisions have concluded that the site would have a materially harmful impact upon the rural landscape and a limited impact upon the setting of the Queen Charlton conservation area.

In light of the revocation of Circular 01/06 and the adoption of PPfTS, it is considered that the site can now be seen as car dependent, due to its isolated location in the open countryside, and is considered unsustainable for use as a gypsy site.

Against this harm is the unmet need for gypsy and traveller sites and the personal circumstances of the application and her family which weigh in favour of the application.

The need for gypsy and traveller sites is recognised and this is currently the subject of the 'Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD)' currently progressing.

No new details of the applicant's personal circumstances have been provided with the most recent application, but it is clear from previous appeal decisions that medical, social, housing and education needs which weigh in favour of the continued use of the site as a gypsy and traveller site.

It is considered that the benefits of this current proposal do not clearly outweigh the harm to the Green Belt by reason of inappropriateness and harm to openness, and the other harm identified above.

Enforcement action against the unauthorised use is therefore considered expedient.

## **7.0 HUMAN RIGHTS**

7.1 It is considered that Article 1 of Protocol 1 (peaceful enjoyment of possessions) and Article 8 (right to respect for private and family life, home and correspondence)

of the European Convention on Human Rights may apply in this case. However, those rights must be weighed against the public interest in preventing inappropriate development in the Green Belt and preserving the character and appearance of the surrounding area. Given that the unauthorised works are harmful and contrary to the Development Plan and given that there are no material considerations which outweigh the harm, it is considered that Enforcement Action would be a proportionate interference in the wider public interest.

## **8.0 RECOMMENDATIONS**

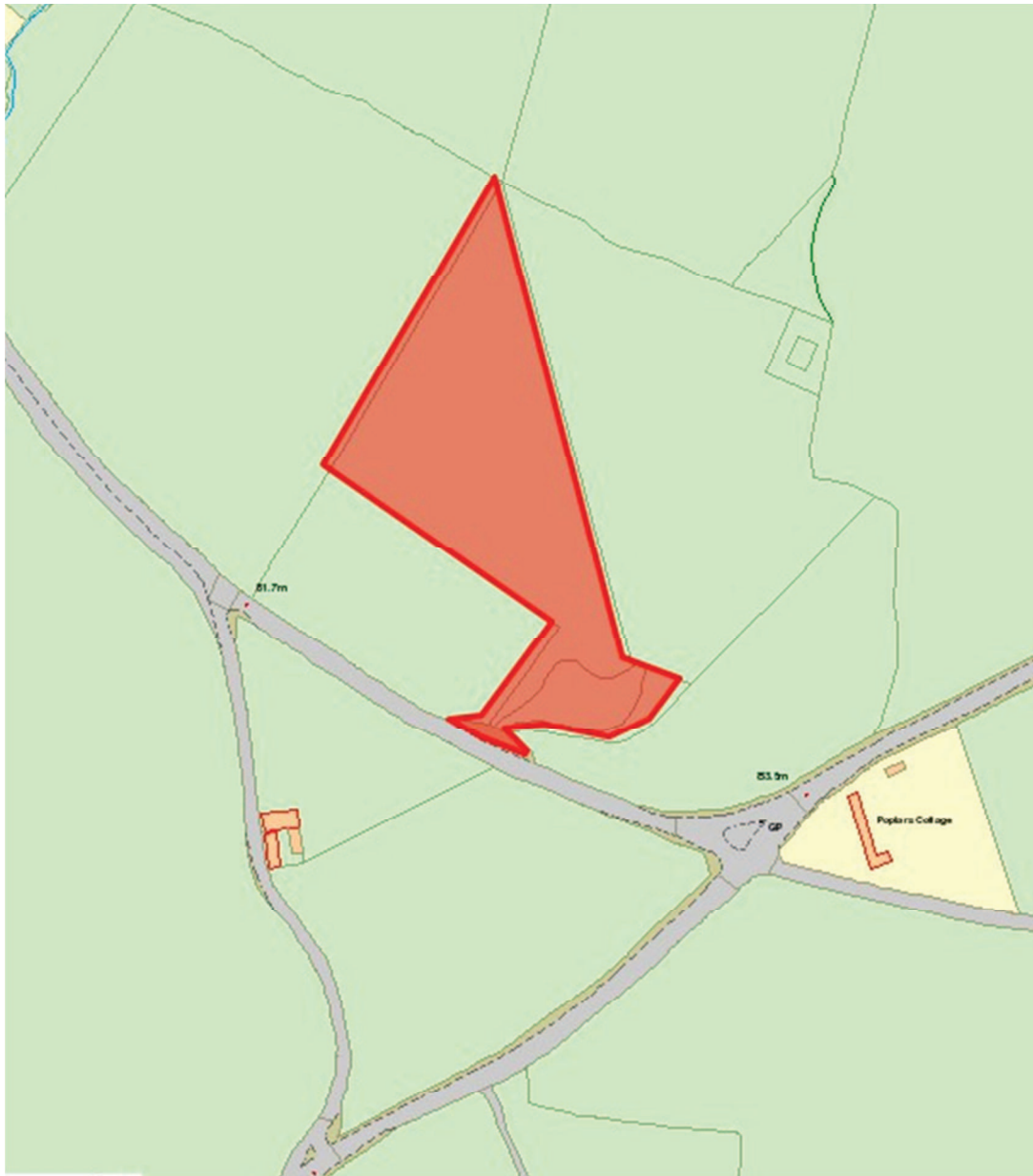
That delegated authority be granted to the Development Manager, in consultation with the Planning and Environmental Law Manager, to take any necessary enforcement action on behalf of the Local Planning Authority in respect of the alleged planning contravention outlined above, by exercising the powers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

### *General Note*

*This specific delegated authority will, in addition to being the subject of subsequent report back to Members in the event of Enforcement Action either being taken, not being taken or subsequently proving unnecessary as appropriate, be subject to:*

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

Appendix 1



<b>Bath &amp; North East Somerset Council</b>	
MEETING:	<b>Development Control Committee</b>
MEETING DATE:	<b>4<sup>th</sup> September 2013</b>
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Control Manager, Planning and Transport Development (Telephone: 01225 477281)
TITLE:	<b>Briefing update – Parcel 5319, Charlton Field Lane, Queen Charlton</b>
WARD:	ALL
BACKGROUND PAPERS:	None
<b>AN OPEN PUBLIC ITEM</b>	

**05/00723/VAR, Variation of condition 13 and 16 of Planning Permission: 97/02626/MINW dated 02/12/1998 to allow permanent recycling of cardboard waste and increase in truck movements.**

**05/01993/FUL - Increase size of concrete storage area and variation of condition 13 of planning permission 97/02626/MINW to accept wood waste.**

**11/00022/VAR Variation of conditions 13, 16 and 19 of permission no. 97/02626/MINW to extend composting operations, increase vehicle movements and permit cardboard and wood recycling (Temporary use of land for 10 years for manufacture of organic green compost as amended by revised drawings received 14th April 1998 at land formerly Queen Charlton Quarry)**

The Committee considered these three applications at the meeting on 5 June and resolved to approve the applications subject to conditions.

There has been some delay in issuing the decision notices because of queries raised by the applicants in relation to some of the conditions.

During that time it has been brought to the attention of the Council by the landowner that the distance between the site and the nearest dwelling was incorrectly stated to be 150m in the committee report. The reference was on pages 148 and 150 of the reports bundle in the committee papers – copies attached in Appendix A. The correct distance is 131m, boundary to boundary.

The difference in the reported distance is not considered material, as the key distance from the perspective considered is whether or not the property is within 250m of the site, which it clearly is.

The relevance of the 250m distance is that further scrutiny is afforded to the control and monitoring of bioaerosols from a composting operation via the Environmental Permitting regime operated by the Environment Agency when 'sensitive receptors' are within 250m of a composting site. This is set out in specific guidance on the control of bioaerosols issued by the Environment Agency.

The advice to the committee was that because the nearest dwelling was within 250m of the site, tighter control and monitoring on bioaerosols was already in place via the Environmental Permit for composting and that the Permit covered the recycling of cardboard and wood. The committee's attention was also drawn to the claim by the landowner that the nearest field should be regarded as a

'sensitive receptor'. The committee was advised that agricultural land did not fall within the definition of 'sensitive receptor' in the EA guidance on control of bioaerosols.

### **Recommendation**

That the committee notes that the actual distance between the boundary of the composting site and the boundary of the nearest sensitive receptor is 131m, not 150m as reported. However this does not alter the recommendation that the applications should be approved subject to conditions.

## Appendix A

Pages 148 and 150 of report to Development Committee meeting 5 June 2013.

References to 150m highlighted.

PAS 100 is an industry standard for the manufacture of compost. The site is registered to produce compost to this standard, and appropriate documentation to demonstrate this has been included in the ES.

The site management regime includes provision for detecting imported material that might lead to the compost not meeting the standard, and its removal from the site. This is considered adequate measures within the control of the applicant to prevent the spreading of non PAS compost within the NVZ.

### Other impacts.

HEALTH: Concern has been expressed by objectors that emissions of bioaerosols from the site cause harm to the health of local residents. Policy 1 of The West of England JWCS includes consideration of the distance between the site and any sensitive receptors in the assessment of the suitability of proposed sites. The footnote to the policy explains that the origin of this criterion is the EA 2007 Policy Position Statement on composting and potential health effects from bioaerosols. Environment Agency. The 2007 Position Statement has now been updated with a later interim statement dated November 2010. The policy position statement requires the production of a site specific bioaerosol risk assessment if the distance between a composting site and the nearest sensitive receptor is less than 250 metres as part of the Environmental Permitting of the site.

The definition of Sensitive Receptor in the EA Policy Position Statement is:-

*'Sensitive receptors refers to people likely to be within 250 metres of the composting operation for prolonged or frequent periods. This term would therefore apply to dwellings (including any associated gardens) and to workplaces where workers would frequently be present. It does not apply to the operators of composting facilities or their staff while carrying out the composting operation as their health is covered by Health and Safety legislation'*

In this case, the distance between the site and the nearest sensitive receptor (as defined above) is 150m. The objector considers that the distance is much less (only 20m) because he claims that his open farmland should also be regarded as 'sensitive receptors' because it requires the presence of staff to farm it. Although the farmland is currently pasture land which would not normally require the presence of farm staff for the same level of intensity as the occupation of a dwelling or other work place, the objector claims that there is no removal of permitted development rights on the farm holding to prevent different farming practices that may require more intensive levels of presence of farm staff being introduced.

The adjoining land is not classed as among the best and most versatile grades of agricultural land, and no specific proposal has been put forward by the objector which would suggest that any such different farming practices might be introduced nor what that practice might be. There is no basis to include livestock in the definition of 'sensitive receptors'.

It is relevant to know that the Environment Agency advises that the permit for the site is supported by a Bioaerosol Risk assessment which requires Bioaerosol Monitoring to be undertaken. This has been done since November 2009, and to date no evidence has been produced which would indicate that the levels of bioaerosols from the site as measured in accordance with the Monitoring Regime are above levels regarded by the EA as acceptable.

of another and is therefore notably visible above the site screening within a short period and this can be enforced by condition.

**ARCHAEOLOGY:** The development covered by the present application will have no effect on any archaeological assets which the site may have.

**POPULATION:** The closest residential property is approximately 150m from the site boundary but is surrounded by tall hedges. The next closest property is approximately 380m away. The use of the site has no material visual impact on these properties. The implications in terms of odours, bioaerosol emissions, noise and traffic generation are considered above.

**WASTE MANAGEMENT:** Government policy supports proposals for the recycling and composting of waste and policy 3 of The West of England Joint Waste Core Strategy provides for the provision of open windrow composting on existing waste management sites, or on sites that constitute previously developed land. This is subject to satisfaction on the question of bioaerosols, which is addressed above. In this case the site was previously a quarry before being used for composting.

Officers consider that the previous use of the site in fact makes it more rather than less 'appropriate' for use as a composting site. Accordingly officers consider that the location of the development falls within the terms of Policy 3.

The proposed development is considered to be in accordance with the principles of sustainable waste management which seek to drive the treatment of waste up the waste hierarchy and help implement targets for diverting waste from landfill whilst not causing harm to human health and the environment. These matters have been addressed above.

#### **Other matters raised by Objectors**

Objectors refer to failure to comply with existing conditions and limits, including a compound on adjacent land and the unauthorised sale of wood and mulches from the site. These matters are being investigated with the applicant and will be reported to the committee if found to require enforcement action. Other alleged infringements have been found not to comprise breaches of planning control.

On the question of the change in the applicant's name from Hinton Organics to ReOrganics, this is not a material planning matter. Any planning permission will run with the land, not with the applicant. The company has changed its name for legitimate commercial reasons and the new name is correctly registered with Company's House.

It is not agreed that the ES fails to adequately describe the project, mitigation, data to measure impacts. The project description now includes restoration of the site, relevant mitigation measures, and includes data necessary to assess the impacts. On the question of alternatives, the Regulations only require an 'outline of the alternatives studied by the applicant'. There are no real alternatives available to the operator, so this does not apply. What has been done is sufficient to explain this.

The objectors allege that an incorrect baseline has been used. It is true that the 'further information' includes a reference to the marginal difference to the operation made by the importation of wood and cardboard and of the enlargement of the hardstanding. However



<b>Bath and North East Somerset Council</b>			
MEETING: <b>Development Control Committee</b>		AGENDA	
MEETING DATE: <b>4<sup>th</sup> September 2013</b>		ITEM NO:	
REPORT OF <b>David Trigwell, Divisional Director of Planning and Transport Development.</b>			
REPORT ORIGINATOR: <b>Ms Lisa Bartlett, Development Manager (Tel. Extension No. 7281).</b>			
DATE PREPARED: <b>15<sup>th</sup> August 2013</b>			
AN OPEN PUBLIC ITEM			
BACKGROUND PAPERS: <b>Enforcement file 13/00257/UNAUTH</b>			
TITLE: Enforcement Report: <b>Land Parcel 005/2866, Woolley Lane, Charlcombe, Bath</b>			
WARD : <b>Bathavon North</b>			

**1.0 PURPOSE OF REPORT**

At it’s meeting on 5<sup>th</sup> June 2013 the Development Control Committee resolved to take enforcement action against unauthorised development at a site on Woolley Lane. At the meeting Members also asked for an update report in September to advise on progress on addressing the breaches of planning control.

**2.0 LOCATION OF PLANNING CONTRAVENTION**

The site is located along the western side of Woolley Lane (a single-track road leading northwards from Charlcombe Lane to Woolley) on the north-east edge of the built up area of Bath. The site comprises 20.5 hectares of agricultural land that extends from approximately 200m north of residential properties to the south to the edge of Soper’s Wood to the north. The site is in an elevated position on the western side of a valley and slopes down towards the east/Lam Brook. On the eastern side of the valley is the village of Upper Swainswick.

The site is located in the Green Belt, Cotswold Area of Outstanding Natural Beauty (AONB) and the setting of Bath World Heritage Site. The site is also the subject of an Article 4 Direction (confirmed in 1992) that extends over a wider area of Swainswick Valley and removes agricultural permitted development rights.

**3.0 RELEVANT PLANNING HISTORY**

The site has been the subject of a large number of applications between 2008 and 2012. The most recent applications are:

Application	Proposal	Decision	Date of Decision
12/05660/FUL	Alterations and extension to existing agricultural building; Alterations to access; formation of hardstanding and farm track; Construction of stock pond; Siting of 2no. feed hoppers and ancillary	REFUSED	14 May 2013

	works (Retrospective). Siting of a temporary timber cabin for an agricultural worker for a period of up to 3 years		
12/05661/FUL	Erection of general purpose agriculture building	REFUSED	14 May 2013
12/05662/FUL	Siting of 4no. mobile poultry units	REFUSED	14 May 2013
12/05663/FUL	Siting of 3no. mobile poultry units	REFUSED	14 May 2013
12/05664/FUL	Siting of 3no. mobile poultry units	REFUSED	14 May 2013

#### 4.0 UPDATE

At the time of the Development Control Committee meeting on 5<sup>th</sup> June 2013 the following breaches of planning control existed on the site:

- Erection of 10 poultry units
- Siting of a caravan
- Erection of a shed and dog kennel
- Siting of a shipping container
- Erection of a 'lambing shed'

Following the 5<sup>th</sup> June Committee meeting a programme for the removal of unauthorised development was agreed with the agent and farm manager. The shipping container and lambing shed were removed in June, however whilst progress was made on the removal of the poultry units, caravan, shed and dog kennel the programme for their complete removal has not been adhered to. Enforcement Notices were issued for the removal of the caravan, shed and dog kennel since which time these items have been removed from the site.

In addition to the items listed above, unauthorised feed hoppers erected on the site have been removed.

At the 5th June Committee meeting Members also agreed the following:

Alteration and extension of existing building	Not expedient to take enforcement action
Laying of a track and hardstanding	Not expedient to take enforcement action
Stock pond	Not expedient to take enforcement action
Alterations to site access	Immune from enforcement action
Electricity generator	Not development
Pipework and standpipes	Not development
Fuel storage tanks	Not development
Parking of vehicles, trailers, equipment,	Not development

#### Next Steps

Whilst the 10 poultry units are in the process of being dismantled they remain on the site and at the time of preparing this report Officers are finalising an Enforcement Notice for their removal.

<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	<b>4<sup>th</sup> September 2013</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:** 13/01541/FUL  
**Location:** 13 Bennett's Road Lower Swainswick Bath BA1 7AW  
**Proposal:** Erection of 1no. detached dwelling with associated works  
**Decision:** REFUSE  
**Decision Date:** 6 June 2013  
**Decision Level:** Delegated  
**Appeal Lodged:** 17 July 2013

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**App. Ref:** 13/00172/FUL  
**Location:** 84 Newbridge Hill Newbridge Bath BA1 3QA  
**Proposal:** Erection of detached dormer bungalow following demolition of existing garage block  
**Decision:** REFUSE  
**Decision Date:** 9 May 2013  
**Decision Level:** Delegated  
**Appeal Lodged:** 25 July 2013

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**App. Ref:** 13/00496/LBA  
**Location:** Basement Ground Floor 7 Walcot Terrace Walcot Bath  
**Proposal:** Internal and external alterations for the erection of a single storey rear extension following demolition of existing and internal alterations.  
**Decision:** CONSENT  
**Decision Date:** 2 May 2013  
**Decision Level:** Delegated  
**Appeal Lodged:** 25 July 2013

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**App. Ref:** 13/01587/AR  
**Location:** Chimichanga Bluecoat House Sawclose City Centre Bath  
**Proposal:** Display of 7 no. internally illuminated free standing signs behind glazed windows.  
**Decision:** REFUSE  
**Decision Date:** 30 May 2013  
**Decision Level:** Delegated  
**Appeal Lodged:** 31 July 2013

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**App. Ref:** 13/01309/FUL  
**Location:** The Byre House Knowle Hill Chew Magna Bristol  
**Proposal:** Reinstatement and repairs to existing barn (Retrospective).  
**Decision:** REFUSE  
**Decision Date:** 20 June 2013  
**Decision Level:** Delegated  
**Appeal Lodged:** 13 August 2013

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**Enf. Ref:** 08/00552/NONCOM  
**Location:** Opa 14 North Parade City Centre Bath BA2 4AJ  
**Breach:** Unauthorised material change of use of Opa from a restaurant to a mixed use of restaurant, drinking establishment and nightclub  
**Appeal Lodged:** 6 August 2013

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## APPEAL DECISIONS

**App. Ref:** 13/00159/FUL  
**Location:** 1 Phillis Hill, Midsomer Norton, RADSTOCK, BA3 2SW  
**Proposal:** Erection of a single storey rear extension and provision of a loft conversion.  
**Decision:** Refused  
**Decision Date:** 28.03.2013  
**Decision Level:** Delegated  
**Appeal Decision:** Appeal allowed

### Summary:

The application was refused due to the impact on the neighbouring property in respect of sunlight and daylight and outlook.

The Inspector concluded that the proposed extension would be set far enough away and the slope of the roof would mean that 2 Phillis Hill would not be significantly affected by the development in terms of light loss.

The Inspector acknowledged that there would be some impact on outlook but did not consider this to be harmful and did not consider the development to be overbearing.

A condition was recommended in respect of a timber sample.

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**Enf. Ref:** 11/00297/UNDEV  
**Location:** Land adjacent to Winsbury House, Bath Road, Marksbury, Bath BA2 9HF.  
**Breach:** Without planning permission, the erection of a steel framed building with a concrete base; and the construction of a hardstanding.  
**Appeal Decision:** Enforcement Notice quashed, and planning permission granted on the deemed application, subject to conditions.

**Summary:**

The enforcement notice required a) the demolition of the building, and the removal of all resulting materials; b) the removal of the concrete base; and c) the removal of the hardstanding. The appeal was lodged on ground (a) – *that planning permission should be granted for what is alleged*; ground (f) – *that the requirements of the notice are excessive*; and ground (g) - *that the compliance period is unreasonable*.

With regard to ground (a), the Inspector identified the main issues as:

- a) whether the development amounted to inappropriate development in the Green Belt;
- b) the effect of the development on the openness of the Green Belt;
- c) the effect of the development on the character and appearance of the countryside; and
- d) whether there are any very special circumstances sufficient to outweigh any identified harm.

The Inspector noted that the building contained hay bales and a trailer, and that the adjacent land was being grazed by a small number of sheep. He found that the building was reasonably required for the purpose of agriculture and was not, therefore, inappropriate development in the green belt. With regard to openness, he considered that the overall net impact of the new building was not great. With regard to character and appearance, the Inspector determined that whilst the building was not conspicuous in its context, it would be better integrated into the landscape with appropriate planting around its sides. Subject to the implementation of an appropriate landscape scheme, the Inspector determined that the development would not result in material harm either to the Green Belt or the character and appearance of the surrounding area. The conditions imposed by the Inspector require a scheme to be submitted for approval, and subsequently implemented. In the event of a failure to comply with the conditions, the building, base and hardstanding are required to be removed.

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**Enf. Ref:** 09/00640/UNDEV  
**Location:** Quarry Lodge (Parcel 8593), Woollard Lane, Whitchurch, BS14 0QS.  
**Breach:** Without planning permission, the erection of a wooden chalet.  
**Appeal Decision:** Appeal dismissed, and the enforcement notice upheld.

**Summary:**

The enforcement notice requires the owner to dismantle the building, and remove all resulting materials from the land. The appeal was lodged on ground (b) – *that the alleged breach has not occurred as a matter of fact*; ground (c) – *that planning permission is not required*; and ground (d) - *that the development is immune from enforcement action*.

With regard to ground (b), the Inspector noted that the building had been erected, and that it was being occupied. He did not accept therefore that the breach had not occurred.

With regard to ground (c), the Inspector did not concur with the appellant's view that planning permission was not required since the building replaced another building which had become dilapidated.

With regard to ground (d), the Inspector considered the evidence submitted by the appellant, third parties and the Council. On the balance of probabilities he considered the evidence of local people about when construction started more likely to be correct than that of the appellant. He found that that evidence placed the erection of the building within the four year period prior to the issue of the notice and that, consequently, the development was not immune from enforcement.

The Council submitted an application for an award of costs, on the basis that the appellant's unreasonable approach had incurred unnecessary expense. The Inspector found that the appellant's grounds had no realistic prospect of success, and demonstrated unreasonable behaviour. He therefore awarded full costs.

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**Application no:** 13/00996/FUL  
**Address:** 50 Park Road, Keynsham  
**Details:** Erection of a single storey rear extension and provision of a loft conversion/roof extension.  
**Date of Refusal:** 07/05/2013  
**Decision Level:** Delegated  
**Appeal Decision:** Appeal dismissed

### Summary

The application was refused due to the effect of the proposed roof extension on the character and appearance of 50 Park Road and the street scene. The side roof extension was considered incongruous in relation to the pair of semi-detached hipped-roofed building and the wider street scene.

The Inspector found that the roof extension would fail to properly respond to its local context or to respect and complement the host building. Overall the conclusion was that the proposal would be harmful to the character and appearance of 50 Park Road and the street scene.

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**Application no:** 12/05504/FUL  
**Address:** 78 Purlewent Drive, Upper Weston, Bath  
**Details:** Installation of a rear dormer.  
**Date of Refusal:** 26/02/2013  
**Decision Level:** Delegated  
**Appeal Decision:** Appeal allowed

### Summary

The application for the erection of a flat roofed dormer window on the rear elevation of the property was refused due to its incongruous visual appearance in the context of generally unaltered character of the roof slopes on the urban fringe, which are exposed to the public views towards the City. The Inspector found that the proposed dormer would not dominate the 'host' roof slope. He concluded that, despite the absence of similar dormers in the rear roof slopes of neighbouring dwellings, it would have no injurious impact on the views, or the character or appearance of the area, because, it would not appear incongruous.

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**Enf. Ref:** 11/00271/NONCOM  
**Location:** Old Orchard, 1 The Shrubbery, Lansdown, Bath BA1 2RU.  
**Development:** Failure to comply with conditions nos. 5 & 10 of planning permission 09/00367/FUL granted 23<sup>rd</sup> September 2009.  
**Appeal Decision:** Enforcement Notice upheld (as varied by the Inspector) and planning permission refused on the deemed application.

#### Summary:

The appeal was made against an enforcement notice issued as a consequence of the owner's apparent failure to comply with conditions attached to a planning permission. The notice required i) the replacement of a loose gravel surface, with a bonded gravel; ii) the removal of gates and the reduction of openings; and iii) the erection of alternative gates, all as described in previously approved drawings. The compliance period was 3 months. The appeal was lodged on ground (a) – *that planning permission should be granted for what is alleged*; ground (c) – *that there has not been a breach of planning control*; ground (f) – *that the requirements of the notice are excessive*; and ground (g) - *that the compliance period is unreasonable*.

With regard to ground (c), the Inspector considered that the gravel and stone was consolidated into the surface and was not what he would understand to be a loose gravel surface. With regard to ground (a), the Inspector identified the main issue as being the effect of the development on those using The Shrubbery. He noted that The Shrubbery was a pedestrian only route, where none of the users would expect to encounter a motorised vehicle. The arrangement of the gates would, he considered, allow a vehicle to cross the footpath. Taking account of the interests of disabled users, and emergency access, the Inspector concluded that the conflict with policy was such that the deemed planning application should not succeed. With regard to ground (f), the Inspector determined to vary the notice to remove the requirement relating to the surface treatment.

With regard to ground (g), the Inspector determined that the requirements of the notice (as varied) were fairly straightforward and easily achieved within the 3 month period allowed.

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**App. Ref:** 12/05071/AR  
**Location:** Norton Hill Garage, Fosseyway, Midsomer Norton, Somerset, BA3 4AU  
**Proposal:** Display of 1 no. non-illuminated totem sign.  
**Decision:** Refuse  
**Decision Date:** 10<sup>th</sup> January 2013  
**Decision Level:** Delegated  
**Appeal Decision:** **Dismiss**

## Summary:

The appeal related to a proposed totem sign at the Co-operative Store in Midsomer Norton.

The Inspector agreed that the proposed sign would at 5.5m it would be almost as tall as the terrace, and appear as a brightly coloured and excessively dominant feature. Its proximity to the terrace would accentuate its incongruity and the sense that it was out of proportion. The Inspector considered the proposed site would be too close to the nearby terrace of houses and harm both the character and appearance of the area and the amenity of the occupiers of the terrace

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**Application no:** 12/05653/FUL  
**Address:** Thyme Barn, Claverton  
**Details:** Installation of a new garage and glazed link  
**Date of Refusal:** 28/03/13  
**Decision Level:** Delegated  
**Appeal Decision:** Appeal allowed

## Summary

The application for erection of an attached garage was refused because the proposed alterations, by reason of incremental additions (some other alterations were approved earlier) and the significant change to the barn's plan form would result in an excessively domesticated and uncharacteristic appearance, detracting from the building's historic character, neither preserving nor enhancing the character and appearance of Claverton Conservation Area. It was also deemed that the cumulative effect of the extensions would contribute to the deterioration in rural character in the context of Green Belt.

The Inspector found the concern over the impact on the openness or visual amenity of Green Belt unfounded given the moderate size of the proposal and the location of the property in a part of the village where the buildings tend to be tightly clustered. He concluded that the proposal would not be either prominent or obtrusive, being mostly set below the road wall. He therefore considered that that the proposed development would preserve the character and appearance of the Claverton Conservation Area.

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**App. Ref:** 12/02021/FUL and 12/04616/AGRA  
**Location:** Watership Farm, Warminster Road, Claverton, Bath BA2 7BJ  
**Proposal:** Both applications proposed the erection of an agricultural storage building  
**Decision:** Both applications Refused  
**Decision Date:** Appeal A refused 7<sup>th</sup> December 2012  
Appeal B refused 11<sup>th</sup> October 2012  
**Decision Level:** Delegated  
**Appeal Decision:** Appeal A – Allowed  
Appeal B - Dismissed

## Summary:

The appeal was a combined appeal following the refusal of two applications. Appeal A related to a refusal of approved details in respect of an Agricultural Permitted Development and appeal B



related to a planning application for an agricultural building on the same site but in an alternative location.

The main issues in relation to both appeals were:

The main issues in relation to both Appeal A and Appeal B are:

- (a) Whether the proposed developments would be inappropriate development in the Green Belt;
- (b) The effect of the proposed developments on the openness of the Green Belt; and,
- (c) The effect on the character and appearance of the surrounding area, which forms part of the Cotswold Area of Outstanding Natural Beauty (AONB).

The Inspector determined that the proposed development was not inappropriate development in the Green Belt. As the building would be recognisably agricultural the Inspector considered that it would not contribute to urban sprawl. He gave some weight to the harm to the openness of the Green Belt and that this was greater for the larger (planning application) building.

The Inspector did not consider that an agricultural building would be out of character with the landscape.

It was considered that the smaller building would be more appropriate and could be better screened and could still meet the applicants needs.

The Inspector concluded that it is a sensitive site, located within the Green Belt and AONB. While the principle of agricultural use is accepted, the scale of the building is material to the impact on the character and appearance of the area, and the openness of the Green Belt. In the case of Appeal B, I consider that the benefits arising, in relation to the farming enterprise and the visual appearance of the site, do not outweigh the harm to the AONB and Green Belt openness resulting from the proposal. However, the smaller building, with additional screening, as set out in

Appeal A, is of a size more commensurate to the benefits that could accrue to the enterprise, and these benefits would outweigh the harm I have identified to the Green Belt in terms of its openness.

Conditions were attached.

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## FORTHCOMING PUBLIC INQUIRIES

<b>App. Ref:</b>	12/05279/FUL
<b>Location:</b>	Parcel 9181 Wick Road Bishop Sutton Bristol
<b>Proposal:</b>	Erection of 41 no. two, three, four and five bedroom dwellings including 14 no. affordable housing units along with the provision of informal public open space, vehicular access from the A368, landscaping and drainage.
<b>Date of Inquiry:</b>	28 <sup>th</sup> August – 30 <sup>th</sup> August 2013
<b>Venue:</b>	Fry Club, Keynsham

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<b>App. Ref:</b>	10/05199/EFUL
<b>Location:</b>	Stowey Quarry Stowey Road Stowey Bristol BS39 5UJ
<b>Proposal:</b>	Restoration of Stowey Quarry by landfilling of Stable Non Reactive

**Date of Inquiry:** Hazardous Waste (SNRHW) including asbestos and inert wastes and that the application is accompanied by an environmental statement  
3<sup>rd</sup> September 2013  
**Venue:** Fry Club, Keynsham

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