

Democratic Services

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Date: 8 January 2013

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To: All Members of the Development Control Committee

Councillors:- Neil Butters, Nicholas Coombes, Gerry Curran, Liz Hardman, Eleanor Jackson, Les Kew, Malcolm Lees, David Martin, Douglas Nicol, Bryan Organ, Martin Veal, David Veale and Brian Webber

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

Chief Executive and other appropriate officers
Press and Public

Dear Member

Development Control Committee: Wednesday, 16th January, 2013

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 16th January, 2013 at 2.00pm** in the **Brunswick Room - Guildhall, Bath**

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 15th January 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, 16th January, 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 an **other interest**, (as defined in Part 2, A and B of the Code of Conduct and Rules for Registration of Interests)

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

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

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

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

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

7. ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

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

8. MINUTES: 12TH DECEMBER 2012 (Pages 9 - 46)

To confirm as a correct record the Minutes of the previous meeting held on Wednesday 12th December 2012

9. MAJOR DEVELOPMENTS

The Senior Professional – Major Developments to provide an oral update

10. PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 47 - 110)

11. TREE PRESERVATION ORDER - 35 WEST HILL GARDENS, RADSTOCK (Pages 111 - 122)

To consider a report by the Senior Arboricultural Officer recommending that the Order be confirmed without modification

12. TREE PRESERVATION ORDER - 17 THE LINLEYS, BATH (Pages 123 - 134)

To consider a report by the Senior Arboricultural Officer recommending that the Order be confirmed without modification

13. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 135 - 146)

To note the report

14. FORMER FULLERS EARTHWORKS, COMBE HAY, BATH

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

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

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

Member and Officer Conduct/Roles Protocol* **Development Control Committee**

*(*NB This is a brief supplementary guidance note not intended to replace or otherwise in any way contradict Standing Orders or any provision of the Local Authorities (Mode Code of Conduct) Order 2001 adopted by the Council on 21st 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, Principal Legal Adviser
Tel. No. 01225 39 5176

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

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

Site Visit Procedure

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

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DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF DEVELOPMENT CONTROL COMMITTEE

Wednesday, 12th December, 2012

Present:- Councillor Gerry Curran in the Chair

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

Also in attendance: Councillors Nathan Hartley and Jeremy Sparks

96 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

97 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not desired

98 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There was an apology from Councillor Bryan Organ whose substitute was Councillor Sally Davis. It was stated that Cllr Organ had broken his ribs in a fall. The Chair on behalf of the Committee extended his best wishes for a speedy recovery.

99 DECLARATIONS OF INTEREST

Councillor Les Kew declared an interest in the planning application on Parcel 0006 Maynard Terrace, Clutton (Item 2, Report 11) as he was the subject of a complaint arising from an earlier consideration of this application by Committee and, as such, he did not feel it appropriate for him to speak or vote. He would therefore leave the meeting for its consideration. Councillor Eleanor Jackson declared an interest in the application at 5 Bath Road, Peasedown, as she was acquainted with a neighbour but as she did not consider it to be significant and prejudicial, she would speak and vote on the matter.

100 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none

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

The Senior Democratic Services Officer informed the meeting that there were no speakers on matters other than planning applications. There were a number of people wishing to make statements on planning applications in Reports 10 and 11 and that they would be able to do so when reaching those items on the Agenda.

102 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There was none

103 MINUTES: 21ST NOVEMBER 2012

The Minutes of the previous meeting held on Wednesday 21st November 2012 were approved and signed by the Chair as a correct record

104 MAJOR DEVELOPMENTS

The Senior Professional - Major Development informed the meeting that there were no updates to report but he would respond to any queries.

In response to Members' queries, the Officer reported as follows:

Norton Radstock Regeneration - He was not personally involved with the preparation of the proposals for this development but understood that a planning application with a significant package of information was expected to be submitted shortly after Christmas. He would advise Members at that stage.

Brunel Square/Vaults at Bath Spa Railway Station - Not all the units would be occupied before Christmas due to problems with water seepage but it was expected that they would be by mid-January.

Former Cadbury's site, Somerdale - Some significant archaeological discoveries had been found at The Hams part of the site (possible Roman town). More work was to be undertaken on the land south of the factory but it was considered that the impact on the number of houses would be less than feared.

Woolley Valley - Further information concerning this site would be provided at the end of the meeting.

Gasometers, Western Riverside - Although this was being dealt with by the Major Projects Team, he understood that discussions had been held regarding finance for their decommissioning but there was no timetable yet for their removal. The next step would be for the gas suppliers to make further arrangements for equipment/installations elsewhere in the gas network before they could be removed.

105 SITE VISIT LIST - APPLICATION FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE

The Committee considered:

- a report by the Development Manager on an application for planning permission at Maylou, 118A Rush Hill, Bath
- oral statements by an objector and the applicant's representative, the Speakers List being attached as *Appendix 1* to these Minutes

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

Maylou, 118A Rush Hill, Bath - Erection of a two-storey extension and a single storey garage extension (Revised resubmission) - The Case Officer reported on this application and her recommendation to Permit with conditions.

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

After receiving clarification to a query, Councillor Eleanor Jackson moved the Officer recommendation which was seconded by Councillor Martin Veal.

The motion was put to the vote and was carried, 10 voting in favour and 2 against with 1 abstention.

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

The Committee considered:

- a report by the Development Manager on various applications for planning permission etc
- oral statements by members of the public etc, the Speakers List being attached as *Appendix 1* to these Minutes
- an Update Report by the Development Manager on Item 2, a copy of which is attached as *Appendix 3* to these Minutes

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

Item 1 Former Bath Press site, Lower Bristol Road, Bath - Mixed use redevelopment comprising 6,300sq m of retail (Class A1), 4,580sq m of creative workspace (Class B1), 2,610sq m of offices (Class B1), 220sq m of community space (Class D1/D2), 10 residential houses, basement car park, landscape and access (including realignment of Brook Road) - The report on this application was withdrawn by the Development Manager as a result of further information being received which could not be assessed in time for this meeting.

Item 2 Parcel 0006, Maynard Terrace, Clutton - Erection of 36 dwellings and associated works (Revised resubmission) - The Case Officer reported on this application and his recommendation to (A) authorise the Planning and Environmental Law Manager to enter into a S106 Agreement as detailed in the report to the Committee; and (B) upon completion of that Agreement, authorise the Development Manager to permit the application subject to conditions. He referred to the Update Report where 2 further conditions were being recommended and which also referred to a recent appeal decision in which an application for residential development had been allowed by the Inspector who had attached significant weight to the fact that the Council could not demonstrate a 5 year supply of housing land. The Case Officer stated that recent evidence suggested that, nationally, Inspectors appeared to be allowing appeals in respect of residential development outside of housing development boundaries where local planning authorities could not demonstrate a 5 year supply of housing land. He also referred to some of the highways issues relating to the proposal.

The public speakers made their statements against and in favour of the proposal which was followed by a statement by the Ward Councillor Jeremy Sparks.

Members asked questions and commented on the proposals stating that there had been no change to the previous application. The Case Officer and the Senior Highways Development Engineer responded to some of the comments. Councillor Eleanor Jackson referred to paragraphs 14, 47 and 49 of the National Planning Policy Framework. Affordable housing was needed but this was a sensitive site in an unsustainable location with inadequate mitigation measures. It would have a significant impact on the rural aspect of Clutton and destroy its rural character. She also had concerns regarding highway safety. She felt Members should keep to their principles and, on this basis, moved refusal of the application for the same reasons as had been moved at the Committee's September meeting, namely, that the proposal was unsustainable and outside the housing development boundary; and that insufficient information had been submitted with regard to ecology. The motion was seconded by Councillor Martin Veal who also had concerns about the proposed highway arrangements. Councillor Nicholas Coombes agreed and shared their concerns relating to highways. He suggested that a highways reason for refusal should be added.

Members debated the motion. It was felt that this site in the middle of the countryside was inappropriate for this development. Members discussed the highways issues. It was generally felt that the proposed junction was poor and that changing the direction of traffic flow would introduce a conflict which would impact on road safety contrary to Policies T1 and T24. The Senior Highways Development Engineer responded to the queries raised regarding change of direction of traffic flow which would culminate in a cul de sac.

The Chair referred to the new requirement with effect from 1st December to provide a statement setting out how the local planning authority has worked with the applicant in a positive and proactive manner. He considered that this could be based on the fact that there had been a site visit, the application had been considered by the Committee on 3 separate occasions, and there had been extensive correspondence by the local planning authority with the applicants and objectors. Other Members added that comments from the applicants had been welcomed and that some Members had met with the Chief Executive of Curo and had weighed up his comments.

The Chair summed up the debate and put the motion to the vote. Voting: 10 in favour and 2 against. Motion carried (Notes: 1) Councillor Les Kew was not present for consideration of this application; and 2) Councillor Martin Veal considered that, should an appeal be lodged, Committee Members should attend any appeal hearing to put forward their views in support of the refusal against Officer recommendation).

Item 3 Crescent Office Park, Clarks Way, Odd Down, Bath - Erection of a residential care home (Use Class C2) with associated car parking and servicing - The Case Officer reported on this application and her recommendation to (A) authorise the Planning and Environmental Law Manager to enter into a S106 Agreement, or secure a Unilateral Undertaking, to relinquish the creche planning application permission ref 10/01532/FUL in the event that the approval hereby granted is implemented; and (B) subject to the above, Permit with conditions. The

Officer recommended that a lighting condition be added together with the requisite positive and proactive statement.

The applicants' agent made her statement in support of the application.

Councillor Eleanor Jackson considered that this was a good scheme and therefore moved the Officer recommendation which was seconded by Councillor Liz Hardman.

Members debated the motion. Although a Member felt that the site should be retained as offices as per the Master Plan, most Members were supportive of the proposal as there was a need for care homes and this was a good location.

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

Items 4&5 Automobile Services, 37 Coombend, Radstock - 1) Erection of 7 two-bed dwellings with parking, altered site access, landscaping and ancillary works and allotments following demolition of garage workshop (Resubmission); and 2) demolition of garage workshop - The Case Officer reported on these applications and her recommendations to 1) grant permission with conditions; and 2) grant consent with conditions. She reported the receipt of a request by Councillor Charles Gerrish for a contribution by the applicants to works at the nearby culvert - she stated, however, that the Environment Agency had considered the works to be unnecessary.

The applicants' agent made her statement in support of the applications.

Councillor Eleanor Jackson referred to some revisions to the proposals but still had some concerns about the proposal. However, the neighbours were in favour. She clarified that, although she was a Member of the Town Council, she played no part in any discussions relating to planning. Councillor Les Kew felt that this was a good use of a brownfield site. However, as this was a departure from the Development Plan, the proposal would need to be advertised as such and therefore he moved that the application for planning permission be delegated to Officers to Permit subject to the requisite advertisement and the conditions set out in the Report. This was seconded by Councillor Martin Veal. The motion was put to the vote and was carried unanimously.

Councillor Les Kew moved the Officer recommendation on Item 5 to grant consent to demolish which was seconded by Councillor Martin Veal. The motion was put to the vote and was carried unanimously.

Item 6 No 5 Bath Road, Peasedown - Erection of one pair of semi-detached dwellings on land at the rear of 5 Bath Road – The Case Officer reported on this application and his recommendation to refuse permission. He reported on the receipt of an objection from the adjoining property.

The applicant made a statement in support of the application which was followed by a statement by the Ward Councillor Nathan Hartley in favour of the proposal.

Councillor Eleanor Jackson opened the debate. She considered that, although there was a need for more housing, there were a number of issues against this application. A two storey building would be overbearing and impact on neighbouring properties.

There would also be the consequent impact of noise and disturbance from 2 semi-detached properties in this location. She felt, however, that it was possible that a single storey dwelling might be acceptable. In view of the significant impact of this proposal, she moved that the application be refused as recommended. The motion was seconded by Councillor Liz Hardman.

Members debated the motion. Most Members agreed that this proposal was unacceptable but that one dwelling, preferably single storey, might be more appropriate in this location. The Chair summed up the debate and put the motion to the vote. Voting: Unanimously in favour of refusal.

Item 7 Parcel 5975 St Clements Road, Keynsham - Erection of a new sewage pumping station – The Case Officer reported on this application and his recommendation to Permit with conditions. He recommended an additional condition regarding the provision of landscaping prior to the use commencing.

The applicants' agent made a statement in support of the proposal.

The Chair stated that the Recommendation should also be amended to Delegate to permit as this was a Departure from the Development Plan and would therefore need to be advertised as such.

Councillor Les Kew supported the proposal and moved the revised recommendation which was seconded by Councillor Eleanor Jackson. After a brief debate, the motion was put to the vote and it was carried unanimously.

Item 8 Hartley Barn Farm, Barn Lane, Chelwood - Refurbish existing barn into self-contained holiday accommodation with associated parking – The Case Officer reported on this application and her recommendation to refuse permission.

The public speakers made statements against and in support of the application which were followed by a statement by the Ward Councillor Jeremy Sparks who supported the Officer's reasons for refusal.

Councillor Les Kew queried whether the proposal might require a Site Visit. Councillor Nicholas Coombes considered that this was inappropriate development in the Green Belt with no very special circumstances being demonstrated or attempts to find an alternative use. He therefore moved the Officer recommendation to refuse permission which was seconded by Councillor Neil Butters.

After some brief comments supporting the motion, it was put to the vote and was carried unanimously.

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

The report was noted

108 FORMER FULLERS EARTHWORKS, COMBE HAY, BATH

The Development Manager stated that Proofs of Evidence had been drafted and would be exchanged shortly. The Public Local Inquiry would be held on 28th January 2012.

109 WOOLLEY VALLEY

Referring to a query raised under Item 9 Update on Major Developments, the Development Manager commented on the current situation regarding Woolley Valley. She stated that the recently submitted planning applications were invalid. If valid planning applications were not received shortly, the development could be the subject of a report to Committee in January regarding possible enforcement action.

The meeting ended at 4.45 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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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 MEETING ON WEDNESDAY,
12TH DECEMBER 2012**

SITE/REPORT NAME/REPRESENTING FOR/AGAINST

SITE/REPORT	NAME/REPRESENTING	FOR/AGAINST
SITE VISIT – REPORT 10		
Maylou, 118A Rush Hill, Bath (Pages 55-62)	Christine Gibbons Hervinder Rai (for the applicant)	Against For
MAIN PLANS LIST – REPORT 11		
Parcel 0006, Maynard Terrace, Clutton (Item 2, Pages 91-126)	Tony Marwood (Clutton Parish Council) Rosemary Naish (Campaign for Protection of Rural Clutton) <u>AND</u> Clive English James Read (Curo) <u>AND</u> Robert Sawyer (Owner)	Against Against – To share 3 minutes For – To share 3 minutes
Crescent Office Park, Clarks Way, Odd Down, Bath (Item 3, Pages 127-140)	Rhian Lees, DPP (Applicants' Agents)	For
Automobile Services, 37 Coombend, Radstock (Items 4&5, Pages 141- 159)	Kathy Curling, Pro Planning (Applicants' Agents)	For – Up to 6 minutes
5 Bath Road, Peasedown (Item 6, Pages 160-170)	Mrs Jory (Applicant)	For
Parcel 5975, St Clements Road, Keynsham (Item 7, Pages 171-182)	Dave Ogborne (Applicants' Agent)	For
Hartley Barn Farm, Barn Lane, Chelwood (Item 8, Pages 183-188)	Janice Gibbons John White (Applicant's Agent)	Against For

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BATH AND NORTH EAST SOMERSET COUNCIL

DEVELOPMENT CONTROL COMMITTEE

12th December 2012

DECISIONS – SITE VISITS

Item No:	01	
Application No:	12/04102/FUL	
Site Location:	Maylou, 118A Rush Hill, Southdown, Bath	
Ward: Odd Down	Parish: N/A	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of a two storey extension and a single storey garage extension (revised resubmission).	
Constraints:	Agric Land Class 1,2,3a, Forest of Avon, Hotspring Protection, World Heritage Site,	
Applicant:	Mrs Rai	
Expiry Date:	22nd November 2012	
Case Officer:	Sasha Coombs	

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

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

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

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

PLANS LIST:

Site Location Plan 1:1250 received 27 September 2012
Existing Site and Block Plan rhill5/A, Existing Elevations rhill2/A, Existing Plans rhill1/A, Proposed Elevations rhill4pb/C, Proposed Elevations rhill7p/C, Proposed Site and Block Plan rhill6p/C, Proposed Plans rhill3p/C, Proposed Plans rhill8p/c received 18 September 2012.

Reason For Granting Permission

The development is considered to be acceptable in scale and design, commensurate with the host dwelling and its plot. It will not be detrimental to the character and appearance of the locality or the World Heritage Site. The proposal will not result in unacceptable overlooking of neighbouring property considering the orientation of fenestration, and would have a limited impact in terms of overshadowing, and as such is not detrimental to residential amenity. Therefore the proposal is consistent with the requirements of Policies BH.1, D.2 and D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies) Adopted October 2007.

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 revised proposals was taken and consent was granted.

BATH AND NORTH EAST SOMERSET COUNCIL

Development Control Committee

12th December 2012

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

ITEM 10

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
2	12/01882/OUT	Parcel 0006 Maynard Terrace Clutton, Bristol

Housing and Affordable Housing Provision

In the recently allowed appeal for 47 houses at Sleep Lane, Whitchurch (ref: 11/02193/FUL) the Inspector reiterated paragraph 49 of the NPPF and confirmed that the relevant (local) 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 Sleep Lane appeal decision endorses the fact that Bath & North East Somerset Council does not have an up-to-date five-year land supply, and confirms that there is evidence of a failure in terms of the delivery of affordable housing within the district. The Inspector attached significant weight to both of these facts stating:

“there is an acknowledgement that there has been a record of persistent under-delivery of housing...[and] it is evident that the failure in terms of the delivery of affordable housing is especially acute with 565 units having been supplied between 2001 and the latest Annual Monitoring Report, against a requirement of 5,047 units between 2002 and 2009”.

In concluding, the Inspector stated that in the *“overall context, the provision of housing, and especially the affordable housing, attract considerable weight in favour of it. The Government’s intention to boost significantly the supply of housing is made very plain in the Framework.”*

The recommendation to permit this outline permission with over 50% on-site affordable housing is considered to be consistent with the findings and conclusions of the Sleep Lane appeal and therefore should be regarded as a key material consideration in the determination of this application.

Highways

In considering this planning application paragraph 32 of the NPPF is of relevance where it states that *“development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe”* and that

decisions should take account of whether *“improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development”*.

The highway works shown with this application are a response to the objections and recommended reason for refusal put forward with the previous (2011) application in order to demonstrate that a satisfactory junction can be achieved. The technical details relating to the junction however are beyond the scope of this planning application.

It is accepted that the current junction arrangements are substandard with poor visibility exiting Maynard Terrace and limited means to slow drivers descending Clutton Hill resulting in an inherent conflict in terms of highway safety. In respect of the proposed alterations, the applicant has demonstrated a solution that could be implemented to improve visibility and reduce vehicle speeds; fundamentally, the proposed alterations are seen as an improvement to the overall situation at present and therefore in terms of highway safety the proposed development is deemed to be in accordance with the extant policies and in line paragraph 32 of the NPPF.

Notwithstanding the current application it should be noted that the Highway Authority could actually implement the proposed changes to the junction and its priorities without any link to a development proposal – that is to say the highway works are not dependent on this application.

In respect of the issue relating to the safety audit that forms part of this application this was raised by objectors and Members at the November Committee Meeting and was clearly explained by the Highway Development Officer. For clarification, there is no mandatory requirement for a Highway Authority to undertake safety audits on local roads. Notwithstanding, as with many applications where there are changes to the highway, whilst it is up to the developer to fund the audit (as they did in this instance) it was the Council who requested it be carried out so as to highlight any potential problems with the proposed change in the highway layout. The audit was carried out by an independent audit team who are bound by a professional code of conduct and the findings of the report led the Highway Development Officer and her Traffic & Safety colleagues to conclude that there were no reasons not to accept the change in layout, as proposed. Comments about inaccurate data having been initially presented with the audit are noted however this issue has been acknowledged and amended and it has since been confirmed that the traffic count date issue does not change the overall outcome of the audit.

The Campaign to Protect Rural Clutton have commissioned and submitted an independent Highway Development Control Report and a Stage 2 Road Safety Audit in response to the original audit submitted with the application. These documents were submitted too late to be fully considered in this update report however can be discussed at the Committee meeting. From an initial assessment it is noted that the reports offer several similar observations to the original safety audit and make recommendations in respect of observed problems. For clarification, several of the recommendations (including drainage, advanced directional signage, skid resistance and visibility) can be addressed and resolved through the technical design of the junction and are again not dependant on this application.

Flooding

At the November meeting a member of the public raised the issue of flooding from the adjacent brook and showed Members photographs of the application site after the recent heavy rain.

Following the committee meeting, the case officer has discussed the issue with the Environment Agency who have confirmed that their original response to this application remains and that no objection is raised subject to conditions.

In relation to the development of this site the original layout and flood risk assessment demonstrated that 36 dwellings could be adequately accommodated on the site without encroaching into the flood zone. Photos of the flooding from the brook adjacent to the site confirmed that excess water had not (at that stage) flooded over into the application site, notwithstanding, the closest proposed properties would be situated up slope and sufficiently far enough from the waters edge even under extreme flood conditions.

In respect of the recent flooding noted around the junction of Maynard Terrace/Clutton Hill/Station Road, the worst of this appears to have come from surface runoff rather than from the brook which runs below the road. Issues of surface drainage could be addressed through the proposed works and improvements to the highway and it is considered that if anything, the proposed works to this junction could be of overall benefit to runoff thus potentially reducing future risks of standing water.

Overall the proposed development of this site is not considered to be at risk of flooding and as stated, the potential improvements to land drainage and surface water runoff could be seen as an overall benefit to the wider area.

Ecology

It is confirmed that no licence is required in respect of European protected species and there is no likelihood of a significant effect on any European site resulting from this proposed development.

Arboriculture

It is recommended that the following conditions are added to any permission:
No development shall take place until a Detailed Arboricultural Method Statement with Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority and details within that implemented as appropriate. The final method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, location of site office, service run locations including soakaway locations, level changes and movement of people and machinery.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals

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.

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

BATH AND NORTH EAST SOMERSET COUNCIL

DEVELOPMENT CONTROL COMMITTEE

12th December 2012

DECISIONS

Item No:	02	
Application No:	12/01882/OUT	
Site Location:	Parcel 0006, Maynard Terrace, Clutton, Bristol	
Ward: Clutton	Parish: Clutton	LB Grade: N/A
Application Type:	Outline Application	
Proposal:	Erection of 36no. dwellings and associated works (revised resubmission)	
Constraints:	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Coal - Referral Area, Cycle Route, Flood Zone 2, Flood Zone 3, Forest of Avon, Housing Development Boundary, Public Right of Way,	
Applicant:	Somer Community Housing Trust	
Expiry Date:	30th July 2012	
Case Officer:	Richard Stott	

DECISION REFUSE

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

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

3 The reprioritisation of the Clutton Hill, Station Road, Maynard Terrace junction is likely to give rise to confusion for drivers resulting in conflicting traffic movements which would be prejudicial to highway safety, contrary to Policy T.24 of the Bath and North East Somerset Local Plan, including minerals and waste policies, October 2007 and Para 32 of the National Planning Policy framework

PLANS LIST:

This Decision Relates To The Following Documents:

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

This Decision Relates To The Following Drawings:

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

DECISION MAKING STATEMENT

In determining this application the Local Planning Authority considers that it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework.

Following the withdrawal of an earlier application (11/04300/OUT) the applicant has addressed the majority of the Council's previous concerns relating to this development and has engaged in discussions with Officers in order to resolve the remaining outstanding concerns. Notwithstanding the Officer recommendation, Members have visited this site and considered the issues surrounding this application three times at Development Control Committee concluding that the proposals remain unacceptable for the reasons given.

Item No:	03	
Application No:	12/04063/OUT	
Site Location:	Crescent Office Park, Clarks Way, Odd Down, Bath	
Ward: Odd Down	Parish: N/A	LB Grade: N/A
Application Type:	Outline Application	
Proposal:	Erection of a residential care home (Use Class C2) with associated car parking and servicing	
Constraints:	Agric Land Class 3b,4,5, Forest of Avon, General Development Site, Hotspring Protection, Tree Preservation Order, World Heritage Site,	
Applicant:	Kenwright Developments Ltd	

Expiry Date:	9th January 2013
Case Officer:	Sarah James

DECISION Delegate to PERMIT subject to a Unilateral Undertaking and the conditions below plus an additional condition to control external lighting.

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

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

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

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

3 Approval of the details of the landscaping, scale, appearance and means of access of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

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

4 Before the development hereby approved is first brought into use the parking indicated on the submitted plan shall be constructed to the satisfaction of the Local Planning Authority in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. This area shall be kept clear of obstruction and available for use as parking for the development at all times.

Reason: In the interests of amenity and highway safety.

5 Before the development hereby approved is first brought into use the service lay-by indicated on the submitted plan shall be constructed to the satisfaction of the Local Planning Authority in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. This area shall be kept clear of obstruction and available for use as servicing/deliveries for the development at all times.

Reason: In the interests of amenity and highway safety

6 Prior to the 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.

7 Prior to the occupation of the development sheltered and secure cycle parking shall be provided in accordance with plans which shall have been submitted to and approved in writing by the Local Planning Authority. This area shall not be used other than for the parking of cycles in connection with the development hereby permitted.

Reason: In the interests of sustainable development

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

Reason: In the interest of residential amenity

9 Provision shall be made within the site for the disposal of surface water, details of which including the means of outfall shall be submitted to and approved in writing by the Local Planning Authority prior to construction. The development shall proceed in accordance with the approved details thereafter.

Reason: In the interests of flood risk management

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

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

11 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. A signed certificate of compliance shall be provided to the local planning authority on completion.

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

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

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

(b) an assessment of the potential risks to:

(i) human health,

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

(iii) adjoining land,

(iv) groundwaters and surface waters,

(g) ecological systems,

(v) archaeological sites and ancient monuments;

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

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

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

13 If required under the terms of condition 12 a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and

ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

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

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

16 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition no. 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition no. 13, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition no. 15.

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

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

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

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

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

18 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.

19 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.

20 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.

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

21 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.

22 No occupation or use of the building hereby approved shall take place until details of a lighting scheme are submitted to the Local Planning Authority for approval in writing. Upon approval in writing, the details shall be implemented and thereafter the development shall be operated in accordance with the approved details.

Reason: In the interest of the appearance of the area

PLANS LIST:

PL101

REASONS FOR GRANTING APPROVAL:

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

(A) Bath and North East Somerset Local Plan (including Waste and Minerals policies) adopted 2007 Policies BH1 World Heritage site
D2, D4, T24, T25, T26, ES5, ES9, ES10, ES12, ES15, NE4, NE9, NE10, NE11, NE12, BH22, SC1, CF6, ET1, ET3

Advice Note:

The applicant has indicated on their application form that surface water will be disposed of via the main sewer. Under the Flood and Water Management Act 2010, the automatic right to connect into the public sewer has been removed. Therefore, to support the discharge of the above condition the applicant will need to provide written confirmation from Wessex Water that the proposed development can make connection into their sewer. Discharge rates and connection points will need to be agreed.

Item No:	04	
Application No:	11/04249/FUL	
Site Location:	Automobile Services, 37 Coombend, Radstock, Bath And North East Somerset	
Ward: Radstock	Parish: Radstock	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of 7no. two bed dwellings with parking, altered site access, landscaping and ancillary works and allotments following demolition of garage workshop (Resubmission)	
Constraints:	Agric Land Class 3b,4,5, Coal - Standing Advice Area, Conservation Area, Forest of Avon,	
Applicant:	Henrietta Matthews House Ltd	
Expiry Date:	28th November 2011	
Case Officer:	Tessa Hampden	

DECISION Delegate to PERMIT to allow the expiration of the departure advertisement and subject to the following conditions:

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

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

2 The areas 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.

3 The development hereby permitted shall not be occupied until the access, parking and turning areas have been properly bound and compacted (not loose stone or gravel) in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

4 The development shall not be occupied until provision has been made within the site for the disposal of surface water so as to prevent its discharge onto the highway, in

accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

5 Before the dwellings hereby permitted are first occupied the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access and the extremities of the site frontage shall be cleared of obstruction to visibility at and above a height of 600mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety.

6 Before the dwellings hereby permitted are first occupied, the footway across the frontage of the site shall be constructed and laid out in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

7 No development shall commence until details of the proposed internal ventilation system has been approved in writing by the Local Planning Authority. The proposed development shall not be occupied until the approved details have been carried out on site.

Reason: In the interest of the amenity of the residents of the development.

8 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.

9 Prior to development commencing on site, full details of the retaining structures needed to ensure the stability the slope shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the stability of the slope.

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

1) A preliminary risk assessment which has identified:

-all previous uses

-potential contaminants associated with those uses

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

-potentially unacceptable risks arising from contamination at the site.

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

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

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

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To prevent pollution of controlled waters.

11 No development shall commence until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

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

12 Site Characterisation

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

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

(ii) an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, archaeological sites and ancient monuments;

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

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

13 Submission of Remediation Scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the

natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

14 Implementation of Approved Remediation Scheme

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

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to 3 workers, neighbours and other offsite receptors

15 Reporting of Unexpected Contamination

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

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

16 Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of [x] years, and the provision of reports on the

same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

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

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

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

17 No dwelling shall be occupied until its associated screen walls/fences or other means of enclosure have been erected in accordance with the approved plans and thereafter retained.

Reason: In the interests of privacy and/or visual amenity.

18 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.

19 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.

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

Reason: To ensure that any future occupiers of the development are safeguarded from an undue level of noise and disturbance

21 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: 01, 02D,03C,04D, 05, 06D date stamped 30th September 2011 and Site location plan date stamped 3rd October 2011

REASONS FOR GRANTING APPROVAL

1 The proposed development is contrary to Policy HG.4 of the Local Plan, being located outside any Housing Development Boundary. However the proposals also need to be considered in the light of the NPPF which promotes sustainable development, the importance of boosting significantly the supply of housing and encouraging the effective use of land by re-using previously developed/brownfield land not of high environmental value. Given the characteristics of this site and its setting, the local environmental benefits of an alternative use to employment, and the lack of a five year supply of housing land it is considered that on balance and subject to conditions the proposed development is acceptable. The development is considered to enhance the character and appearance of this part of the Conservation Area and is not considered to have an adverse impact upon 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.

A

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

HG1 Meeting the District housing requirement

HG4 Residential development in the urban areas and R1 settlements

HG10 Housing outside settlements

ES12 Noise and vibration

ET3 Core Employment Sites

ES14 Unstable land

ES15 Contaminated Land

D2 - General Design and public realm considerations

D4 - Townscape considerations

HG4 - Residential development in the urban areas and R.1 settlements

NE3 Important Hillside

CF8 Allotments

NE10 - Nationally important species and habitats

NE11 - Locally important species and habitats

BH6 - Development within or affecting Conservation Areas

T24 - General development control and access policy

The National Planning Policy Framework

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

The proposed development is not fully in accordance with the Policies set out below at B, but the planning merits of the proposed development outweigh the conflict with these Policies.

B

HG4 Residential development in the urban areas and R1 settlements of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

Bath and North East Somerset Submission Core Strategy (May 2011)

Advise Note:

1. The applicant should be advised that the construction and dedication of the footway will need to be subject of a Section 38 Agreement with the Local Highway Authority.

2. Under the Water Resources Act 1991 and Land Drainage Byelaws, Flood Defence Consent is required from the Environment Agency. This is required for any works taking place in, over, under or within 8m of the Coombend Culvert. The need for Flood Defence Consent is separate to planning permission.

Advice to Planning Authority/Applicant:

3. Pollution Prevention During Construction

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover:

- the use machinery
- storage of oils/chemicals and materials
- the routing of heavy vehicles
- the location of work and storage areas
- the control and removal of spoil and wastes

The applicant should refer to the Pollution Prevention Guidelines, which can be found at:

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

Item No:	05	
Application No:	11/04250/CA	
Site Location:	Automobile Services, 37 Coombend, Radstock, Bath And North East Somerset	
Ward: Radstock	Parish: Radstock	LB Grade: N/A
Application Type:	Conservation Area Consent	
Proposal:	Demolition of garage workshop.	

Constraints:	Agric Land Class 3b,4,5, Coal - Standing Advice Area, Conservation Area, Forest of Avon,
Applicant:	Henrietta Matthews House Ltd
Expiry Date:	28th November 2011
Case Officer:	Tessa Hampden

DECISION CONSENT

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

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

2 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: Site location plan date stamped 3rd October 2011 and 05 date stamped 30th September 2011

REASONS FOR GRANTING CONSENT:

The decision to grant consent for the proposed demolition subject to conditions has been made in accordance with S 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character and appearance of the Conservation Area. The Council considers the proposal will not detract from the character and appearance of the Conservation Area.

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 related case officer's report, a positive view of the submitted proposals was taken and consent was granted.

Item No:	06
Application No:	12/04286/OUT
Site Location:	5 Bath Road, Peasedown St. John, Bath, Bath And North East Somerset
Ward: Peasedown St John	Parish: Peasedown St John LB
Grade: N/A	
Application Type:	Outline Application

Proposal:	Erection of one pair of semi detached dwellings on land at rear of 5 Bath Road
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,
Applicant:	Mr & Mrs N Jory
Expiry Date:	26th November 2012
Case Officer:	Daniel Stone

DECISION REFUSE

1 The proposed development, by reason of its 2-storey scale, proximity to adjoining back gardens, intensity of development and the introduction of vehicles so far into the site would constitute an unacceptable overdevelopment of the site, paying inadequate regard to its backland context. The development would have a detrimental impact on the amenity of surrounding residential occupiers by virtue of overlooking and overbearing effects and the introduction of excessive noise and activity into this quiet back garden location.

As such the development would be contrary to policy D.2 and D.4 of the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted 2007 and to the guidance set out in the National Planning Policy Framework.

PLANS LIST:

This decision relates to drawing nos

- Site Location Plan - drawing 2012/JORY02
- illustrative front elevation - drawing 2012/JORY/03
- Proposed Site plan - 2012/JORY01 received 26th October
- Topographical survey received 26th October
- Design and Access Statement

DECISION TAKING PROCESS:

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 applicant was advised that the application was to be recommended for refusal and offered the opportunity to withdraw it. Despite this the applicant chose not to withdraw the application, and having regard to the need to avoid unnecessary delay the Council's Development Control Committee considered the proposal and refused the application.

Within the Committee report, the case officer has indicated how a revised scheme might be designed to overcome the reasons for refusal, and further informal discussions regarding a revised scheme are welcomed, in principle, by the Local Planning Authority.

Item No:	07	
Application No:	12/02966/FUL	
Site Location:	Parcel 5975, St Clement's Road, Keynsham,	
Ward: Keynsham South	Parish: Keynsham Town Council	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of a new sewage pumping station.	
Constraints:	Airport Safeguarding Zones, Agric Land Class 3b,4,5, Forest of Avon, Greenbelt,	
Applicant:	Wessex Water Services Ltd	
Expiry Date:	7th September 2012	
Case Officer:	Daniel Stone	

DECISION Delegate to PERMIT to allow the application to be advertised as a departure subject to no new issues being raised and subject to 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, the street lighting column within the site frontage shall be replaced with two columns, located either side of the access in accordance with details to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of highway safety.

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 deliveries (including storage arrangements and timings), contractor parking, traffic management.

Reason: To ensure the safe operation of the highway.

4 The sewage pumping station shall be operated in full accordance with the odour management plan.

Reason: In the interests protecting the amenity of surrounding residents.

5 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site.

The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

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

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

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

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

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

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

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

8 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

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

9 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.

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

- Site Location Plan and Proposed Site Layout - Drawing R12904/711 Rev C
- Proposed Elevations - Drawing R12904/712 Rev C
- Dosing Kiosk - Drawing R12904/713 Rev A
- Kiosk Elevations - Drawing R12904/714 Rev A
- Letter dated 9th August 2012 - Site selection process
- Generic Odour Management Plan - January 2012
- Preliminary Noise Assessment July 2011
- Environmental Supporting Statement - July 2012
- Background noise assessment - October 2012

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

ADVISE NOTE:

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

2. The applicants should be advised to contact the Highway Electrical Team on 01225 394262 with regard to arranging for the street lighting works to be undertaken. The applicants should also be made aware that all costs associated with the works shall be borne by them.

REASONS FOR GRANTING APPROVAL:

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

POLICIES

Adopted Local Plan:

D.2 General design and public realm considerations

D.4 Townscape considerations

ES.12 Noise and vibration

T.26 On-site parking and servicing provision

ES.5 Foul and surface water drainage

ES.9 Pollution and nuisance

ES.10 Air quality

ES.12 Noise and vibration

ES.15 Contaminated land

GB.1 Control of development in the Green Belt

GB.2 Visual amenities of the Green Belt

NE.1 Landscape character

NE.14 Flood risk

Core Strategy

CP5 Flood Risk Management

CP6 Environmental Quality

CP8 Green Belt

National Planning Policy Framework

The Council has worked proactively and positively with the applicants by working with the applicants to resolve issues by seeking additional information, and through applying conditions to the consent.

Item No:	08
Application No:	12/03006/FUL

Site Location:	Hartley Barn Farm, Barn Lane, Chelwood, Bristol		
Ward: Clutton	Parish: Chelwood	LB Grade: N/A	
Application Type:	Full Application		
Proposal:	Refurbish existing barn into self contained holiday accommodation with associated parking		
Constraints:	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Coal - Referral Area, Forest of Avon, Greenbelt,		
Applicant:	Mr Colin Archer		
Expiry Date:	13th November 2012		
Case Officer:	Rebecca Roberts		

DECISION REFUSE

1 The resultant self-contained holiday unit results in a new dwelling in the Green Belt and therefore would represent inappropriate development, which by definition is harmful to the Green Belt. No Very Special Circumstances have been demonstrated that outweigh the identified harm and therefore the proposal is contrary to Policies GB.1, ET.9 and HG.12 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

2 The application fails to demonstrate that every reasonable attempt has been made to secure suitable business re-use for the existing building. Further, the site is in a location remote from public services and community facilities. The proposals are therefore contrary to Policy ET.9 of the Bath and North East Somerset Local Plan (including minerals and waste policies) Adopted October 2007.

3 The proposed alterations to the building, by reason of their scale, massing and appearance, would result in the building losing its simple agricultural and functional appearance leading to an erosion of the rural character of this part of the Green Belt. This is contrary to Policies GB.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

PLANS LIST:

This decision relates to drawing no's S4960/001, S4960/100C and the Building Inspection Report date stamped 15th August 2012.

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 applicant 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 the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	16th January 2013
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)
TITLE:	APPLICATIONS FOR PLANNING PERMISSION
WARDS:	ALL
BACKGROUND PAPERS:	
AN OPEN PUBLIC ITEM	

AGENDA
ITEM
NUMBER

BACKGROUND PAPERS

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

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

The following notes are for information only:-

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

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

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

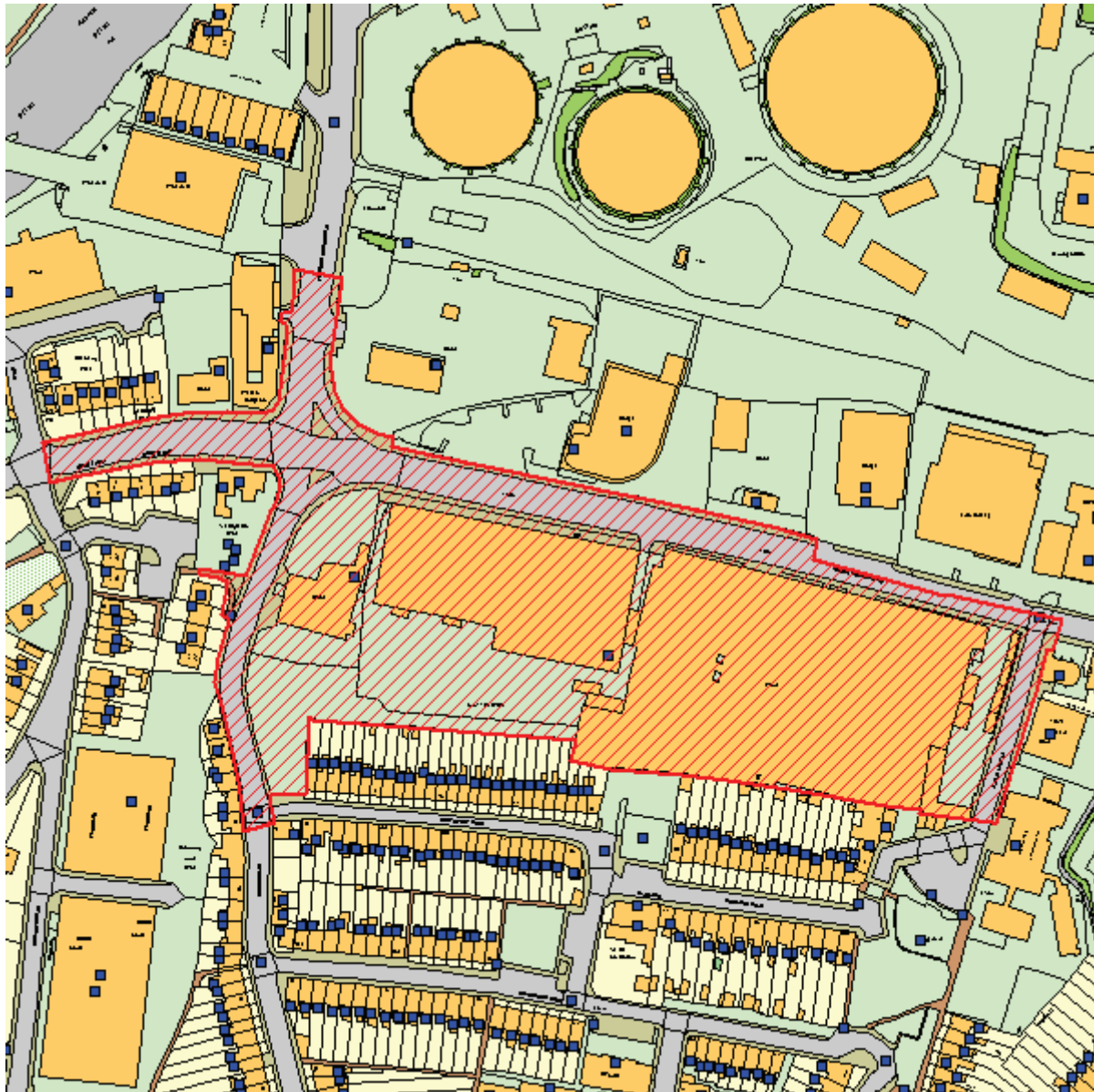
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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	12/01999/EFUL 3 September 2012	Tesco Stores Limited Former Bath Press Premises, Lower Bristol Road, Westmoreland, Bath, BA2 3BL Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,610sqm of offices (Class B1), 220sqm of community space (class D1/D2), 10 residential houses, basement car park, landscape and access (including realignment of Brook Road)	Westmoreland	Sarah James	REFUSE
02	12/04296/FUL 23 November 2012	Rannoch Investments Ltd 17 George Street, City Centre, Bath, Bath And North East Somerset, BA1 2EN Change of use of upper floors from offices (Use Class B1) to 7no. residential units (Use Class C3) and associated works (Resubmission)	Abbey	Tessa Hampden	REFUSE
03	12/04297/LBA 23 November 2012	Rannoch Investments Ltd 17 George Street, City Centre, Bath, Bath And North East Somerset, BA1 2EN Internal and external alterations to enable conversion of upper floors to residential, and associated internal access alterations at ground floor level.	Abbey	Caroline Waldron	REFUSE
04	12/04456/FUL 26 December 2012	Linhope Properties Limited Lloyds Tsb Bank Plc, 2 Silver Street, Midsomer Norton, BA3 2HB, Erection of 4no. terraced dwellings on land to the North East of No. 2 Silver Street.	Midsomer Norton Redfield	Rachel Tadman	Delegate to PERMIT

05	12/04515/FUL 21 December 2012	Mr Andrew Davies Beechen Cliff School, Kipling Avenue, Bear Flat, Bath, BA2 4RE Alterations and extension to existing Sixth Form Block to form a new Student Accommodation and Classroom Block	Widcombe	Alice Barnes	PERMIT
06	12/05093/FUL 23 January 2013	Towens Of Weston Ltd Old Coal Yard, Marsh Lane, Clutton, Bristol, Bath And North East Somerset Erection of steel framed building with external cladding to roof rear and two sides, front elevation to remain as open portal	Clutton	Tessa Hampden	PERMIT

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

Item No: 01
Application No: 12/01999/EFUL
Site Location: Former Bath Press Premises Lower Bristol Road Westmoreland Bath
BA2 3BL



Ward: Westmoreland **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor S Ball Councillor June Player
Application Type: Full Application with an EIA attached
Proposal: Mixed-use redevelopment comprising 6,300sqm of retail (Class A1),
4,580sqm of creative work space (Class B1), 2,610sqm of offices

	(Class B1), 220sqm of community space (class D1/D2), 10 residential houses, basement car park, landscape and access (including realignment of Brook Road)
Constraints:	Agric Land Class 3b,4,5, , Flood Zone 2, Forest of Avon, General Development Site, Hazards & Pipelines, Hotspring Protection, Tree Preservation Order, World Heritage Site,
Applicant:	Tesco Stores Limited
Expiry Date:	3rd September 2012
Case Officer:	Sarah James

REPORT

This application was withdrawn from the December 2012 committee agenda following the receipt of new third party representations to enable the Local Planning Authority to consider the effect of those representations in relation to the Sequential Test. Further details of the assessment of this issue are set out in the retail considerations of the report below.

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application is a major development which is contrary to the Council's adopted Policies and has complex planning considerations. The Development Manager therefore has requested that the application be determined by the Development Control Committee in line with the provisions of the Council's scheme of delegation. The Ward Councillor has also requested that the application be determined by the committee.

DESCRIPTION OF SITE AND APPLICATION:

The site is located approximately 1 km to the west of Bath City Centre within the area of East Twerton. It covers an area of approx 3 hectares. The site is bounded to the north by Lower Bristol Road (A36), by residential properties to the south and the residential streets of Brook Road and Dorset Close to the west and east respectively. The site is within the City of Bath World Heritage Site.

Opposite the site, on the northern side of Lower Bristol Road, is a series of garages, beyond which is the former gas works site and the River Avon. The former gas works and adjacent developed and undeveloped land north of Lower Bristol Road form the area of the proposed Bath Western Riverside development. There are existing residential properties to the south of the site which have frontages onto South View Road and Denmark Road. Oldfield Park Infant School is located along Dorset Close to the east of the site. The site is bounded on its west side by Brook Road. Residential properties and the Royal Oak public house front onto Brook Road.

The last use of the majority of the site was as a print works (Bath Press), which ceased operations in 2007. On the western half of the site there are two warehouse buildings associated with the former printing activities, and a tyre depot on the corner of Lower Bristol Road and Brook Road. Located on the eastern half of the site is the main former Bath Press building.

It is proposed to demolish the existing buildings on-site whilst retaining the historic print works facade fronting Lower Bristol Road. The facade would be retained by a steel frame, and would in part be tied back to the new buildings. The existing fenestration would be

partially removed and replaced with new infills. The existing factory chimney would also be retained. The building would be developed with a mix of uses comprising of retail floor space, creative work units, Offices (B1) 10 houses and community space. There would be a public square/circulation space behind the retained façade which would be enclosed by the faced, retail store, office building and residential dwellings.

The Proposed Retail Store

The proposed retail store would be located within the central part of the site facing the Lower Bristol Road. It would have 6,300 m² (gross internal area) floorspace. The application states that there would be a net sales floorspace of 3,383 m² (excluding checkouts, lobby areas, customer toilets and other space not accessible to the customer) . A café would be located in the north east corner of the store and staff rooms canteens offices and general storage would be located in the southern end of the building. Warehouse and refrigeration areas would be located to the west and to the west of this would be an external enclosed loading bay. This would receive all store deliveries with access from Brook Road. Pedestrian access would be from the Lower Bristol Road to the north and a pedestrianized space to the east. A travelator adjacent to these entrances would provide access to a lower level car park located below the store. The car park is not a conventional basement, since the store floor level is approx. 3m above the pavement level on Lower Bristol Road. This creates the need for a series of ramps, steps and raised walkways to provide pedestrian access. A separate staff entrance would be located in the south western corner of the building leading out onto Brook Road.

It is proposed that the store would be open from 06:00 to midnight Monday to Saturday and 10:00 to 16:00 on Sundays (outside of these hours there would be staff working within the building). It is estimated by the applicant that the retail store would create 350 full time (equivalent) posts.

The building would be single storey, (although is elevated from pavement level to make it appear as if at first floor), and have a low pitch roof. It would be approx 7.5 metres high with ventilation additions to the roof that would reach a maximum approximate height of 11 metres. The building would be located behind the existing Bath Press façade which would be retained. There would be a pedestrian walkway between the retained facade and the new building. The new building would be clad in Bath stone, with glazing around the main entrance onto Lower Bristol Road.

Creative work units

An L-shaped building containing work units within B1 of the Use Classes Order is proposed to wrap around the north west corner of the store so as to address the A36 Lower Bristol Road and Brook Road and the prominent junction. The building would be three storey facing onto the north western corner of the site. A further two storey terrace would be located to the east of the store. The total proposed B1 work unit floorspace would be 4,580 m².

The three storey unit is designed as a series of vertical Bath stone columns which span two storeys. Above the columns a horizontal Bath stone beam would align with the retained façade. At second floor level the building would be set back and made up of lightweight glass and steel reducing the dominance of this upper storey. The two storey terraced building is designed with gable fronted units to accord with the design of the

dwelling terrace and the building would overlook an area of public space. The facades comprise of a combination of brick and glass.

Offices

2610m² of office space is proposed in a part 2 and part 3 storey block at the eastern end of the site. The office building facing the Lower Bristol Road would comprise Bath stone and vertical glazing in keeping with the treatment of the retained façade. Along its eastern and western edge a more industrial treatment has been adopted comprising primarily red brick with a saw tooth roof. It would have a maximum building height of 11 metres.

Community Space

A two storey community hall is proposed in the east of the site integral to the office block.

Residential

Ten two-storey houses are proposed in the south east of the site along the south boundary. The residential dwellings would be traditional in appearance similar to dwellings in Denmark Road to the south. They would be faced in Bath stone with red brick to the rear façade. The dwellings would have pitched roofs and be approximately 9 metres from ground to ridge. They would have small south facing gardens and front courtyards. The houses would have solar panels on the roofs.

Museum and Community Space

A one storey museum and two storey community hall are proposed in the east of the site integral to the office block.

Highways and access

The main direct pedestrian access onto the site is proposed from the A36 Lower Bristol Road utilising steps to reach a walkway provided behind the retained façade at an elevated level above the street. A further pedestrian route is proposed from Dorset Close also utilising steps and ramp. There is also a less direct ramped route on the site frontage to the west of the main entrance.

A new principal vehicular access is proposed off a realigned Brook Road in the west of the site. This would provide the main service access into the retail store service yard. Deliveries for other uses would be via a lay by in Dorset Close or via the car park situated beneath the proposed store.

Alterations would be made to the A36 Lower Bristol Rd/A3604 Windsor bridge junction, including road widening and additional lanes.

Parking

The car park would be excavated to a depth of approximately 4 m below ground level at the southern half of the site but much shallower compared to the levels of Lower Bristol Road, due to the falls across the site. It is possible that deeper piles may be required up to 15 metres below ground level. The proposed car park would be 13,330 m² and would accommodate 395 car parking spaces including 26 spaces for the offices and work units. The car park would be protected by a flood gate at the entrance. Cycle parking would comprise of 55 stands located across 4 separate cycle parking areas including 10 stands located in the car park.

Some existing residential parking use of the former Bath Press Yard would be re-provided and this would be accessed from Brook Road. 29 spaces would be provided for existing local residents in the south west of the site. 9 spaces for the new residential units and one car club space would be provided at street level adjacent to Dorset Close.

Landscape works

A new square of public open space would be created between the office building and the supermarket. Stone paving is proposed to reflect the materials within the retained facade and new buildings with some block paving. Street tree planting would be introduced around the square with planters along some site boundaries such as the edge of the front gardens of the proposed dwellings. An existing red brick retaining wall along the south east of the site, bordering the rear gardens of properties on Denmark Road, would be retained. A landscaped boundary fence would be provided in the south west of the site, to the north of the existing residents' parking area, to provide an acoustic and visual barrier to the proposed car park ramp and service yard.

Sustainability

A range of technologies have been employed within the scheme including sustainable ventilation, roof lights, SUDS, rainwater harvesting, solar panels, air source heat pump, and a combined heat and power unit. The office buildings are specified to reach beyond the requirements of Building Regulations Part L and the residential units have been designed to achieve code level 3 for Sustainable Homes.

The application is accompanied by an Environmental Impact Assessment with the following Technical Appendices submitted - Scoping, Air Quality, Site Description, Cultural Heritage, Landscape and Townscape Visual Assessment, Traffic and Transport, Ground Conditions, Natural Heritage, Noise and Vibration, Water Environment, Environmental Assessment (non technical summary). The following additional documents accompanied the application - Environmental Sustainability Review, Planning and Regeneration Statement, Design and Access Statement Retail Assessment (including Household Survey Results, Historic Appraisal, Statement of Community Engagement, Building Condition and repair Survey, Arboricultural Survey, Site Statutory and Utility Services Report, Flood Risk Assessment, Supplementary Transport Assessment 1 and 2.

RELEVANT PLANNING HISTORY:

11/02674/EFUL - Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,830sqm of offices (Class B1), 10 residential houses, car park, landscape and access (including realignment of Brook Road). Appeal lodged against non-determination and subsequently withdrawn.

10/03380/EFUL -Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,610sqm of offices (Class B1), 220sqm of community space (Class D1/D2), 10 residential houses, car park, landscape and access (including realignment of Brook Road). This application was withdrawn.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

PLANNING POLICY - Comments made 28th June. The development would be harmful to the Council's retail strategy and an objection has been raised. Consideration has been

given to the employment element of the proposal. The NPPF states that significant weight should be placed on the need to support economic growth through the planning system. However, the current evidence casts doubt on the demand for new employment space in Bath in the short to medium term. There is consequently doubt that the employment elements would either be implemented or occupied in the short to medium term. The current evidence supports the conclusion of the Committee Report for the previous Bath Press application (10/03380/FUL) that the benefits of job creation as part of this scheme are 'not so great so as to warrant significant positive weight being given to this aspect of the proposals so as to override other harmful impacts that would arise'.

Further comments made 30th July 2012. I have read through the new information submitted by Terence O'Rourke (applicants' agent) (regeneration statement 13th July) and note that they reiterate previous comments regarding job creation. I also note however that they have not addressed concerns raised by Planning Policy (dated 28th June) regarding the current demand for employment space in Bath in the short/medium term and the likelihood of the employment space being occupied. Until Terence O'Rourke address this issue, there has to be an element of doubt over the implementation of this part of the proposal, and the subsequent weight attached to the perceived economic benefits that this would bring.

HEALTH AND SAFETY EXECUTIVE - Comments generated through PADHI +, HSE's planning advice software tool - The assessment indicates that the risk of harm to people at the proposed development is such that the Health and Safety Executive's advice is that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission.

The HSE commented informally on the 12th July 2012 that to date the HSE are not satisfied that suitable mechanisms can be agreed to address the HSE objection and therefore that objection still stands.

The HSE commented further on the 12th September that it was their understanding that Tesco/St James Investments would accept certain planning conditions that would permit the construction of the development, which could be phased with the process of revocation of the Hazardous Substances Consent. The conditions would not allow occupation of the completed development until the gasholders have been decommissioned, there is a clear process to prevent planning permission of facilities posing a major accident hazard to the general public, and there is a process underway to revoke the Hazardous Substances Consent. On the understanding that Wales and West Utilities are the current landowner of the Windsor House gasholder site, they must be a co-signatory to the S106 Agreement. It therefore follows that they can be reasonably expected to be prepared to give an undertaking that once the gasholder station site has been decommissioned in accordance with the terms of the agreement, then neither they nor their successors in title will seek to re-establish the gas storage use on that site unless a further planning permission is granted to that effect. A S106 Agreement is registered as a Land Charge and its provisions will remain in force in the event that the land is sold on.

HIGHWAY DEVELOPMENT OFFICER - Comments made 8th June 2012. In summary, Highway officers are not satisfied regarding the submitted Transport Assessment, the acceptability of the impact of the proposed development on the operation of the public highway and, in particular, the A36 Lower Bristol Road/ A3604 Windsor Bridge Road

junction. Furthermore, we remain to be satisfied regarding the adequacy of car and cycle parking provision, taxi drop-off/pick-up provision, service access for all end users, ability to service/access The Royal Oak PH and with regards to highway safety. Bearing this in mind, the highway response is one of Objection

Further comments made 11th July 2012 - Having considered the 1st Supplementary TA (13/05/12), Letter dated 15 June 2012, and 2nd Supplementary TA, the highway objection remains. Many of the queries/issues remain to be properly addressed and numerous assertions made, together with methodologies, have not been supported by evidence. Bearing this in mind, we are not in a position to agree that the submitted information accurately demonstrates the transport effects of the proposed development.

Further comments made 12th September 2012 respond to a note by WSP dated 6th August 2012 and confirm that highway objections remain.

AIR QUALITY MONITORING OFFICER - comments made 3rd July 2012 - Although the results from the submitted air quality assessment show that there is a substantial adverse impact at 2 locations and a moderate adverse impact at further locations, little or no mitigation has been offered for these effects of the development. The National Planning Policy Framework (as stated in the assessment) says "Planning decisions should ensure that any new development in an Air Quality Management Area (AQMA) is consistent with the local Air Quality Action Plan." The Bath AQMA includes the façade of the building and therefore the building would be deemed to be included within the area. The Bath Air Quality Action Plan aims at reducing air pollution within the AQMA. Therefore this application is not consistent with the action plan and an Objection is raised. Mitigation is suggested and before any development proceeds a Construction Environmental Management Plan should be agreed.

HIGHWAYS DRAINAGE OFFICER comments dated 21st May 2012 refer to the need to consult with the Environment Agency and agree discharge rates with Wessex Water. It is considered that the drainage strategy on the site makes limited use of Sustainable Drainage systems and this should be reviewed.

ENVIRONMENT AGENCY - Comments made 20th June 2012 raise no objections subject to conditions.

WESSEX WATER - Comments made 14th June 2012 - Advise that public apparatus may be affected by the development and diversion or protections works may be required and are to be agreed and implemented before building works are started. A contribution to the cost of uprating the sewerage system may be required (if flows are increased). The developer will need to agree drainage matters further with Wessex Water. On site drainage will not be offered for adoption and therefore will need approval of the Local authority. The Hot Springs Act may be relevant to consider in respect of this proposed development.

ECOLOGY - Comments made 2nd July 2012 - Findings from an updated ecological survey have been included in the Environmental Statement and conclude there are no significant changes to ecological issues at the site since the previous application at the site was considered. The updated surveys included an inspection of the buildings for bats and it was concluded from these, together with the results of previous bat emergence

surveys (September 2010) that no further bat surveys are required at present. If works do not begin on site this year before next spring then emergence surveys should be included in any necessary future ecological survey updates. Although the buildings, in part due to lighting and noise issues at this location, may not be ideally suited to use by bats, the potential for their use is still there and potentially increases over time. Conditions are recommended.

NATURAL ENGLAND - Comments made 7th June 2012 -No Objection

ENGLISH HERITAGE - comments made 2nd June 2012 confirm it is not necessary to consult English Heritage on the application.

COMMISSION FOR ARCHITECTURE AND THE BUILT ENVIRONMENT (CABE) - Comments made 1st June 2012 advise that due to resources CABE are unable to review the scheme.

ARBORICULTURAL OFFICER - Comments made 13th June 2012 - The proposal results in the loss of all existing trees within the site which currently contribute towards the public domain in this prominent location. The indicative tree planting sites and a number of suggested species shown on the Landscape Masterplan appear too optimistic in view of the limited space made available. Space should be provided for large, long lived, landmark trees which have the space to develop without requiring regular pruning to limit their size.

CRIME PREVENTION OFFICER - Comments made 25th May 2012 An objection is raised. A range of issues are identified including the design of the underground parking and access ramp, parking for disabled, cyclists and the proposed housing and some design features of the terrace housing and street furniture as they consider they could be used for purposes other than those for which they were designed.

CONTAMINATED LAND OFFICER - Comments made 24th May 2012. No Objection but conditions are recommended to carry out a site investigation and risk assessment.

BRITISH WATERWAYS - 22nd May 2012 confirm no comments are made

ARCHEOLOGICAL OFFICER - Comments made 1st June 2012. A desk based archaeological assessment of the site, has been submitted and approved and no objections are raised subject to conditions.

EDUCATION OFFICER - Comments made 25th May 2012- Seek a total contribution of £29,438.63 towards early years, youth provision and school places.

ECONOMIC DEVELOPMENT OFFICER - comments made 8th June 2012. Support the application on the basis that it would provide modern office and creative workspace which could generate employment and it would assist in the removal of the Windsor Bridge Gas Holders facilitating the Bath Western Riverside regeneration.

STRATEGIC HOUSING SERVICES - Comments made 9th July 2012. Advise that they cannot support this application as it fails to address B&NES adopted Planning Policy HG.8 in terms of the lack of provision of affordable housing.

OTHER REPRESENTATIONS / THIRD PARTIES

The following Objections have been received:

Homebase: Have written to comment that there is no deal or Agreement in place for Sainsbury's to acquire or develop the Homebase store and that Homebase remain fully committed to this store which trades successfully and on which they have a lease until the 20th December 2020.

CO-Operative Group: Object on the basis of the unacceptable and harmful impact on the vitality and viability of the Moorland Road District Centre. They also consider the BWR East area to be sequentially preferable. They point out that the household survey commissioned by the applicant carried out by NLP incorrectly assessed the trade of the Co-op. They state that the trade of the Co-op is closer to the level predicted by the 2011 WYG Household survey for Sainsbury's. Therefore any trade diversion shown from the Co-op will have a greater impact on its turnover and will result in a lower resultant turnover. It is further noted that NLP forecast that the opening of the proposed Tesco store will result in Co-op having a turnover at 75% of its benchmark. Given the NLP study have incorrectly assessed the Co-op turnover we see this resultant turnover figure being much lower, to a point at which the store becomes unviable. Further comments are made on the applicants' household survey challenging the methodology and results.

Sainsburys Supermarkets: Retail comments are that the proposal fails the Sequential Test, and would impact harmfully on the Moorland Road shopping area. It points out that the NPPF tests are not met and the proposed development is inherently unsustainable. Transport comments are that the applicant has not provided sufficient data to assess the submission made and errors or omissions in the data provided present an overly optimistic assessment. There are concerns that the impact on the Lower Bristol Road/Windsor Bridge junction will be severe. Further comments made disagree with the applicants' response to the concerns raised in particular raising the lack of information relating to traffic modelling.

Royal United Hospital: The RUH appointed consultants to assess the impact on the hospital. The consultants concluded that the applicants' transport assessment is unduly optimistic and the traffic created would have an unacceptable impact on hospital traffic particularly emergency vehicles. The congestion caused would also adversely affect staff and patients travelling to the hospital.

Bath Heritage Watchdog: There are a number of concerns raised with regard to the detailed design and the proposals for the retention and integration of the façade which do not go far enough.

Bath Preservation Trust: The form and design of several of the new building elements had insufficient detail in terms of materials, lighting and landscaping, and there were inconsistencies between the drawings and supporting documents. The development should do more to reduce dependency on the private car.

Vineyard Residents Association: Object to this application due to the impact the development would have on traffic on the Lower Bristol Road (A36) (congestion and poor

air quality raised as a concern) , Windsor Bridge and the Upper Bristol Road on the other side of that bridge, on traffic in the city more generally, and so on residential amenity.

Federation of Bath Residents Associations (FoBRA) comments made raise serious concerns about the volume of traffic, its management at the crossroads with Windsor Bridge, and severe congestion along the Lower Bristol Road (A36), Windsor Bridge Road and the Upper Bristol Road on the other side of the bridge. Congestion and pollution would be unacceptable.

Councillor June Player has objected on the basis that due to the location of the site and the size of the proposed development it is contrary to a number of Policies of the Bath & North East Somerset Local Plan including minerals and waste policies, Adopted October 2007. Particular concerns are raised regarding the highway impact and the impact on Moorland Road.

Councillor Sharon Ball has objected on the basis that:- The over domination of traffic on a junction on Brook Rd is overbearing and will not be able to cope with the release of cars from the underground car park. The effects on pollution and increased amount of traffic on the Lower Bristol Road and at Brook Road have not been resolved. The over dominance of the supermarket on this site is against council policies and exceeds the available shopping needs requirements. No work has been carried out to accurately assess the effects that the store would have on the neighbouring Moorland Road. The Health & Safety Executive have ruled out development on this site whilst the gas tower remains. There seems to be little work carried out to mitigate the pigeon population that would nest on the roofs.

52 Residents have objected on the following grounds :

Impact on Moorland Road shopping area (business and social)

The location of the refuse will create vermin and smell nuisances to the detriment of residents nearby.

Road widening and roundabout

Proximity to other supermarkets

Seagull nuisance

There are existing empty offices available new ones aren't needed.

Noise and disturbance locally (during and after construction)

Wrong location

Traffic impact

Loss of existing industrial fabric

Poor design approach

Inadequate parking

Impact on the structural integrity of bridges

Impact on local school children

Not sustainable

Inadequate detail of waste proposals

Opening hours will create traffic later in the evening when the area would usually become quieter

Consultation exercise carried out was inadequate

A further supermarket is not needed.

Poor provision for pedestrians and cyclists

Impact on air quality and the Air Quality Management Plan

5 Residents have written to support the application on the following grounds

Regeneration benefits

Job creation

Re use of derelict site

1 letter raising general comments has been received

POLICIES/LEGISLATION

POLICY CONTEXT:

REGIONAL PLANNING GUIDANCE 10

Policy EC6 Town Centres and Retailing

JOINT REPLACEMENT STRUCTURE PLAN 2002 - saved policies

1 - Sustainable Development

2 - Locational Strategy

4 - Transport strategy

6 - Bath

30 - Employment sites

33 - Level and distribution of housing

38 - Town centres and shopping

40 - New Retail

41 - Local shopping

54 - Car parking

58 - Transport

ADOPTED LOCAL PLAN

Bath & North East Somerset Local Plan (including Minerals and Waste policies) 2007

IMP.1 Planning obligations

SC.1 Settlement classification

NE1 Landscape Character

NE.11 Species and Habitats

NE13A Bath Hot Springs Protection Area

NE.14 Flooding

HG. 1 Meeting the District's housing need;

HG.4 Housing Development

HG7 Housing Density

HG.8 Affordable housing

D.2 General Design and public realm considerations

D.4 Townscape considerations

ES.1 Renewable energy Generation

ES.2 Energy Use Reduction

ES.4 Water Supply

ES.5 Foul and surface water drainage

ES.9 Pollution and Nuisance

ES.10 Air Pollution
 ES.12 Amenity
 ES.13 Hazardous Substances
 ES.15 Contaminated land
 T.1 Travel and transport
 T.3 Pedestrians
 T.5 Cyclists
 T.6 Cycle Parking
 T.16 Transport infrastructure
 T.24 General Development control and access policy
 T.25 Transport assessments
 T.26 On-site parking and servicing provision
 ET.1 Employment Land Overview
 ET.2 Office Development B1a and B)
 ET.3 Non Office Business Development
 BH.1 World Heritage Site
 BH.5 Local List of Buildings
 BH.12 Archaeology
 BH.22 External lighting
 CF.2 Community facilities
 SR.3 Provision of recreational facilities to meet the needs of new development
 S.1 Retail Hierarchy
 S.4 Retail Development outside Shopping Centres

Supplementary Planning Document 'Planning Obligations'

The Bath and North East Somerset Submission Core Strategy (May 2011) is currently subject to Examination and there is some uncertainty over parts of it therefore it can only be given limited weight for development management purposes. The following policies should be considered

CP2: Sustainable construction
 CP3: Renewable Energy
 CP5: Flood Risk Management
 CP6: Environmental Quality
 CP7: Green Infrastructure
 CP10: Housing Mix
 CP12: Centres and Retailing
 CP13: Infrastructure provision
 DW1: District-wide spatial Strategy
 B1: Bath Spatial strategy
 B3: Twerton and Newbridge Riverside Strategic Policy
 B4: The World Heritage Site and its setting

NATIONAL PLANNING POLICY FRAMEWORK has been published and its policies are relevant to the case.

OFFICER ASSESSMENT

PLANNING CONSIDERATIONS:

PLANNING HISTORY: Applications 11/02674/EFUL and 10/03380/EFUL were for a similar form of development to the current application. Application 10/03380/EFUL was withdrawn. However application 11/02674/EFUL was appealed for non determination. In January 2012 the Development Control Committee resolved that had it had an opportunity to determine the application, it would have refused the development on 5 grounds relating to gas risk, retail impact, sequential approach to development and highway impact. That recent resolution is a material consideration.

DEPARTURE: The proposal includes retail development in a location that is 'out of centre' and is not in accordance with the Development Plan for the area and exceeds the 5,000 square metres floorspace referred to in relevant guidelines. Consequently if Members were minded to approve the application it would be necessary, in accordance with the Town and Country Planning (Consultation) (England) Direction 2009, to refer the decision to the Secretary of State.

LOSS OF EXISTING USE: The Local Plan forecasts the need for a managed reduction of industrial-type floorspace (B1c/B2/B8), which is incorporated into Policy ET.1 as indicative guidance on the scale of change appropriate. Policy ET.1 indicates a net reduction in Bath of 17,500sqm from 2001 to 2011.

Broadly speaking, during the Local Plan period there has been a net reduction in industrial floorspace within Bath of about 15,000 sq.m against the indicative managed reduction limit of 17,500 sq.m. Policy ET.3 states that the loss of land and floorspace for non-office development will be judged against the extent of positive or negative progress being made in achieving the managed net reduction set out above, and also against the following criteria; whether the site is capable of continuing to offer adequate accommodation for potential business or other similar employment uses; or whether continued use of the site for business or other similar employment uses would perpetuate unacceptable environmental or traffic problems; or whether an alternative use or mix of uses offers community benefit outweighing the economic or employment advantages of retaining the site in business or other similar employment uses.

Policy B1 (2e) of the Core Strategy continues the theme of a managed reduction of industrial floorspace. Broadly speaking the loss of 40,000 sq.ft. of industrial floor space will be required in order to deliver the regeneration objectives for the River Avon Corridor. Policy B3(4aiii) requires that proposals for the loss of industrial land and floorspace at Twerton Riverside be assessed against evidence of current and future demand, the availability of suitable alternative provision within Bath for displaced occupiers and the benefits of the alternative uses being proposed. Policy B3(4aiii) serves as a check/balance to ensure proper consideration of industrial losses at any point in relation to actual evidence on the ground and/or unforeseen or changing circumstances.

The loss of industrial floorspace on this site would mean that the total managed loss referred to in policy ET.1 is exceeded but this is considered to be acceptable due to the proposed new employment uses (B1 and offices) that form part of the proposal and the current evidence in relation to demand. After considering the Local Plan and the Employment land and site specific policies of the Submission Core Strategy policy for the Twerton Riverside it is considered that the loss of the existing employment use is acceptable in principle.

HOUSING: Housing is in principle acceptable within the City limits subject to other policies of the development plan. The application proposes a small amount of housing (10 units) and this is acceptable in principle. This would be located near the school and other residential housing, is set back from the road and is in keeping with the locality in respect of its appearance. The design and location of the housing is considered therefore to be acceptable. The applicant confirms that affordable housing would be provided in accordance with the requirements of the emerging core strategy. The appropriate level of affordable housing could be secured by a Section 106 if the application were to be found acceptable.

OFFICE: The site is located so as to be associated with the central area of Bath and it is also located on a key transport route into and out of the city. The principle of new office uses is therefore acceptable under the terms of Policy ET.2. The B1 use is acceptable to be located alongside residential uses as has been proposed and the office proposals are also acceptable in principle.

RETAIL: The Local Planning Authority commissioned a firm of retail consultants, GVA Grimley ("GVA"), to update its Retail Floorspace Quantitative Need Assessment in 2011. That update is publicised on the Council's website and is used in the consideration of The Bath & North East Somerset Local Development Framework incorporating the Core Strategy and relevant documents of the Regeneration Delivery Plans.

The applicant has submitted a Town Centre and Retail Statement ('TCRS'), prepared by Nathaniel Lichfield partners (NLP), in support of the proposal. GVA have been appointed by the Council to assess that submission. The advice provided by GVA to the Council also refers to their previous retail advice provided in respect of the very similar scheme previously considered by the Council and recently withdrawn by the applicant. As part of the assessment the supermarket element of the proposed development has been considered against relevant policies within the development plan for the area and material planning policy considerations including the policies contained within the National Planning Policy Framework ('NPPF'). Given the location and planning policy status of the application site, the supermarket element of the proposed development has to be assessed against the sequential approach to site selection as well as in terms of its impact on nearby defined retail centres.

The independent retail advice prepared on behalf of the Council does not reach the same conclusions as the applicant's submission. The analysis carried out for the Council concludes as follows:-

Sequential Approach and Site Location

The NPPF advises that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations, and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. It further advises that when assessing large retail proposals the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the

proposal and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made must be assessed. It then advises that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

In considering the sequential approach in this case a number of factors have been looked at including site availability and suitability. Within the Local Plan, the Tesco application site is not allocated for any specific land uses and lies in an out-of-centre location. The nearest centres are located along Lower Bristol Road (to the east) and Moorland Road district centre (to the south). In relation to the sequential approach to site selection it is considered that Western Riverside East is a suitable, available and viable alternative to the application site and which lies in a location which should be given preference due to its location and relationship with the city centre, plus its planning policy context. This assessment is made on the basis of the location of BWR East on the western edge of the existing Bath city centre, where it is able to benefit from the inherent sustainability in access terms of a central location with public transport links available to and from all parts of the city, and with the opportunity for linked trips with other central facilities using park and ride bus services and city centre car parks.

In addition, the Council's Supplementary Planning Document for Bath Western Riverside (adopted in March 2008) and the Draft Core Strategy jointly set out the Council's intention that the city centre should be encouraged to extend westwards along James Street West, and through Green Park Station into BWR East, where a wide range of new city centre facilities are proposed within what the SPD refers to as "The City Extension". The potential retail and commercial development of BWR East is thus in full alignment with the Council's adopted and emerging Strategic Planning Policies, the implementation of which would be undermined and prejudiced by the proposed development on the former Bath Press site. Consequently the proposed development does not meet with the sequential test.

Update to considerations of the Sequential Test

Following representations by the current occupiers of the Western Riverside East location i.e. Homebase, further evaluation has been made of that sites availability in relation to the sequential test.

Relevant considerations are that :-

- Homebase have an existing lease on their premises at Pines Way which is due to expire in December 2020;
- Homebase remain committed to their existing store, but are willing to consider the option of redeveloping their existing store to provide a more modern store or relocating to another site outside Bath Western Riverside, subject to either being feasible, viable and meeting their operational requirements.

The following issues are considered important in relation to the assessment of the sequential approach:

- the site which is considered to offer a sequentially preferable alternative to the application site is currently occupied by another retailer i.e. Homebase with no formal agreement yet in place to relocate Homebase;
- the current lease for Homebase expires in eight years time
- Homebase has not ruled out the option of relocating from its existing premises before this date;
- there is no certainty that the Homebase lease will be renewed beyond 2020;
- there is not a significant or urgent requirement for additional convenience goods floorspace within Bath, based on both quantitative and qualitative factors. Quantitative capacity to support a new store the scale proposed by Tesco is only likely to arise at around 2026; and
- the Western Riverside East site is in a location which is a preferred area of expansion for the city centre up to 2026.

Based on the above factors, it is considered that there is no immediate pressure to choose a site, such as the former Bath Press site, for supermarket development in circumstances where it may take longer than the immediate short term to make a sequentially preferable site available for development and where there is no immediate need for a new supermarket development.

DCLG's 'Practice Guidance on Need, Impact and the Sequential Approach' clarifies that whether it is appropriate to assess availability over three to five years, or a longer time period will depend upon local circumstances. In this instance, the local circumstances point to a longer period, extending up to the end of the Homebase lease, which is supported by the scale of expenditure capacity for new convenience goods floorspace and the expansion of the city centre in a westerly direction within the time period up to 2026.

On this basis, whilst the desire of Homebase to continue to occupy a successful trading location in Bath has been taken into account in this assessment it is not considered to be the case that the potential lack of availability of the existing Homebase site in the short-term should lead the Local Planning Authority to a conclusion that the Western Riverside East area will not be available within a reasonable amount of time given the local circumstances in this instance.

Consequently it is considered that the Western Riverside East site should be regarded as a suitable, available and viable alternative location to the application site.

Convenience Goods

Following the grant of planning permission for a new Sainsbury's store at Odd Down (and its recent opening), along with the recent significant expansion of the Waitrose store in the city centre and a resolution to grant planning permission for a Lidl foodstore on Lower Bristol Road (this is delegated to permit and awaiting completion of a s106 planning obligation), there is limited current quantitative capacity to support new convenience goods floorspace in Bath. A recent decision to permit an extension to the existing Sainsbury's store at Green Park (within BWR East) is for a modest sized extension but would take some of that capacity.

The Tesco proposal would far exceed the identified retail capacity available. Larger levels of capacity only arise from 2021 onwards but, even then, a large new food store would be likely to have some adverse impacts on existing facilities, and the impact of any proposed

development would need to be assessed carefully. These impacts would be greater if a large new store was opened at an earlier date. Based upon the available data there is insufficient quantitative capacity to accommodate the proposed Tesco store in addition to those for which planning permission has been granted or resolved to be granted.

Convenience Goods Impact

The District Centre of Moorland Road is located approximately 400 metres south of the current application site. If permitted the Tesco store would have a significant adverse impact upon the vitality and viability of the Moorland Road District Centre principally as a result of the lack of quantitative capacity to sustain the additional retail store in this location. On the basis of GVA's updated Retail Need Assessment, the Council has been advised the proposed Tesco store would significantly reduce the turnover of the Co-Op store in Moorland Road, and thereby would have a significant financial impact upon the store. Faced with that impact, and a residual turnover level which would as a result be well below the average Co-Op store turnover, the future of the Co-Op would become uncertain. Indeed, closure of this store, given the scale of the likely reduction in its turnover and competition from the new Tesco store nearby, would be a very real possibility. The closure of the Co-Op would lead to a significant adverse impact upon the health of Moorland Road district centre. As the centre's anchor store, it attracts a large number of shopping trips to the centre, and many if not all of these would be lost. In addition to the impact on the Co-Op, other parts of Moorland Road's convenience goods retail sector would see a reduction in their turnover levels. Whilst the scale of financial impact upon these other stores is lower than on the Co-op, store closures cannot be ruled out due to the proximity and trading strength of the proposed Tesco store, which stores in Moorland Road would find hard to compete with. The consequential effect of the impact of the Tesco store on Moorland Road would be to reduce choice and competition in the district centre and the range of goods which it is able to offer to visitors, whereas the Council's specialist retail advice indicates that a retail development at BWR East would be sufficiently distant from Moorland Road for this adverse effect to be avoided to a significant extent.

It has also been considered whether there could be any positive benefits associated with the Tesco proposal in terms of linked trips with Moorland Road district centre which could mitigate the direct financial impact suffered by existing stores. Taking into account the distance between the Tesco site and Moorland Road (approximately 750m from the proposed Tesco pedestrian entrance to the centre of the Moorland Rd shopping area), the lack of intervisibility between the two locations, the barriers to movement and the relative unattractiveness of the route it is unlikely that there would be a significant number of linked trips between these two locations. In short, the length and character of the route which shoppers would have to negotiate would not be attractive and it is very likely that shoppers visiting the Tesco store would simply use it as a stand-alone shopping destination.

The proposal would result in a substantial negative financial impact upon Moorland Road District Centre, with the effect that the overall vitality and viability of the centre could be damaged. This is contrary to policy S4 of the Adopted Local Plan. It would also be detrimental to the retail strategy/hierarchy of centres serving Bath as this vibrant District centre plays an important role in that hierarchy.

Comparison Goods

The evidence confirms that the Southgate development has soaked up previously identified capacity for additional comparison goods floorspace in Bath and part of the expenditure growth between 2011 and 2016. Given the scale of the Southgate development, the new retailers which it has attracted to the City, and churn effect (i.e. this is the natural and on-going in and out migration of occupiers of existing sites which release those sites for new occupiers to enter) it will cause on existing property across the City there is no need to plan for any significant new comparison goods floorspace in Bath until after 2016. Additional capacity could be required in the future and this potential is being appropriately planned for within the Core Strategy via small to medium sized retail development (as referred to in policy B1). This retail development would need to be accommodated in accordance with the sequential approach, where first priority is given to sites within the city centre, followed by edge-of-centre sites. The current Tesco application is in an out-of-centre location. It is anticipated that sites will be considered and allocated for further comparison retail development through the Placemaking Plan.

City Centre Impact

The proposals are not considered to have a significant impact upon the City centre.

COMMUNITY USE: The provision of community space is regarded as an overall benefit within the scheme subject to it being appropriately managed and controlled. Policy CF.1 of the Local Plan allows for new community facilities to be located within or well related to settlements. In this case the application site is located within Bath. The proposal to introduce community facilities would accord with a saved Development Plan policy. If the overall development were to be acceptable further details of that management and control might be appropriately sought.

WASTE

Further details on waste storage could be subject to a condition if the development were to be approved.

HIGHWAYS: The applicant submitted a Transport Assessment with the application and subsequently a 1st and 2nd Supplementary assessment. However, as explained in the highway officer's consultation response, the figures within the assessment submitted are strongly contested. Deficiencies have been identified in the methodologies used and the lack of evidence to support the assessments. It is to be noted that the proposed trip generation estimates are up to 30% lower than the previous TA produced to support the same development. However there is no robust evidence to support the claims made. It is also to be noted that at Saturday peaks there is insufficient parking provided to accommodate the number of visitors unless shopper visits are less than an hour, which is unlikely given the size of the store. This would lead to queues on the highway. During peak weekdays the applicant has claimed nil detriment during the morning and afternoon peak periods. However, this is using the drastically reduced predicted flows that are not backed by evidence and are not agreed as suitable. It is considered, in the absence of robust justification, that the store would give rise to congestion on the highway as well as problems with achieving access for service vehicles although it has been previously accepted that servicing could take place via vans in the car park and larger vehicles using the service yard subject to a Section 106 to secure this arrangement.

It is material that, in recognition of the current congestion difficulties that will worsen once the Bath Western Riverside development is complete, the Council has sought funding

from the Department for Transport for junction improvements to be made. That funding was secured as part of the Bath Transportation Package (BTP) in December 2011. It is anticipated that the works will take place during 2013. The BTP junction improvement work includes providing 3 full-width lanes on the A36 Lower Bristol Road western approach to the junction (providing additional capacity) plus a signalised pedestrian crossing on the A3604 Windsor Bridge Rd, which is currently uncontrolled.

The development proposes a similar improvement scheme on this arm of the junction, but with greater emphasis on improving right turning capacity into Brook Road. The benefit to existing users (including buses) is therefore negated by development-related traffic, such that the objectives of the BTP scheme (including reducing west-east delays) are not realised.

Transport consultants representing third party interests (Sainsburys) have raised queries with the proposed scheme which officers considered relevant. This included how development trips have been distributed across the network, which has implications for turning movements at the junction. However, despite a request from officers, the applicants consultants refused to respond to this issue.

The proposed development is therefore unacceptable on highway grounds and would give rise to a significant adverse impact upon the highway, exacerbating capacity and queuing problems at an already congested junction.

AIR QUALITY: There is an air quality concern due to the significant increases in nitrogen dioxide that would arise in the vicinity of the development. Whilst it is not considered appropriate to refuse the application on this basis it is considered that the issue is symptomatic of development that would not provide for efficient and sustainable transport. As already discussed within the report the development is out of centre, has limited opportunity for linked trips, and is likely to be used as a stand alone destination and the levels of parking provision demonstrate that many of these trips will be by car rather than more sustainable travel modes. It has been raised by a third party that air quality should be a separate reason for refusal however consideration has been given to this issue. It is considered most appropriate in this case to acknowledge that air quality is a problem in this location and that the development would exacerbate that problem. If the development were to be approved, appropriate mitigation would need to be discussed with the applicant and controlled as part of any decision. However it is of note that mitigation effects may be limited and the actual potential for mitigation is unclear.

DRAINAGE: A satisfactory flood risk assessment has been submitted and there are considered to be no flood risk or drainage issues arising from the development that cannot be appropriately and acceptably addressed through planning conditions in accordance with the advice of the Environment Agency and Highways Drainage Officer.

ECOLOGY: The proposals are agreed not to harm any ecological interests, subject to the imposition of suitable planning conditions. Based upon the current evidence of ecology known to be on the site a licence from Natural England would not be required and there would be no significant effect on any European Site or local site of nature conservation importance.

DESIGN AND LANDSCAPE: The application has taken the approach of retaining and integrating the existing façade and chimney whilst demolishing the rest of the building.

There are competing views on whether the design approach is appropriate particularly with regard to how much, if any, of the building should be retained. Design is a subjective matter and in this case the applicant has made a satisfactory case for the approach taken. However it would be appropriate, if the application were to be approved, that the repair and retention of the façade is secured within a section 106 planning obligation. The applicant has amended the design in response to concerns from Officers and on balance it is considered that in design terms the scheme is acceptable in terms of the design approach. Landscape opportunities within the site are limited. It is acknowledged that all trees within the site would be lost and that there are limited planting opportunities. However, this is an urban location and it is considered that, on balance, the development is acceptable and where opportunities for planting within the site exist this new planting can be conditioned and a scheme agreed to respond appropriately to the site and its context. It is considered that carriageway widening works outside of the site to the public highway would be visually detrimental in townscape terms as the highway would become more visually dominant, and this is to be regretted. However, it is considered that taking account of the limited extent of the changes and the fact that highway works and improvements could take place regardless of this planning application and may be required in connection with other development proposals in the area these impacts do not provide the basis for a reason for refusal.

CRIME PREVENTION: The applicant has in response to concerns raised by the crime prevention officer pointed out that a number of security measures are proposed within the scheme. These include as follows. Closed circuit television (CCTV), covering both internal and external areas, as well the public and private spaces. Security guarding, both in the store and across the site. Hard and soft landscape treatments to discourage crime and acts of anti-social behaviour. A range of car park management measures both for the street level spaces and basement car park. These will include specific lighting, access control, safety points and physical obstacles to improve the safety and security of these areas. Full electronic article surveillance (EAS), which is a technological method for preventing shoplifting from stores by attaching security tags to unsold items. The applicant has in addition proposed a number of conditions specifically to further address this issue. On the basis that conditions are proposed as suggested it is considered that the development is acceptable in respect of crime and security.

EDUCATION: If the application were to be found acceptable a sum by way of an education contribution would need to be agreed with the applicant in accordance with the Council's adopted Supplementary Planning Document. The absence of such a contribution would justify refusal however the applicant has indicated a willingness to address this.

ARCHEAEOLOGY: There are no archaeological objections to the scheme, however, conditions to monitor development would be required.

LAND CONTAMINATION: There are no land contamination objections to the scheme, however, conditions would be required to investigate and assess risk.

NOISE: The applicants have not submitted a noise assessment that predicts the noise level categories that the development would fall within. The applicant has advised that whilst the residential element of the scheme did not receive specific consideration within

the Environmental Statement, the baseline noise survey does contain a measurement at a location near to their proposed location, off Dorset Close. This places the location on the boundary of NEC A and NEC B. Taking account of the fact that no new residential properties are proposed in the vicinity of Brook Road but only in the area off Dorset Close, and the fact that the new residential dwellings are set back into the site and partially screened from major roads by other buildings, the residential element of the scheme would not be subject to noise levels so significant so as to warrant refusal of permission.

ADJOINING RESIDENTS: The site in its current condition makes no contribution to the locality and its redevelopment would improve overall residential amenities. The proposed mix of uses is appropriate to the locality and overall it is considered that the proposal would improve the amenity of local residents. It would remove unsightly vacant buildings and bring forward uses onto the site that would generate less noise than the extant use might generate and be more compatible with the local residential area and the adjacent school.

ASSESSMENT OF BENEFITS ASSOCIATED WITH THE DEVELOPMENT

JOB CREATION: Based upon the figure stated on the application form the proposed development would create 666 full time equivalent jobs. It is suggested in the application that these would broadly comprise of in the region of up to 60 jobs during construction, 350 full time equivalent retail jobs, 218 in offices, 97 in creative work space and one in the museum/community hall. Whilst it is acknowledged that the proposal would have the potential to create new jobs for the local population (in retail and office development as well as during construction) it is also to be noted that job opportunities could be lost from other stores in Bath as a result of the diversion of trade to the new Tesco store, in particular as discussed in the report from stores within the local area including independent stores in Moorland Road, and the Co-Op.

Given the current economic climate and the oversupply of existing offices in the City for which there is little current demand (as explained by the policy officer) there is also doubt as to whether some of the jobs would be delivered even if the accommodation were to be available. The applicant has not supplied any evidence that there is any interest in the creative work units and in particular no evidence that the office use is sought after. If the creative work units are meeting a demand, in the context of the overall development they would be a relatively small part of an otherwise harmful development.

Whilst some weight should therefore be given to job creation, it is considered that the benefits arising from this specific development are not so significant as to outweigh the harmful impacts that would arise.

RETAIL CHOICE: The applicants suggest that the proposed development would provide an improved choice of food retailers in the area. It is considered that there is no evidence that is the case. This report highlights that there may be various retailers both from multiple and local shops that may be adversely affected to the point they may close. In addition the taking-up of retail capacity on this out-of-centre site may stifle the development of other sequentially preferable sites.

HIGHWAYS and PUBLIC REALM: The applicant suggests that the development would provide substantial highway and public realm improvements that will help address existing congestion problems as well as cater for new development in the Bath Riverside Corridor.

With regard to this claim it is the Highway officers' advice that the development would have a very significant adverse impact upon the highway to the detriment of both existing and planned development. Public realm improvements are largely contained within the site (i.e. the public square), and these are not considered to be of such outstanding quality or value to the area as to outweigh the harm which the development would cause.

SITE REGENERATION

It is considered that the site's regeneration in the broadest sense would be of benefit and should be afforded weight. In its current vacant condition the site makes no positive contribution to the visual amenities of the area it is inaccessible and it does not provide any economic or social benefits which it is accepted could arise through the proposals. However the benefits must be balanced against the harmful impacts discussed within other Sections of the report. Furthermore, it has not been demonstrated that other high value land uses that could have less harmful impact such as a different mix of uses with a smaller level of retail and therefore potentially a lower traffic generating use could not achieve the same (or even an improved) level of regeneration benefit.

It has also not been demonstrated that regeneration of this site would act as a catalyst to the development of other sites along the river corridor. Development along this route is being brought forward although it is of note that some of that development constructed for office uses did not attract occupants and alternative uses have in some cases been agreed. For example the erection of two B1 Offices at the former Drainage Castings site were permitted in 2003 and they were fully constructed for B1 Use. These were granted permission for a change of use to residential use in 2011 after the building had been unsuccessfully marketed as offices. That accommodation was purpose built and is in the vicinity of the application site.

PUBLIC SAFETY: The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Zones around Major Hazard Sites and pipelines. The application site falls within the HSE Consultation Zones around the Windsor Bridge Gasholder Station, and the application has consequently been considered using the PADHI+ planning advice software tool provided by the HSE for assessing gas generated risk.

The PADHI+ online consultation system produced an "Advise Against" response. It is the current position of the HSE that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case. Whilst it is recognised that the likelihood of a major accident occurring is small, the possibility remains that a major accident could occur at the installation and that this could have serious consequences for people in the vicinity. In particular with regard to the proposals there would be significant numbers of visitors and workers present within the development that could be at risk. In the event that this application is proposed to be permitted contrary to the advice of the HSE, they must be provided with 21 days notice to consider whether to request that the application is called in for determination by the Secretary of State.

The applicant has offered to assist in the decommissioning of the gas holders in order to attempt to remove the objection to the application that has been made by the HSE. The applicant has submitted supporting documentation and has proposed Heads of Terms for a legal agreement and a Grampian condition with a view to ensuring that the risks associated with the existing Windsor Gas Holder Station a short distance to the north of the appeal site are appropriately managed. A Grampian condition is a negatively worded

condition which prevents the development (or its occupation) from taking place until a specified action has been taken.

The HSE themselves have considered the potential to remove the HSE objection through agreement to enter into a Section 106 legal agreement and Grampian conditions. The HSE have in this regard most recently advised that in this case, public safety remains a concern for the HSE due to the Hazardous Substances Consent for the storage of natural gas in the Windsor House gasholders and the proximity of the proposed development.

The HSE have considered the conditions and legal agreements proposed by the applicant to address this issue and have advised that these have some potential to overcome their objection, but that to have substance and to be enforceable Wales and West Utilities must be a co-signatory with Tesco to the S106 Agreement.

The requirements of the HSE to overcome the objection were put to the applicant and a response has been provided which falls short of the HSE's requirements. The applicant has advised that they will enter into the required legal agreement but only that 'terms' have been agreed (by the applicant) with Wales and West Utilities and Crest to obligate them to decommission the tanks. This does not tie Wales and West Utilities into the planning consent as per the HSE's advice. The HSE objection therefore stands. The applicant suggests that the Local Planning Authority could simply address this by a resolution to grant planning permission subject to the completion of an appropriate S106 to which Wales and West would be a party. They state that Wales and West have previously indicated a willingness to enter into an appropriate agreement. In response officers consider it would be unreasonable, and would create significant uncertainty about the future of the site, to do this unless written confirmation is provided by the Wales and West to the effect that they are prepared to enter into an appropriate s106 agreement within a specific timescale. The applicant has said that a letter will be sought from Wales and West , but at the present time no such written confirmation has been received.

DECOMMISSIONING and REGENERATION

Also of significance is the broader question of what weight should be given to the applicants' offer in part to fund the decommissioning through an agreement between themselves, Wales and West Utilities (the gas supply company) and Crest Nicholson (the developers of BWR).

In essence, the applicants are arguing that by entering into a contractual relationship with Wales and West Utilities and with (BWR Developer) Crest Nicholson, to contribute a significant sum towards the overall cost of decommissioning the Gas Holder Station, they are bringing forward the implementation of a substantial western portion of the BWR regeneration scheme. This, it is argued, is a significant community benefit, in that it would enable the Council's flagship housing allocation to proceed without (or with a smaller) delay, thereby meeting the delivery trajectory set out in the Strategic Housing Land Availability assessment (SHLAA), and reducing the potential for other less acceptable sites to be brought forward by developers in order to attempt to take advantage of any perceived failure to meet the SHLAA's aims.

Of relevance to this is the formal position taken by the Council on this point in presenting its Draft Core Strategy for consideration by the Inspector in the recent EIP. Various

parties had challenged the Council's proposals on the basis that they were over-optimistic in respect of the SHLAA delivery trajectory, and BWR came under particular scrutiny, not only because its comprehensive implementation is undeniably dependent upon the decommissioning of the Windsor Gas Holder Station, but also because it represents a very large proportion of the SHLAA provision for Bath (and for the District as a whole).

In the EIP, the Council sought to reassure the Inspector that he could be confident that BWR can indeed be delivered. This was done in verbal submissions and in an associated Issues Statement, and the Council indicated that the delivery of BWR is not directly dependent upon the implementation of particular off-site development proposals (such as the current application) but that the gas holder site is on land that is currently outside the BWR project developer's control (albeit within the site of the Outline planning permission for BWR). The Council said that the technical solution to decommission in order to enable the removal of the hazardous storage consent constraint is known, but the funding to achieve this has not yet all been secured. The Council is exploring a range of funding sources, and these are backed up by public sector initiatives aimed at underwriting any financial shortfall. Since the Inquiry the Council has made positive steps to obtain loan funding and is in the process of applying for (repayable) financial support from the West of England LEP: Revolving Infrastructure Fund (RIF). However, the level of certainty in terms of the delivery of decommissioning is increased by the existence of a formal agreement between Crest Nicholson and the Council that was completed in December 2010. which was designed to facilitate the staged implementation of the entire BWR development through a joint-working approach between the Council and Crest Nicholson, that will maximise the availability of public-sector funding in order to assist in the project's cash flow, which is heavily front-loaded because of the infrastructure, decontamination, decommissioning costs which have to be met in order that the development can proceed beyond the initial phase that is currently under construction.

In this context, the Council has based its SHLAA strategy upon BWR delivery within the Core Strategy period without the need for funding from Tesco / St James Investments specifically, and indeed it would have been wholly inappropriate for any part of the Core Strategy proposals to have been in any way dependent upon the approval of a scheme that was at the time, and remains, contrary to both national and local planning policies. Accordingly, whilst the regeneration case to fund the decommissioning of the gas holder station is a material consideration, it can only be afforded limited weight unless the applicant is able to substantiate their claims that it would in the long term materially improve the likelihood of BWR being completed and / or significantly bring forward the timetable for that implementation. Any such claimed benefit would also need to be balanced against an assessment of harm that the current development would cause through the prejudicing of the Council's adopted policy to extend the city centre westwards into BWR East, as the planned investment in BWR East is a key component of the strategy for Bath Western Riverside as a whole.

In conclusion, your officers advise that the applicant has not put forward a sufficiently compelling argument to justify attaching significant planning weight to the claimed community benefits that would be associated with the current proposal financing the decommissioning of the Gas Holder Station. The Council has already planned for the delivery of BWR without the applicant's contribution. Furthermore, to attach significant planning weight to the argument put forward by the applicants would undermine the

credibility of the Council's arguments in the Core Strategy EIP, which could have a negative impact upon the Council's strategies and policies.

Summary of position in respect of gas risk

Members are advised that, whilst an option has been identified by which it would be possible to overcome the HSE's objection through the use of appropriate conditions and a s106 Agreement, this option relies upon the involvement of a third party. The current position is that the third party has not committed to the signing of a legal agreement in connection with the application; so the HSE objection still stands.

Furthermore, on the basis of the current information, the resultant decommissioning of the Gas Holder Station (if it were to be secured) cannot be given significant weight in balancing the planning merits of the current proposals because the gas holders are likely to be decommissioned in any event as part of the BWR project. It is therefore considered that the potential for the decommissioning of the Gas Holder Site through funding provided by the applicant is not a consideration that can appropriately be used as an argument to overcome or outweigh the serious retail and highway objections to the development that are set out in this report.

OTHER MATTERS

If the application is permitted it may require an application under the Avon Act due to the depth of the boreholes for the piling and the potential for this to impact upon the hot springs and the applicant should be made aware of this by an informative on the decision.

Conclusion

Officers, having carefully weighted up all of the information provided, are of the view that whilst there may be benefits associated with the development as identified within the report it is the weight to be given to those benefits compared to what Officers consider to be the other very substantial adverse impact that is a key consideration. Officers are of the view that in this case the benefits would not outweigh the very significant level of harm caused in terms of the retail impact, highway impact and gas risk, that would arise if the development were to be permitted.

RECOMMENDATION

REASON(S) FOR REFUSAL

1 The proposed development would give rise to a potential danger to human lives by virtue of its proximity to the nearby operational gasholder site contrary to planning policies ES9 and ES13 of the adopted Bath and North East Somerset Local Plan and contrary to the advice of the Health and Safety Executive.

2 The applicant has failed to justify trip generation, parking demand and trip distribution assumptions made in their Transport Assessment and analysis. Insufficient information has been submitted in respect of these issues and all other modelling in out data to enable the soundness of the analysis to be verified. Therefore, the applicant has failed to demonstrate that the proposed development includes satisfactory provision for access from the public highway, car parking and servicing. The site is located at a critical point on

the strategic highway network where the existing junction is frequently operating at capacity. The development would therefore be prejudicial to highway capacity and safety. The proposed development is, therefore, contrary to Policies T1, T3, T5, T16, T24 and T26 of the adopted Bath and North East Somerset Local Plan, including minerals and waste policies and paragraph 32 of the NPPF and having regard to additional developments already committed in this part of Bath

3 The proposed development is not in accordance with the requirements of the sequential approach to development contrary to the Bath and North East Somerset adopted Local Plan Policy S4, Joint Replacement Structure Plan Policy 40, Regional Planning Guidance Policy EC6 and paragraphs 24 and 27 of the NPPF. The development would as a result generate unsustainable travel patterns contrary to paragraph 30 and 32 of the NPPF and be harmful to the Council's retail strategy.

4 The proposed development would give rise to an unacceptable and significant adverse impact on the vitality and viability of the Moorland Road District Shopping Centre contrary to Policies S1 and S4, of the adopted Bath and North East Somerset Local Plan, Joint Replacement Structure Plan Policies 40 and 41 and Regional Planning Guidance Policy EC6 and paragraph 27 of the NPPF.

PLANS LIST:

011 GD04398 ISSUE 02 (sheets 1-4), 030 GD04398 ISSUE 02 040, GD04398 ISSUE 01, 4664/001 REVISION NUMBER P, 4664/002 REVISION K, 4664/003 REVISION I, 4664/004 REVISION H, 4664/005 REVISION I, PN0500 REV NO. 00, PN0501 REV NO. 00, PN0502 REV NO.00, PN0503 REV NO.00, PN0504 REV NO.00, PN0505 REV NO.00, PN2009 REV NO.00, PN2010 REV NO.00, PN2011 REV NO.00, PN2012 REV NO.00, PN2013 REV NO.00, PN2110 REV NO.00, PN2121 REV NO.00, PN2122 REV NO.00, PN2123 REV NO.00, PN2124 REV NO.00, PN2200 REV NO.00, PN2201 REV NO.00, PN2202 REV NO.00, PN2610 REV NO.00, PN2620 REV NO.00, PN2621 REV NO.00, PN2630 REV NO.00, PN2640 REV NO.00

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. Notwithstanding the protracted discussions that have taken place in relation to this site with the applicant in connection with two previous proposals of a similar nature raising similar issues of principle that have resulted in those applications being rejected by the Local Planning Authority and subsequently meetings that took place in connection with this current application at pre-application stage and discussions in relation to the issues arising during the consideration of the current planning application whereby the unacceptable nature of the proposals have been clearly conveyed to the applicant, the applicant has chosen to pursue the development in its current form and has chosen not to withdraw the application. The applicant has requested that the application is reported to the planning committee at the earliest opportunity for a determination to be made and having regard to the need to avoid unnecessary delay the Local Planning Authority has moved forward and issued its decision.

Item No: 02
Application No: 12/04296/FUL
Site Location: 17 George Street City Centre Bath Bath And North East Somerset
BA1 2EN



Ward: Abbey **Parish:** N/A **LB Grade:**
Ward Members: Councillor B J Webber Councillor Manda Rigby
Application Type: Full Application
Proposal: Change of use of upper floors from offices (Use Class B1) to 7no. residential units (Use Class C3) and associated works (Resubmission)
Constraints: Agric Land Class 3b,4,5, Article 4, Bath Core Office Area, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, World Heritage Site,
Applicant: Rannoch Investments Ltd

Expiry Date:	23rd November 2012
Case Officer:	Tessa Hampden

REPORT

Reason for reporting this application to committee:

Cllr Brian Webber has called this application to committee, as he considers that this is a balanced case whereby conserving the historic environment needs to be considered against allowing the City to thrive economically.

Site description and proposal

Edgar House, comprising no's 16-18 George Street, is a Grade II listed building dating from the late 18th century with later alterations. The site is within the City of Bath Conservation Area and the wider World Heritage Site. The building is also within the designated Core Office Area.

The four storey building currently comprises a mix of uses, with a restaurant and commercial use on the ground and basement floors with the upper floors being vacant, having last been used as offices. The application seeks planning permission for the change of use of the upper floors from offices (Use Class B1) to 7 residential units (Use Class C3) and associated works. This is a resubmission of a recently refused application (using authority delegated to the Development Manager) which sought the change of use of the building to 8 residential units. This application was refused for the following reason:

'The harmful alterations to the historic plan form of the buildings necessitated by the intensive conversion to residential use fails to preserve the special architectural and historic interest of the listed building. The development is therefore considered to be contrary to Policy BH4 and BH2 of the Bath and North east Somerset Local Plan (including minerals and waste) adopted October 2007 and the National Planning Policy Framework 2012'

There is a parallel listed building application which is also to be considered by Committee.

Relevant planning history

DC - 12/04297/LBA - PCO - - Internal and external alterations to enable conversion of upper floors to residential, and associated internal access alterations at ground floor level.

DC - 12/02013/FUL - RF - 10 September 2012 - Change of Use of upper floors from offices (Use Class B1) to 8 no. residential units (Use Class C3) and associated works.

DC - 12/02014/LBA - RF - 3 September 2012 - Internal and external alterations to enable conversion of upper floors to residential, and associated internal access alterations at ground floor level.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highway Development - No objection

Environmental Health - No objection subject to conditions being included on any permission.

Economic Development - loss of offices not fully justified

Historic Environment - Objects on the grounds on impact on listed building

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

BH.2: Listed buildings and their settings

Bh4 Change of use of a listed building

BH.6: Development within or affecting Conservation Areas

HG1 residential development in the urban areas

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

ET.1: Employment Land Overview

ET.2: Office development

T26 On site parking and servicing provision

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

The NPPF was published in March 2012 but is not considered to directly conflict with the above policies

OFFICER ASSESSMENT

Principle of development

The development is within the built up area of Bath, where new residential development can be considered to be acceptable, subject to the compliance with the relevant policies of the Local Plan. Residential use is considered to be compatible with the character and amenities of the adjacent established uses.

However, due to the location of the site within the Core Employment Area, the loss of the offices needs to be considered under policy ET2 of the Local Plan and the relevant paragraphs of the NPPF. Policy ET2 of the Local Plan lists a number of criteria that development must meet in order for the loss of offices to be acceptable. Paragraph 51 of the NPPF, states that Local Planning Authorities should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in B use classes) where there is an identified need for

additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate. It is noted that it has been identified through the Core Strategy Process, that there is the need for additional housing within Bath and North East Somerset.

Whilst it is recognised that the NPPF is encouraging of this proposal, the Local Planning Authority needs to be comfortable that there are no strong economic reasons for resisting this proposal.

In line with Policy ET2 of the Local Plan, the agent has stated that the site is no longer capable of offering office accommodation of an adequate standard. It is cited that a combination of marketing, and agent's advice, has confirmed that the existing office use is no longer viable under current or foreseeable future market conditions. Residential re-use of the upper floors represents a viable alternative use for the vacant upper floors.

The marketing report confirms that upper floors have been actively marketed since September 2010. Marketing has generated minimal interest in the building. It is stated that this is in part due to the significant supply of vacant Georgian offices, but also relates to problematic site-specific issues relating to the very constrained access in relation to collection or deliveries as there is no ability to stop a vehicle adjacent to the premises. The size of the floor plates are rare in Georgian stock, and it is stated that occupier demand for space of this size generally prefers a complete building, or for the space to be configured on a single open plan floor. The lack of parking provision is also a further deterrent for occupiers seeking space of this size. It is argued that there is a clear preference for open plan offices, and the constraints of older buildings make the provision of data and telecoms more challenging and costly.

The agent concludes that there are no 'strong' economic reasons why the upper floors of the application building should be retained in office use as marketing has proven that there is very little prospect for finding office occupiers, and there is sufficient supply in the market to meet occupier demand. There is a large amount of office space available within Bath, with recent market research suggesting that there is in the region of 32,500m² available office floorspace in the city. Within this total, market evidence suggests that there is a clear oversupply of Georgian office stock, of the equivalent size and specification of this site.

Having regard to justification provided above, particularly with regards to the length of time that the unit has been marketed, it is considered that it has been appropriately demonstrated that there is no realistic prospect of finding office occupier(s) under current and foreseeable market conditions, and weighing this against the benefits of the proposal, which include new housing provision for which there is demonstrable need, the loss of offices is considered to be acceptable in principle.

Character and appearance and alternative uses

The residential use is considered to be compatible with the character of the area. There are however concerns that the development as proposed would have a significant impact upon the historic fabric of the Grade II Listed Building. The Council's Senior Conservation Officer has significant concerns with the proposed development. Whilst it is recognised that the development has been reduced by one unit when compared to the refused

scheme it is also noted that the submitted scheme imposes significant new sub division on the building to close off the ground floor hallway and create lobbies and bathrooms on the upper floors. These alterations by changing the historic plan form would compromise evidence about the history, development and character of the listed buildings.

Paragraph 134 of the National Planning Policy Framework states that where development will lead to less than substantial harm to a designated heritage asset, the harm should be weighed against the public benefits of the proposal including securing its optimum viable use. Paragraphs 88 to 90 from the Historic Environment Planning Practice Guide expands and qualifies this advice. If there are alternative ways in which an asset could be viably used, the optimum use is the one that causes least harm to the significance of the asset. The optimum viable use is not necessarily the most profitable one.

A financial appraisal submitted in support of the application concludes that a scheme of seven residential units delivers only a nominal 3.2% profit which would be insufficient for a third party developer to take on the project. The applicant is prepared to take a longer term view and carry out the development themselves to bring the upper floors into use and maximise the prospects of the current ground floor tenant renewing their lease for the ground floor.

The appraisal has been scrutinised by the Councils own registered valuer with the following comments;

- The appraisal is summary form and there is insufficient detail to fully comment.
- Although the methodology is generally appropriate, in order to fully understand the figures quoted will require the services of a quantity surveyor.
- There is a difficulty with the way in which the site value has been established. Using an alternative approach would indicate a substantial profit even if the number of units is reduced to six.

This advice been made fully available to the agents with the offer to commission further analysis of the financial appraisal (for which the applicant would in accordance with Council practice be charged). The agents have confirmed that they do not want any further assessment commissioned and have requested that the Council now determines the application.

Securing a beneficial use for currently vacant parts of a listed building is an agreed objective. However, this does have to be weighed against harm to the very heritage asset the primary legislation seeks to protect. The efforts to design a sensitive scheme have been noted. For example proposing a glazing detail at the new partition wall junctions to try and "reveal" the historic floorplan of the building. Nevertheless the main difference between the refused scheme and the current application is the deletion of one new partition from the conversion scheme. This is considered insufficient to tip the balance in favour of preserving the listed building.

It is acknowledged that the issues are complicated however, in this case, on balance it is considered that the intensive residential conversion of the upper floors and the associated alterations have been justified as being in the interest of preserving the listed building.

Residential amenity

The proposed development is considered to provide satisfactory living conditions for the future occupiers of the development. The Environmental Health Officer has requested that sound attenuation measures are carried out to ensure that the future occupiers are safeguarded from noise from the nearby road. However they are satisfied that the applicable acoustic criteria will be readily achievable by way of noise control measures incorporated into the site and building design. Within the submission, measures have been included and include specialised glazing.

Further, the development is not considered to impact upon the residential amenity currently enjoyed by any neighbouring occupiers.

Highway safety

Although the development will not provide any dedicated parking, the site is within a highly sustainable location, close to local facilities and public transport provisions. The applicant should be advised that residents of the development will not be considered eligible to apply for residents parking permits. There are therefore no objections on highway safety grounds.

Other issues/conclusion

Whilst there is no objection to the principle of the change of use, on balance it is considered that the intensive residential conversion of the upper floors and the associated alterations, cannot be justified. The harmful alterations to the historic plan form of the buildings necessitated by the intensive conversion to residential use fails to preserve the special architectural and historic interest of the listed building. It is not considered that it has been successfully demonstrated that there are no alternative ways in which this heritage asset could be viably used which would cause less harm to the significance of the asset.

No other significant issues have arisen as a result of this planning application but for the reasons as stated above, which relate to the impact upon the listed building, this application is recommended for refusal.

RECOMMENDATION

REASON(S) FOR REFUSAL

1 The harmful alterations to the historic plan form of the buildings necessitated by the intensive conversion to residential use fails to preserve the special architectural and historic interest of the listed building contrary to Policy BH4 and BH2 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted October 2007 and the National Planning Policy Framework 2012

PLANS LIST:

Drawings 11164(L)101A (site location plan), 11164(L)102A (site plan), 11164(L)105A (existing street level), 11164(L)106A (existing ground floor), 11164(L)107A (existing first floor), 11164(L)108A (existing second floor) 11164(L)109A (existing third floor),11164(L)110A (existing section A-A), 11164(L)112A (existing roof plan), 11164(L)120B (proposed ground floor plan), 11164(L)121B (proposed first floor plan), 11164(L)122B (proposed second floor plan), 11164(L)123B (proposed first floor plan), 11164(L)124B (proposed roof plan), 11164(L)125B (proposed section), 11164(D)101A (detail secondary glazing),11164(D)102A (detail glazed junction with wall/cornice), survey photographs, Heritage Statement, Design and Access Statement date stamped: 28th September 2102

Financial Appraisal date stamped: 6th November 2012

Drawings 11164(SK)017 (third floor thermal and acoustic upgrade), 11164(SK)018A (proposed drainage layout) date stamped: 9th November 2012

Drawing 11164(SK)015B (external wall/intermediate floor upgrade), 11164(SK)016B (thin party wall intermediate floor upgrade), 11164(SK)019B (proposed MVHR layout for first second and third floors), 11164(SK)021A (fireplace/intermediate floor acoustic upgrade), 011164(SK)021A (panelling/intermediate floor acoustic upgrade) date stamped: 22nd November 2012

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. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant 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 the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No:	03
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Application No: 12/04297/LBA

Site Location: 17 George Street City Centre Bath Bath And North East Somerset BA1 2EN



Ward: Abbey

Parish: N/A

LB Grade:

Ward Members: Councillor B J Webber Councillor Manda Rigby

Application Type: Listed Building Consent (Alts/exts)

Proposal: Internal and external alterations to enable conversion of upper floors to residential, and associated internal access alterations at ground floor level.

Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, World Heritage Site,

Applicant: Rannoch Investments Ltd

Expiry Date: 23rd November 2012

Case Officer: Caroline Waldron

REPORT

Edgar House comprising Nos 16-18 George Street is a grade II listed building dating from the late 18th century with later alterations.

The four storey building is currently in mixed restaurant and commercial on the ground and basement floors whilst the upper floors are vacant having last been used as offices.

The current application proposes converting the upper floors into a total of seven residential units; two one bed flats on the first floor, two one bed flats on the second floor and the lower entrance floor of a two bed maisonette and two one bed flats and the upper floor of the maisonette on the third floor. Principal alterations to the internal fabric of the building would be:

Closing modern openings between the individual buildings

Inserting a glazed screen in front of an existing decorative archway at ground floor level to close off the access route to upper floors of No 17 George Street

Inserting partitions into the rear rooms on the upper floors to create entrance lobbies/bathrooms.

Installing slim fitting secondary glazing to all the first and second floor sash windows that face over George Street.

Installing acoustic separation between the floors.

Installing insulation to the walls in the attic rooms on the third floor.

A full Design and Access Statement along with a further letter from the agents in support of the application is available on the file. In summary these state:

The building has already been changed and the work will leave the principal frontage spaces at first and second floor in their open configuration.

The ground floor alterations are required by the ground floor tenant as a pre-condition to renewing their lease.

The long-term owner will not compromise on the number of units proposed.

The scheme complies with the National Planning Policy Framework and the legislation.

Planning History

Parallel planning application 12/04296/FUL.

Discussion following the refusal of an earlier application was pre-empted by the submission of a further application.

Listed building consent application 12/02014/LBA refused on the grounds that the harmful alterations to the historic plan form of the buildings necessitated by the intensive conversion to residential use fails to preserve the special architectural and historic interest of the listed building contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, the National Planning Policy Framework and the associated Historic Environment Planning Practice Guide.

Pre-application advice 12/00047/PREAPP that the degree of sub-division proposed would compromise the evidence about the history and development of the site.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Parish Council: NA

English Heritage: NA

Other representations: None received

POLICIES/LEGISLATION

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

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

The National Planning Policy Framework sets out government advice concerning alterations to listed buildings, development in conservation areas and world heritage sites.

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

OFFICER ASSESSMENT

Lengthy marketing of the buildings for offices has not been successful and information submitted in connection with the parallel planning application has demonstrated that the existing spaces are unlikely to offer viable offices. There is therefore no planning policy objection in principle to the change of use to residential.

However the Local Authority also has a duty to consider the impact of associated works on the character and fabric of the listed buildings. Nos. 16, 17 and 18 were conceived as three houses and form part of the handsome run of buildings on the raised pavement on the north side of George Street.

The submitted scheme imposes significant new sub division on the building to close off the ground floor hallway and create lobbies and bathrooms on the upper floors. These alterations by changing the historic plan form would compromise evidence about the history, development and character of the listed buildings.

Paragraph 134 of the National Planning Policy Framework states that where development will lead to less than substantial harm to a designated heritage asset, the harm should be weighed against the public benefits of the proposal including securing its optimum viable use.

Paragraphs 88 to 90 from the Historic Environment Planning Practice Guide expands and qualifies this advice. If there are alternative ways in which an asset could be viably be used, the optimum use is the one that causes least harm to the significance of the asset. The optimum viable use is not necessarily the most profitable one.

A financial appraisal submitted in support of the application concludes that a scheme of seven residential units delivers only a nominal 3.2% profit which would be insufficient for a third party developer to take on the project. Reducing the number to six would result in a loss. The applicant is prepared to take a longer term view and carry out the development themselves to bring the upper floors into use and maximise the prospects of the current ground floor tenant renewing their lease for the ground floor.

The appraisal has been scrutinised by the Councils own registered valuer with the following comments;

The appraisal is summary form and there is insufficient detail to fully comment. Although the methodology is generally appropriate, in order to fully understand the figures quoted will require the services of a quantity surveyor. In particular, there is a difficulty with the way in which the site value has been established. Using an alternative approach would indicate a profit even if the number of units is reduced to six.

This advice was made fully available to the agents with the offer to commission further analysis of the financial appraisal (for which the applicant would in accordance with Council practice be charged). The agent has confirmed that they do not want any further assessment commissioned and requested the Council now determine the application.

Securing a beneficial use for currently vacant parts of a listed building is an agreed objective. However, this does have to be weighed against harm to the very heritage asset the primary legislation seeks to protect. The efforts to design a sensitive scheme have been noted. For example proposing a glazing detail at the new partition wall junctions to try and "reveal" the historic floor plan of the building. Nevertheless the only key differences between the refused scheme and the current application is the deletion of one bathroom from the first floor and substituting a glazed screen for a solid partition on the ground floor. This is considered insufficient to tip the balance of the proposed conversion in favour of preserving the listed building.

It is acknowledged that the issues are complicated however, on balance it is considered that the intensive residential conversion of the upper floors and the associated alterations have not been justified as being in the interests of preserving the listed building.

The principle of using the upper floors for residential purposes is not in dispute, and the proposals to the ground floor are less contentious such that there may be scope for a limited application covering this work alone which could be supported. It is the intensity of the sub-divisions that causes the problems and the current application is accordingly recommended for refusal.

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

RECOMMENDATION

REASON(S) FOR REFUSAL

1 The harmful alterations to the historic plan form of the buildings, and associated plumbing and ventilation works and acoustic and fire separation proposals, necessitated by the intensive conversion to residential use of the upper floors fails to preserve the special architectural and historic interest of the listed building contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, the National Planning policy Framework and the associated Historic Environment Planning Practice Guide.

PLANS LIST:

Drawings 11164(L)101A (site location plan), 11164(L)102A (site plan), 11164(L)105A (existing street level), 11164(L)106A (existing ground floor), 11164(L)107A (existing first floor), 11164(L)108A (existing second floor) 11164(L)109A (existing third floor),11164(L)110A (existing section A-A), 11164(L)112A (existing roof plan), 11164(L)120B (proposed ground floor plan), 11164(L)121B (proposed first floor plan), 11164(L)122B (proposed second floor plan), 11164(L)123B (proposed first floor plan), 11164(L)124B (proposed roof plan), 11164(L)125B (proposed section), 11164(D)101A (detail secondary glazing),11164(D)102A (detail glazed junction with wall/cornice), survey photographs, Heritage Statement, Design and Access Statement date stamped: 28th September 2102

Financial Appraisal date stamped: 6th November 2012

Drawings 11164(SK)017 (third floor thermal and acoustic upgrade), 11164(SK)018A (proposed drainage layout) date stamped: 9th November 2012

Drawing 11164(SK)015B (external wall/intermediate floor upgrade), 11164(SK)016B (thin party wall intermediate floor upgrade), 11164(SK)019B (proposed MVHR layout for first second and third floors), 11164(SK)021A (fireplace/intermediate floor acoustic upgrade), 011164(SK)021A (panelling/intermediate floor acoustic upgrade) date stamped: 22nd November 2012

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. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application and agreed that the Local Planning Authority move forward and issue its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No:	04
Application No:	12/04456/FUL

Site Location: Lloyds Tsb Bank Plc 2 Silver Street Midsomer Norton BA3 2HB



Ward: Midsomer Norton Redfield **Parish:** Midsomer Norton **LB Grade:** N/A
Ward Members: Councillor C Watt Councillor Paul Myers
Application Type: Full Application
Proposal: Erection of 4no. terraced dwellings on land to the North East of No. 2 Silver Street.
Constraints: Agric Land Class 1,2,3a, City/Town Centre Shopping Areas, Coal - Standing Advice Area, Conservation Area, Forest of Avon, Housing Development Boundary,
Applicant: Linhope Properties Limited
Expiry Date: 26th December 2012
Case Officer: Rachel Tadman

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

Request from Councillor Meyers and objection from Midsomer Norton Town Council contrary to the Officer recommendation. Concerns relate to the loss of further commercial land and parking, traffic increasing substantially if the planned supermarket goes ahead, overdevelopment of the site and noise from the road. As a result of the objection from Midsomer Norton Town Council and the objection from Councillor Meyers the application was referred to the Chair of Development Control Committee. For the reason that a similar development on this site has been refused by Committee in the past and that this is a significant site in the centre of Midsomer Norton the Chairman therefore decided that the application should be referred to Committee.

DESCRIPTION OF SITE AND APPLICATION

2 Silver Street is located on the western side of Silver Street, immediately south-east of the Town Hall, opposite the junction with South Road. The building is occupied by Lloyds TSB Bank, with the area to the south being used as a customer car-park.

The application site is located just inside the defined town centre shopping area, but outside the primary shopping frontage. It is located within the Conservation Area.

The proposed development is for the erection of 4 two and a half storey terraced houses on the existing Lloyds TSB car park. Parking would be provided between the dwellings and the Lloyds TSB building and the rear gardens would be terraced and the houses set forward to allow useable amenity space.

The application documents state that the site is on lease to Lloyds TSB and expires in March 2013 after which the car park will be closed.

RELEVANT PLANNING HISTORY:

09/02176/FUL - Conversion of an existing building to 220sqm of commercial office space and 7no. 1 & 2 bed apartments and erection of 4no. terraced houses in adjacent car park - Withdrawn.

10/03141/FUL - Planning permission was refused on 21 March 2011 for the Conversion of an existing building to 220sqm of commercial office space and 5no. 1 & 2 bed apartments and erection of 4no. terraced houses in adjacent car park (Resubmission). It was refused, against Officer recommendation, by Development Control Committee for the following reasons:

1 The proposal would result in an unacceptable loss of office floorspace in the central area of Midsomer Norton, contrary to Policy ET.2 of the Bath _ North-East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

2 The proposal would be likely to result in an increased use of the substandard access between the bank and town hall, to the detriment of highway safety, contrary to Policy T.24 of the Bath _ North-East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

3 The proposal would result in the loss of a public car park and would be likely to result in an increase of parking on the public highway in the vicinity of the application site, to the detriment of highway safety, contrary to Policy T.24 of the Bath _ North-East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

With respect to this application the site is now smaller and does not include any alterations to No 2 Silver Street (Lloyds TSB) itself, therefore the only relevant reason for refusal is No 3. However it should be noted that the site does not contain a public car park, only a private car park for the use of Lloyds TSB customers only. This issue is addressed further later on in the report.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS: The bank has the benefit of staff parking to the rear of their existing premises, served by way of and access between those premises and the Town Hall. That access is, however, sub-standard.

Due to the substandard nature of the existing access between 2 Silver Street (the Bank) and the Town Hall, I would not wish to see any intensification in use of that access as a result of this development. Use of that access, if this development is to be permitted, must be restricted to staff and disabled parking associated with the Bank use of 2 Silver Street (this land is within the applicant's control and should be secured by way of S106 Agreement).

Regarding customer parking for the bank, those premises are well located within the town centre where parking opportunities existing on street and in public car parks within reasonable walking distance of the site.

Four parking spaces (1 per dwelling unit) is considered adequate to serve the proposed development, given the sustainable location of the site, served via the proposed improved (widened) existing access.

Adequate turning space is maintained within the curtilage of the site as part of the proposed development, thus enabling vehicles to leave and re-enter the public highway in a forward gear.

Given the location of the site, the proposed development must be the subject of a Construction Management Plan in order to manage the development in the best interests of highway safety and amenity.

Bearing in mind the existing level of use of the car park serving the proposed development, subject to the S106 Agreement referred to above and relating to the vehicular use of the access serving parking to the rear of the adjacent bank, the highway response is one of NO OBJECTION, subject to conditions and Advisory Note/

Education Services: A contribution of £7,387.55 is requested for youth provision and school places.

ENVIRONMENTAL HEALTH: No comments received on this application. However previously comments were received stating 'No objections subject to conditions'.

CONTAMINATED LAND: No comments received.

Midsomer Norton Town Council: Object on the following grounds:-

1. Site is designated commercial land
2. Overdevelopment
3. Loss of parking for the bank
4. Noise and pollution from road

OTHER REPRESENTATIONS:

A total of 9 objections have been received from local business and residents raising the following concerns:

- Impact on neighbouring property (party wall)
- Impact on residential amenity of both existing and future occupiers in relation to overlooking along with noise and disturbance from the road.
- Lack of sufficient parking and manoeuvring space for the proposed development.
- Loss of parking that will result in cars parking in nearby residential roads
- Overdevelopment

POLICIES/LEGISLATION

S.1, HG.4, ET.2, BH.2, BH.6, T.24, T.26 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 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.

NPPF (2012)

OFFICER ASSESSMENT

Principle of Development: The proposal would result in the loss of an open area used as a car park to residential use.

Policy HG.4 of the Local Plan is designed to encourage windfall housing development in the Council's larger settlements, so as to reduce the amount of land required for housing on greenfield sites. This site is a sustainable location for residential development, being in close proximity to the town centre with its facilities and bus routes. As a result, the use of a site close to the town centre for residential use should be seen as a significant positive aspect of the application which is acceptable in principle.

Conservation Issues: The development has proposed an overtly modern solution. The development would result in a building with a window pattern and design characteristic of the area, with overhanging eaves and chimneys. This is considered to be an acceptable approach as the construction of a pastiche building in this location, seeking to copy elements of 2 Silver Street and the Town Hall, would compete with those two buildings would not be an acceptable design solution.

It is considered that this design solution preserves the character and appearance of the Conservation Area around it and would preserve the setting of the listed Town Hall, on the other side of 2 Silver Street.

Residential Amenity: The proposed terrace would be set on much lower land than the properties to the rear and southern side. As a result, the rear windows at first floor level would be at approximately the same level as the ground floor of the property behind, and lower than the ground floor of the property to the south. A 1.8 metre high fence is proposed to the rear boundary that would effectively prevent any overlooking of the property to the rear. The insertion of rooflights into the second floor would face predominantly towards the sky and would be set at a high enough level so as to prevent overlooking.

The site is within close proximity to Silver Street which is a busy vehicular route through Midsomer Norton. Although comments from Environmental Health have not been received in relation to this application a condition was suggested under the previously refused application ref: 10/03141/FUL. As the dwellings could be affected by road noise it is considered appropriate to add a similar condition to this permission.

Overall it is considered that the development would not have a significant or unacceptable impact on the residential amenity of either the future occupiers or the existing neighbouring occupiers.

Education: The Education Service has requested a contribution of £7,387.55 is for youth provision and school places and a Unilateral Undertaking (UU) has been received in response. At the time of writing this report the UU has not been finalised but if further significant progress is made prior to the DCC meeting then this will be reported in the update.

Impact on Highway Safety: The proposed development includes four off street parking spaces adjacent to the new terrace for the use of the future residents. The car park at the rear of the Lloyds TSB building will be retained for staff car parking only.

The previous application (ref: 10/03141/FUL) on this site was refused for the reason that the scheme would result in the loss of a public car park and would be likely to result in an increase of parking on the public highway in the vicinity of the application site. This was considered detrimental to highway safety and contrary to Policy T.24 of the Local Plan.

Objections to the development on similar grounds have been received from the Town Council and also local residents and businesses. However the Highways Development Officer has raised no objections to the loss of the bank parking area (very few banks these days have dedicated car parking areas) and are happy with the level of parking provision made. The site is in close proximity to other public car parks and is within the Town centre where alternative modes of transport are available. Therefore the loss of the car park is unlikely to result in additional pressure on on-street parking within the locality of the site. Furthermore the site is a private car park for the use of the customers of Lloyds TSB only and cannot be described as a public car park.

With regard to the level of parking for future residents only one space per dwelling is to be provided. Whilst this is lower than is usually acceptable on other developments this site is in the Town centre where alternative modes of transport are available. In light of this it is considered that a lower level of off street parking provision is acceptable.

Concerns have been raised about the substandard access to the staff car park and it has been requested that a S106 legal agreement is provided to restrict this car park to staff use only. A S106 is, in this instance, not considered to be appropriate or justified as conditions can adequately solve any potential issues.

Conclusion: The proposed development has been reconsidered on its merits and, despite a number of objections by both local representations and Midsomer Norton Town Council, it is considered to remain acceptable.

The proposed dwellings have followed a contemporary design approach that is considered to sit well within its context on Silver Street and would not have a detrimental impact on the character and appearance of the street scene or this part of the Conservation Area.

The proposed scheme would result in the loss of the private customer car park of Lloyds TSB but due to the site's location within the Town centre, with a range of transport options and alternative car parks, this is not considered to be of concern. The Highways Development Officer has raised no objections to the scheme, subject to conditions, and there is no reason to disagree with this view.

The dwellings are located adjacent to existing neighbouring dwellings and some concerns relating to overlooking have been raised. This aspect of the development has been considered carefully and due to its design and layout it is considered that the development would not cause overlooking to the detriment of either the existing or future occupiers. The site is in close proximity to the road and it is likely that the development would be affected by road noise, however this issue can be overcome by a correctly worded condition.

The development is not considered to comprise overdevelopment and is, overall, considered to be acceptable.

RECOMMENDATION

- A. Authorise the Development Manager, in consultation with the Planning and Environmental Law Manager, to enter into a Unilateral Undertaking to secure a contribution of £7,387.55 for Education Services.
- B. Upon completion of the Agreement authorise the Development Manager of Planning and Transport Development to PERMIT subject to 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 character and appearance of the Conservation Area.

3 The development shall be constructed to provide sound attenuation against external noise in accordance with the submitted noise assessment. The following levels shall be achieved: Maximum internal noise levels of 30dB_LA_{eq,T} for living rooms and bedrooms. For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dB_LA_{max}.

Reason: In the interests of the amenity of future occupiers

4 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.

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

5 The dwelling(s) shall not be occupied until the access, parking and turning areas have been surfaced and laid out in accordance with the approved plan(s). These areas shall not thereafter be used for any purpose other than the parking and turning of vehicles associated with the development, in accordance with the details of the approved drawings.

Reason: To ensure that sufficient provision is made for off-street parking and turning of vehicles in the interests of highway safety.

6 No occupation of the approved dwellings shall commence until signs have been erected in the car park, making clear the use of the various car parking spaces and accesses. Details of these signs shall first have been submitted to and approved in writing by the Local Planning Authority. The signs shall be maintained in good condition thereafter.

Reason: In the interests of highway safety.

7 The car park at the rear of No 2 Silver Street shall only be used as a staff car park in relation to No 2 Silver Street.

Reason: In the interests of highway safety.

8 Prior to the occupation of the approved dwellings, 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 and a copy of the Travel Smarter publication, car share, car club information etc., to encourage residents to try public transport. The content of such packs shall have previously been approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

9 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.

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

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

PLANS LIST:

The application relates to drawing nos (TP)001, (TP)010 Rev B, (TP)011 Rev B, (TP)012 Rev B, (TP)022 Rev A, (TP)024 Rev A, (TP)030 Rev A.

Note:

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.

REASONS FOR GRANTING APPROVAL

The decision to grant approval has taken account of the Development Plan and approved Supplementary Planning Guidance.

The proposed development is in accordance with Policies S.1, HG.4, ET.2, BH.2, BH.6, T.24, T.26 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 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 proposed development would not have a material impact on the residential amenity of the existing neighbouring occupiers and the future occupiers residential amenity would also be acceptable. The development would provide adequate off street parking for the future residents and would not have an adverse impact on highway safety. Overall the design and layout would not have a harmful impact on the character or appearance of this part of the Midsomer Norton Conservation Area or the street scene.

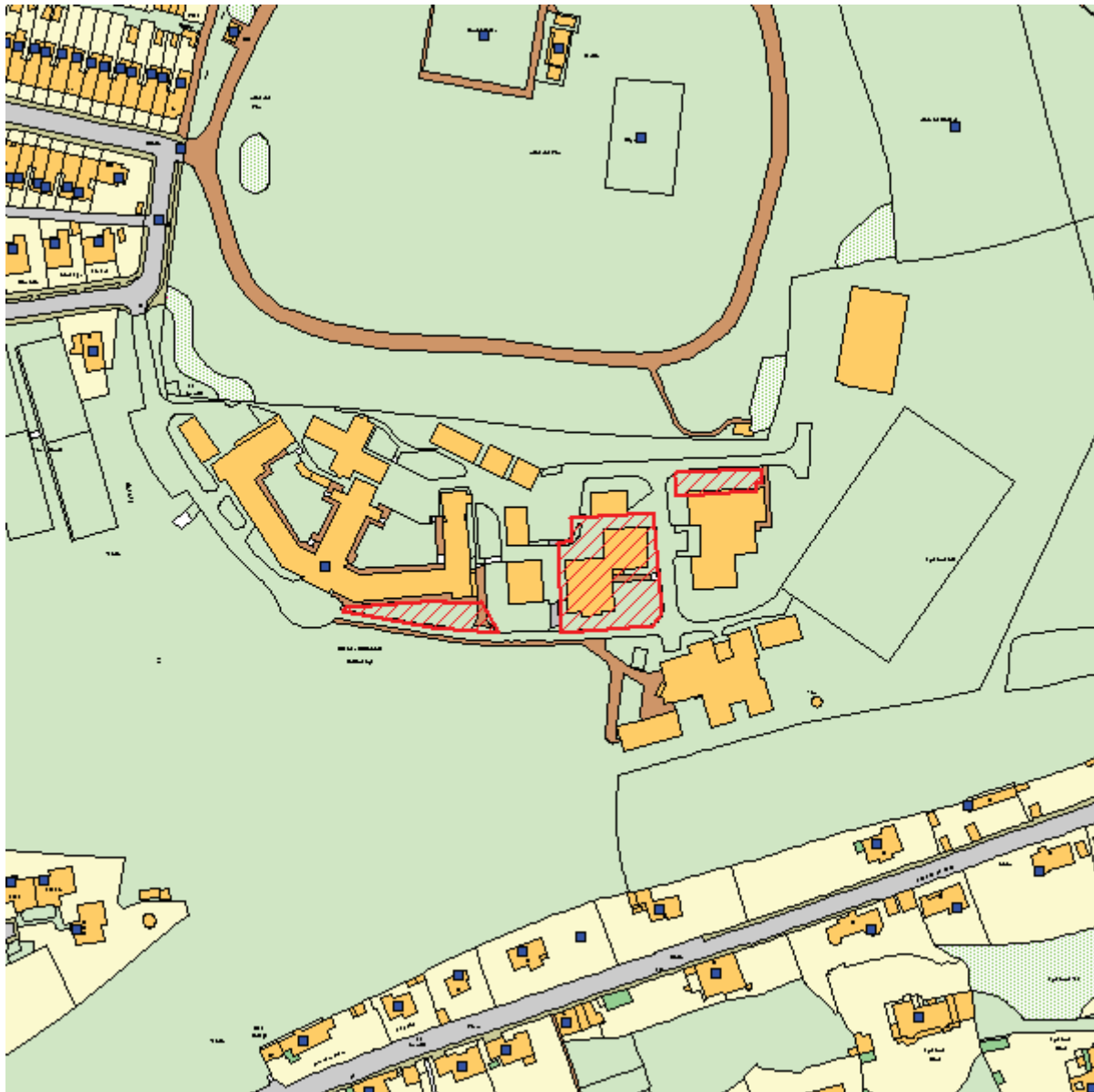
In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and permission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

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 revised proposals was taken and consent was granted.

Item No:	05
Application No:	12/04515/FUL

Site Location: Beechen Cliff School Kipling Avenue Bear Flat Bath BA2 4RE



Ward: Widcombe

Parish: N/A

LB Grade: N/A

Ward Members: Councillor I A Gilchrist Councillor Ben Stevens

Application Type: Full Application

Proposal: Alterations and extension to existing Sixth Form Block to form a new Student Accommodation and Classroom Block

Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,

Applicant: Mr Andrew Davies

Expiry Date: 21st December 2012

Case Officer: Alice Barnes

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

The application is being referred at the request of Councillor Ian Gilchrist for the following reasons;

Residents adjacent to the site have expressed concern about the effect this may have on them if the plan goes ahead. The question can also be raised about the school's apparent wish to share their schooling facilities with pupils from outside the area, which will inevitably impact local 6th formers.

The application has been referred to the chairman of the development control committee who has agreed that the application should be considered by the development control committee as this is a large school on a complicated site. The application includes facilities for overnight accommodation. There is concern over the plans locally.

DESCRIPTION OF SITE AND APPLICATION

The proposed development will result in extension and alteration to the existing sixth form block. This includes the removal of the existing single storey building to the rear. The existing site occupies a hillside position adjacent to Alexandra Park. The application site is located within the Conservation Area and World Heritage Site.

The site is visible from long range views and is most prominent from Wells Road and Bloomfield Road. The existing site consists of the older two storey building constructed in the 1930s, with larger teaching blocks, mostly constructed in the 1960s, on the eastern side of the site.

The existing block will be extended by means of a full height side extension to the east of the existing block. The extension will also extend to the rear over the footprint of an existing single storey element. This will increase the width of the existing building. This will result in a L shaped building.

The building will be constructed primarily with a render finish with timber cladding. The built form of the roof will be curved to match the profile of the existing Music and English blocks. The main entrance will be on the west elevation with the provision of a full height glazed entrance. The south elevation, the most prominent, includes a balcony at first floor level.

New parking spaces will be provided in front of the existing school and to the rear of the proposed extension. This includes the provision of 10 visitor spaces in front of the existing building and a further 8 staff car parking spaces to the rear of the site.

This application relates to the sixth form block on the eastern side of the site. The proposed development includes the provision of 16 beds for students on the first floor with teaching facilities on the ground floor. This will be ancillary to the main school use and would not form a change of use at the school. The accommodation is proposed to be used in term time to provide accommodation for pupils studying at the school. The accommodation will be staffed by existing members of staff and therefore will not result in an increase in staff. There will be no increase in deliveries and a laundry service is already provided within the site. In general there will not be an increase in traffic within the site. There will be an increase in traffic at the first and last days of term from pupils being

dropped off at site but this will occur within the site, where new spaces have been provided, rather than on surrounding residential streets.

RELEVANT HISTORY

DC - 02/02750/FUL - PERMIT - 31 January 2003 - Change of roof line on main building from flat to mono-pitch, raise parapets to the west wing and installation of an access ladder on the rear elevation

DC - 97/00082/FUL - AP - 30 May 1997 - Erection of an extension and other works to science block and conversion to form 3 no. classrooms

DC - 09/02331/FUL - PERMIT - 20 January 2010 - Erection of 2no. modular buildings to replace existing Elliot modular building.

DC - 09/02492/FUL - PERMIT - 4 November 2009 - Erection of a music block following demolition of temporary accommodation.

DC - 11/03451/FUL - PERMIT - 6 October 2011 - Erection of new two storey classroom block including staircase and lift following removal of existing temporary single storey building

DC - 12/01410/FUL - PERMIT - 23 May 2012 - Over cladding of the Bolton Suite building

DC - 12/04503/FUL - PERMIT - 18th December 2012 - Erection of a new Science lab and Gym with associated changing facilities following demolition of existing temporary building

DC - 12/04504/CA - CONSENT - 18th December 2012 - Demolition of existing temporary building

DC - 12/05126/VAR - PCO - - Variation of condition 5 of application 11/00573/VAR (Variation of condition 3 of application 10/00540/FUL in order to substitute submitted sports lighting report/assessment with a new lighting proposal (Provision of a synthetic pitch to replace existing sports pitch and an additional 5-a-side synthetic sports pitch; both with sports fencing and lighting.))

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highways: No objection subject to the relevant conditions.

Building Control: No comment

Councillor Ian Gilchirst: Residents adjacent to the site have expressed concern about the effect this may have on them if the plan goes ahead. The question can also be raised about the school's apparent wish to share their schooling facilities with pupils from outside the area, which will inevitably impact local 6th formers.

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

The school is in an elevated position and the buildings have the potential to be used day and night.

Consideration should be given to mitigating the effects of the extra light and noise.

Due consideration should be given to appropriate regulation of how these buildings will be used and to screening with trees where appropriate.

There are no details of how the accommodation will be used.

Whenever use is being made of the boarding element, additional evening activity is inevitable.

This does not extend the facilities for non-residential sixth formers.

The planning application does not discuss or prove the need for the Boarding Facility.

This will reduce the number of school places for Bath children.

The buildings will harm the appearance of the existing hillside.

The materials are inappropriate.

There are no landscaping proposals.

Trees should be planted to screen it from view.

There are no drawing showings its impact on Alexandra Park.

There is no mention of reducing the number of cars in nearby roads.

This would change the school from a day school to boarding school.

The facilities may be used during school holidays and weekends.

The housing of senior school aged children on site will give rise to anti-social behaviour.

POLICIES/LEGISLATION

D.2: General design and public realm considerations

D.4: Townscape considerations

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

Bh.2: Listed Buildings and their settings

Bh.6: Development within or affecting Conservation Areas

CF.2: Provision of new or replacement community facilities

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

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

B4 - The World Heritage Site and its Setting

CP6 - Environmental Quality

National Policy

The National Planning Policy Framework adopted March 2012

OFFICER ASSESSMENT

PLANNING HISTORY

A number of applications have been permitted at the site as part of the redevelopment of the existing buildings. To the rear a new Music block and English block have been constructed. These have been constructed using timber cladding, reconstituted Bath Stone and Render. The neighbouring Bolton Suite also has permission to be re clad in this style. This has resulted in permission for three buildings surrounding the sixth form block

to be built or clad with a uniform appearance. The proposed development would bring the design of the sixth form block in line with these permitted developments.

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 city and therefore the proposed development complies with policy CF.2.

Concern has been raised that the student accommodation will result in the school being used by children outside of the local area. The proposed accommodation will be ancillary to the main school use and could be provided regardless of if the proposed development is permitted. The proposed residential element will not result in a change of use of the site and the school admission policies are not a material consideration of the planning application. There are no policies within the local plan which restrict admission to a school. There are currently 1210 pupils at the school, this development will provide accommodation for 16 pupils. The development will not result in an increase in pupil numbers. Therefore the principle of the development is accepted.

DESIGN

The proposed development follows the design approach set by the newly built English block and Music block which are of a contemporary design. The plans have been revised so that the existing building will not increase in height from the existing sixth form block. The main bulk of the extension will be to the east of the existing building and an existing single storey to the rear will be removed and replaced with a two storey. The footprint of the building will be squared off to form a L shaped building. The existing building re clad to give a uniform appearance to the development.

The building will be constructed primarily with a render finish with timber cladding. The built form of the roof will be curved to match the profile of the existing Music and English blocks. The main entrance will be on the west elevation with the provision of a full height glazed entrance. The south elevation, the most prominent, includes a balcony at first floor level. Permission has been granted to over clad the neighbouring Bolton Suite giving a uniform appearance to this cluster of four buildings.

The development will be on a visually prominent hillside. A site visit has been undertaken to include an assessment from viewpoints on Wells Road, Bloomfield Road and Axbridge Road. The proposed development will be set against the backdrop of the existing cluster of school buildings. Given that it will continue the design approach of the permitted buildings it will preserve the character of the existing hillside.

The rear of the site is visible from Alexandra Park whereby the roof of the Music block and the English Block are visible. The roof of the property development will be visible beyond this. Again it will be located against the existing cluster of the buildings and will preserve the views from the park.

Additional parking spaces will be provided to the front of the existing school. They will be located within the existing cluster of car parking spaces and therefore will not be visually detrimental to the surrounding site.

Overall the proposed development will enhance the appearance of the existing site thereby enhancing the appearance of the surrounding Conservation Area in particular from long range views.

HIGHWAYS

No objection has been raised by the highways officer following the receipt of further information with regards to when the accommodation will be used. The applicant has proposed to provide parking within the school grounds for teachers and visitors. Visitor parking will be located in front of the existing school with additional staff parking located to the rear of the site. There will be no increase in deliveries and a laundry service is already provided within the site. In general there will not be an increase in traffic within the site. There will be an increase in traffic at the first and last days of term from pupils being dropped off at site but this will occur within the site, as new spaces have been provided, rather than on surrounding residential streets. The applicant has also provided a travel plan. The highways officer has requested that conditions are attached to any permission requiring the submission of a construction management plan. This would ensure that construction is contained within the site and will not cause disruption to the surrounding roads.

AMENITY

Concern has been raised within the representations regarding the use of the school out of normal school hours. The existing planning history shows that no hours of use have previously been imposed on the school and therefore it would be unreasonable to do so at this stage. As stated above the proposed development is not a change of use and the proposed use of the building could occur regardless of whether planning permission is granted. The buildings will be used during term time and there will not be an increase in traffic within the site. The provision of new parking spaces will not result in an increase in on street parking.

The building is located 100m from the nearest residential property and therefore this is considered to be a sufficient distance away so as not to cause disturbance of residential activities or overlooking.

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 proposed development will result in a building which will enhance the appearance of the surrounding Conservation Area. It will provide additional facilities to the existing school. The proposed development is not considered to cause harm to highway safety. The proposed development will not harm the amenity of residents surrounding the site.

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 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 00
Existing block plan 01
Existing ground floor plan 02
Existing first floor plan 03
Existing north and south elevation 04
Existing east and west elevation 05
Existing site for proposed staff parking 10
Existing site for proposed visitor parking 11
Proposed staff parking 110
Proposed visitor parking 111
Proposed ground floor plan 102 rev A
Proposed FF plan 103 rev A
Proposed roof plan 105
Proposed north and south elevations 106 rev A
Proposed east and west elevations 107 rev A

Proposed sections 108 rev A

REASONS FOR GRANTING APPROVAL

1. The proposed development would not have an adverse impact upon the street scene or the amenity of the surrounding residential occupiers. Due to the use of appropriate materials and built form the proposed development will preserve the character of the Conservation Area in both close and long range views. The proposed development will provide adequate on site parking and will not cause harm to highway safety.
2. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the Policies set out below at A.

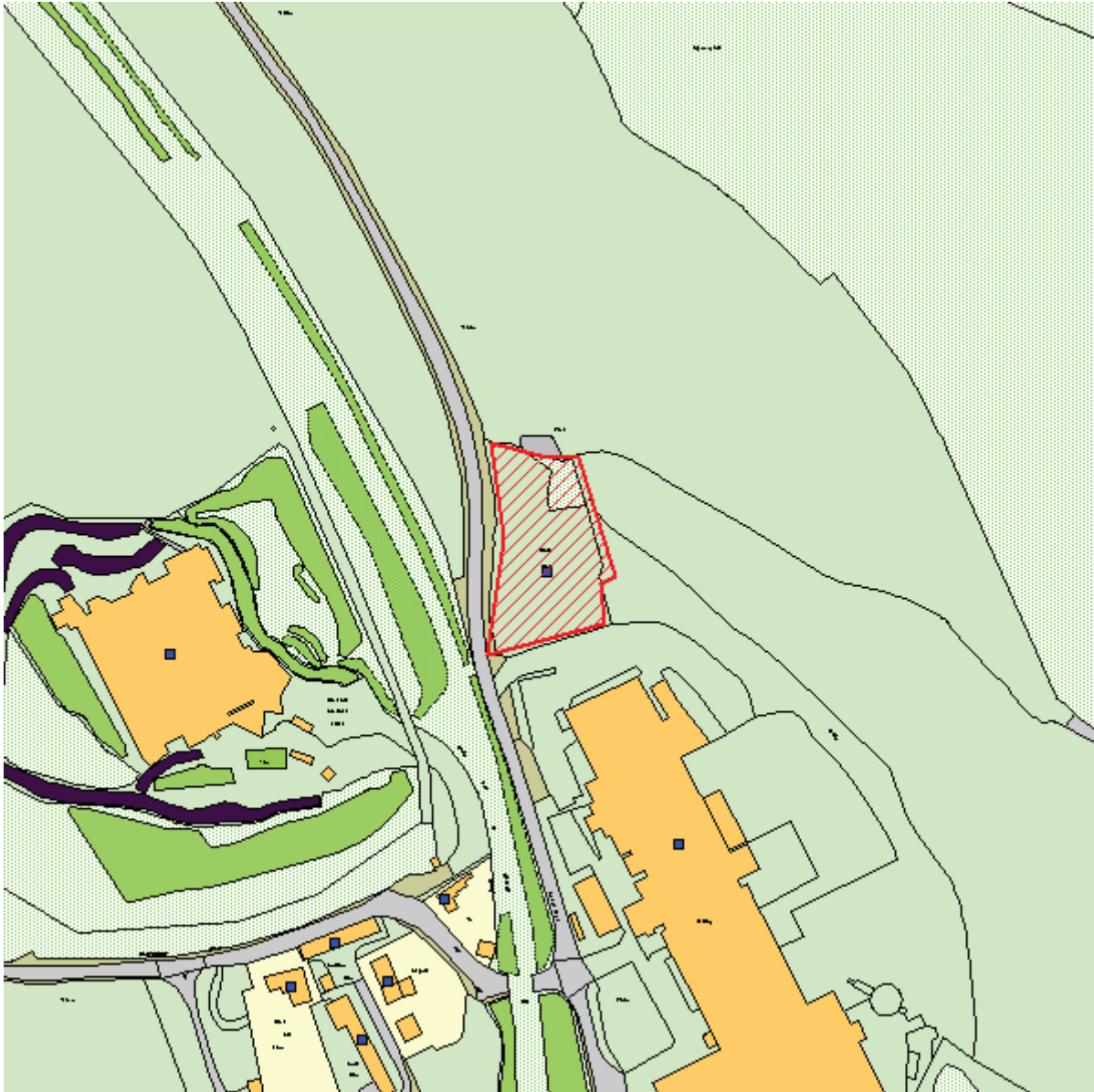
A.

D2, D4, Bh.1, Bh.6 and T.24 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

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 revised proposals was taken and consent was granted.

Item No: 06
Application No: 12/05093/FUL
Site Location: Old Coal Yard Marsh Lane Clutton Bristol Bath And North East Somerset



Ward: Clutton **Parish:** Clutton **LB Grade:** N/A
Ward Members: Councillor Jeremy Sparks
Application Type: Full Application
Proposal: Erection of steel framed building with external cladding to roof rear and two sides, front elevation to remain as open portal
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Core Employment Area, Forest of Avon, Hazards & Pipelines,
Applicant: Towns Of Weston Ltd

Expiry Date:	23rd January 2013
Case Officer:	Tessa Hampden

REPORT

Reasons for referring to Committee

The application is being referred to Planning Committee due to the objection by Clutton Parish Council. The objection primarily relates to highway safety issues.

Site description and proposal

The application site relates to a parcel of land located adjacent to the industrial units known as Trident Works, which was formally a large scale manufacturing plant, now subdivided into a number of smaller units. The application site has been used for the crushing and re-cycling of aggregate and has been formally used for a number of industrial purposes as well as being used as a transportation depot. There are further industrial units within the immediate area including at Cloud Hill Industrial Estate which is located off Eastcourt Road. The application site is located within a Core Employment Area as designated within the Local Plan.

Although the immediate area is of an industrial nature, Marsh Lane itself is a narrow lane and of a rural character and this forms part of the overall character of the area. The application site is relatively well screened from the wider area by mature soft landscaping.

Planning permission was granted in 2010 for the erection of 6 industrial units although this does not appear to have been implemented. Planning permission has also recently been granted for the installation of a portacabin unit for an office and employee restroom.

This application seeks planning permission for the erection of steel framed building with external cladding to roof rear and two sides, front elevation to remain as open portal.

Relevant planning history

DC - 99/03057/FUL - PERMIT - 12 April 2000 - Use of land for storage and recycling of waste materials

DC - 05/01285/REN - PERMIT - 20 May 2005 - Retention of office, storage and staffing facilities

DC - 10/01573/REM - APPRET - 30 June 2010 - Removal of condition 1 of application 05/01285/REN permitted 20th May 2005 (Retention of office, storage and staffing facilities)

DC - 10/04499/FUL - PERMIT - 18 February 2011 - Erection of new light industrial units

DC - 11/01958/OUT - WD - 16 August 2011 - Change of use, and outline application for 4no dwellings

DC - 12/04679/FUL - PERMIT - 18 December 2012 - Installation of a portacabin unit for office and employee rest room.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highway Development - No objection subject to a condition

Parish Council - opposed to this development on the grounds that while it accepts that this site is for industrial use, the inadequacies of the road infrastructure, long recognised by B&NES and much discussed with all surrounding parish councils, need to be addressed before B&NES gives its consent to a development which is specifically designed to allow regular movements of goods by 8 wheeled tipper lorries; furthermore, the proposed use of the site as a waste transfer station would require Environment Agency license of which there is no evidence in the documentation.

Health and safety executive- No Objection

POLICIES/LEGISLATION

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

NE1 - Landscape character

NE5 Forest of Avon

NE4 Tree and Woodland Conservation

ES14 Unstable land

ES15 - Contaminated Land

T24 - General development control and access policy

T26 On site parking and service provision

SUBMISSION CORE STRATEGY, MAY 2011

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

National Planning Policy Framework - March 2012 - is not considered to conflict with the above policies

OFFICER ASSESSMENT

Principle of development

There is no objection in principle to the erection of the proposed building on this exiting employment site within a designated Core Employment Area. The development is in line with the existing lawful use which is for the use of land for storage and recycling of waste materials. The application form describes the processes which will be carried out on site as 'offloading of recyclable waste materials from lorries and skips. Manual sorting of same for machine loading onto lorries for removal from site'. The development does not therefore constitute a material change of use, and there is therefore no objection to this development in principle.

Character and appearance

The unit is considered to be of an acceptable scale, design and siting which is appropriate in the context of this industrial site. The proposed building will be of a simple design which is common for these types of buildings. The scale and design will ensure that the building integrates successfully with the existing development in this area and will be seen as a continuation of the existing industrial development.

Given the existing use and appearance of the site, and the existing landscaping, the erection of the unit as proposed is not considered to significantly harm the visual amenities or the rural character of the area.

Highway safety

It is recognised that there is significant local concern regarding the increasing level of heavy goods vehicle traffic using Marsh Lane and the roads leading to Temple Cloud, Clutton and Hallatrow, the current proposal itself does not result in any change to the lawful use of the site, and on that basis any highway objections could not be raised, even if the site were to be operated more intensively than a previous occupier.

However, the location of buildings within the site should not affect the ability for vehicles to manoeuvre within the site, and it is considered appropriate to require a plan which indicates the areas of the site that will be maintained for parking and turning, and those areas set aside for materials storage. Such details could be conditioned to ensure that all operations, and movement of vehicles, can be wholly contained within the site, without any adverse impact on the highway. This can be dealt with through the inclusion of a conditions on any planning permission.

Residential amenity

The development, due to its appropriate scale and siting within an existing industrial complex is not considered to have a detrimental impact upon the residential amenity of the neighbouring occupiers.

Other issues/conclusion

In conclusion, the proposed building is acceptable in this Core Employment Site and no material change of use to the site is proposed. The building is considered to be of an acceptable design, scale and siting within this existing industrial site and there will be no harm to the visual amenities of the area. There will be no undue harm to the residential amenity of the neighbouring occupiers or to highway safety, and no other significant issues have arisen as a result of this planning application. Therefore, for the reasons as stated above, this application is recommended for approval.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

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

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

2 Before the development is commenced, a plan indicating the areas for parking, turning and external storage on the site shall be submitted to and approved in writing by the Local Planning Authority. The areas shall subsequently be maintained for those purposes only.

Reason: In the interests of highway safety.

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: TOWENS/MARSH/001, TOWENS/MARSH/002 , dated 19th November 2012, TOWENS/MARSH/003 dated 28th November 2012

REASONS FOR GRANTING APPROVAL

The proposed building is acceptable in this Core Employment Site. It is of an acceptable design, scale and siting within this existing industrial site. There will be no undue harm to the residential amenity of the neighbouring occupiers or to highway safety, and no other significant issues have arisen as a result of this planning application.

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.

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
- NE1 - Landscape character
- NE5 Forest of Avon
- NE4 Tree and Woodland Conservation
- ES14 Unstable land
- ES15 - Contaminated Land
- T24 - General development control and access policy
- T26 On site parking and service provision

SUBMISSION CORE STRATEGY, MAY 2011

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

National Planning Policy Framework - March 2012 - is not considered to conflict with the above policies

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.

Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	16 th January 2013
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (35 West Hill Gardens, Radstock No. 29A) Tree Preservation Order 2012
WARD:	Westfield
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <p>Plan of Site</p> <p>Copy of letters of objections to the Tree Preservation Order</p>	

1 THE ISSUE

1.1 Two objections have been received from one neighbour and the owner following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (35 West Hill Gardens, Radstock No. 29A) Tree Preservation Order 2012 ("the TPO"), which was provisionally made on the 31st October 2012 to protect a Sycamore (identified as T1 on the plan) which makes a contribution to the landscape and amenity of the conservation area.

Development Control Committee originally considered the Tree Preservation Order Bath and North East Somerset Council (35 West Hill Gardens, Radstock No. 29) Tree Preservation Order 2012 on 24th October 2012 and carried out a site inspection on 12th November 2012. The original TPO could not be determined before the time limit required to make a decision on the TPO expired. A new TPO was subsequently made which is the TPO under consideration at this Committee.

2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (35 West Hill Gardens, Radstock No. 29A) Tree Preservation Order 2012 without modification.

3 FINANCIAL IMPLICATIONS

3.1 Financial: Under the law as it stands the owner of a tree cannot claim compensation from the Council for making a tree the subject of a tree preservation order. However if the tree is covered by a tree preservation order and the Council refuses an application to fell the tree, the owner may be able to claim compensation if he or she suffers a loss or damage as a consequence of that refusal.

3.2 Staffing: None.

3.3 Equalities: In deciding to make the TPO the provisions of the Human Rights Act 1998 have been taken into account. It is considered that Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property) of the convention rights apply in this matter. Confirmation of the TPO is however, considered to be a proportionate interference in the wider public interest.

3.4 Economic: None.

3.5 Environment: The tree which is the subject of this report makes an important contribution to the landscape and amenity of the conservation area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services. Officers from Development Control will need to take account of the tree when considering any application for development or alterations on the site which might affect the tree.

4 THE REPORT

4.1 Background

4.2 The tree which is the subject of the TPO is one mature Sycamore growing close to the front boundary wall of 35 West Hill Gardens encircled in black and marked T1 on the attached plan.

4.3 An application, reference 12/00808/TPO, was received for the felling of the tree. The reason given in the application was because the tree was pushing out the boundary wall into the road and that significant root damage would be caused to enable the wall to be rebuilt.

4.4 The tree was viewed and assessed and considered to be of sufficient landscape merit that alternative methods should be considered to reduce any risk with regards to the condition of the wall. For instance, since the wall did not function as a retaining structure, a section could be removed and the gap bridged without the need to sever roots or fell the tree.

4.5 Further investigation relating to the status of the original TPO was undertaken following an enquiry from the applicant. The original Tree Preservation Order was entitled Wansdyke District Council (Norton-Radstock No.4) Tree Preservation Order 1986 which was made on 3rd October 1986. No written evidence was found to support a record of a confirmation date of 28th February 1987. This meant that the original TPO was considered unenforceable so a new TPO was made.

4.6 Westfield Parish Council provided a response of no objection to the Tree Preservation Order.

4.7 Letter of objection to the Tree Preservation Order

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

4.9 Two objections have been received; from the owner of the tree at 35 West Hill Gardens and 34 West Hill Gardens which is located on the opposite side of the road. The Committee are advised to read the objections attached.

4.10 The main objections as detailed within the letters are summarised below.

- i) The stability of the tree in high winds is a cause of concern.
- ii) The leaves and other debris fall onto neighbouring properties blocking gutters and drains.
- iii) The potential damage to electric and telephone cables which are located close by.
- iv) The potential for the tree to damage the highway and the boundary wall of the property opposite.
- v) The tree has already caused damage to the front boundary wall which requires rebuilding for which it is considered necessary to sever tree roots.

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

- i) No supporting information has been provided to indicate that the stability of the tree is questionable. A tree owner has a duty of care and should ensure that their trees are regularly checked by a suitably qualified and experienced person. The Council would support an application for appropriate pruning operations which are based on sound arboricultural reasons.
- ii) The natural shedding of seasonal debris is insufficient reason to fell a tree and sets an unsustainable precedent if this reason were supported by the Council. This objection was received from 34 West Hill Gardens which is approximately 22 metres away from the tree.
- iii) An application to undertake pruning to ensure that the telephone wires and electric cabling would be favourably treated.
- iv) This reason was submitted by the residents of 34 West Hill Gardens. There is no evidence that the tree has caused damage to this property and no supporting information was provided. The root growth towards the properties opposite will be considerably influenced by the presence of the road which would provide unfavourable conditions for roots to flourish. There is evidence of patching to the surface of the road, however, the reason for the works is not known but is not necessarily consistent with repairs relating to root damage.

- v) It is accepted that the movement of the front boundary wall of 35 West Hill Gardens is consistent with the proximity of the Sycamore. The objector has not demonstrated that the dismantling of the damaged section of wall would necessitate the removal of the tree. Alternative methods of repair or alternative boundary treatments are considered possible if desired. The objector has not provided any supporting information to indicate that alternatives have been investigated or reasons why alternative options have been dismissed.

4.12 Relevant History

4.13 12/00808/TPO – Felling of Sycamore – OBJECTION – TPO made which is the subject of this report.

5.0 LEGAL AND POLICY FRAMEWORK

Tree Preservation Order

5.1 A tree preservation order is an order made by a local planning authority in respect of trees and woodlands. The principal effect of a tree preservation order is to prohibit the:

Cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of trees without the council's consent.

5.2 The law on tree preservation orders is in the Town and Country Planning Act 1990 and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into effect on 6th April 2012 .

5.3 A local planning authority may make a tree preservation order if it appears

“Expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”

5.4 The Council's Arboricultural Officers have a written method for assessing the 'Amenity' of trees and woodlands considered to be under threat. This is in keeping with Government guidance, and takes account of the visual impact of trees and their contribution to the landscape, their general overall health and condition, their longevity and their possible or likely impact on services and property.

5.5 This assessment concluded, having taken account of, visual amenity, tree health considerations and impact considerations, that it would be expedient in the interest of amenity to make provision for the preservation of the tree. The TPO was made on 31st October 2012 and took effect immediately and continues in force for a period of six months.

Planning Policy

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

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

- the local economy – creating potential for employment, encouraging inward investment, bringing in tourism and adding value to property;

- the local environment by reducing the effects of air pollution and storm water run off, reducing energy consumption through moderation of the local climate, and providing a wide range of wildlife habitats;
- the social fabric in terms of recreation and education'

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

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

6. CONCLUSION

- 6.1 The tree makes a significant contribution to the landscape and amenity of the area and is readily visible to the general public.
- 6.2 Confirmation of the TPO would ensure the retention of the tree, however, should it be found in the future that it would be unreasonable to retain the tree an application can be made under the TPO for felling. The Council will then be able to condition appropriate replacement planting if considered appropriate.
- 6.3 In keeping with the Council's commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO without modification.

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

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Jane Brewer

From: Development Control
Sent: 13 December 2012 11:43
To: Jane Brewer
Subject: FW: Proposed Tree Preservation Order - 35 Westhill Gardens, Radstock

From: JACQUI-CHUN [<mailto:jacqui.chun@btinternet.com>]
Sent: 13 December 2012 11:36
To: Development Control
Subject: Proposed Tree Preservation Order - 35 Westhill Gardens, Radstock

Dear Jane

I would like to oppose the above Tree Preservation Order regarding the Sycamore Tree in my front garden.

As my property is in a Conservation Area permission was requested to fell the tree as the roots of the tree are pushing out the boundary wall which fronts onto Cedar Terrace which is a public roadway and in due course the wall is likely to collapse which is dangerous to both pedestrians and road users. It can be seen from the wall that attempts have been made previously to repair the wall but this is again being pushed out.

I therefore believe that it is necessary for the wall to be properly rebuilt and in order to do this and make it completely safe it would be necessary to cut away some of the tree's roots which would ultimately weaken the tree and it is therefore preferable for the tree to be removed. I appreciate that the tree is well established but it is not a rare species of tree and the potential danger of the wall collapsing I believe is of greater importance than the preservation of the tree.

After submitting my application to fell the tree I was then advised that the tree was subject to a Tree Preservation Order made in February 1987. I queried this as when I purchased the property in 2010 this was not disclosed in my Local Search and it should have been. Had I known that the tree was subject or was going to be subject to a TPO this may have altered my decision to proceed with the purchase. The first temporary TPO was then issued in May 2012.

Yours sincerely

Jacqui Chun

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6/12/12
314 WESTHILL GARDENS
RADSTOCK
B343 3SH.

THE ROOF DAMAGE TO THE
BOUNDARY WALLS AND OUR
PROPERTY ALONG WITH DAMAGE
TO THE HIGHWAY.

DEAR MS. BREWER
RE: 35 WESTHILL GARDENS, RADSTOCK, N029A
TREE PRESERVATION ORDER 2012.

THERE IS ALSO THE POSSIBILITY
OF DAMAGE TO ELECTRIC AND
TELEPHONE CABLES (WE ALREADY
EXPERIENCE FLUCTUATIONS IN THESE
SERVICES DURING HIGH WINDS), ALONG
WITH THE NUISANCE AND POSSIBLE
DAMAGE VALUE OF LEAVES &
SEEDS BLOCKING OUR DRAINS,
GUTTERING ETC.

FURTHER TO RECEIVING YOUR NOTICE
CONCERNING THE ABOVE PRESERVATION ORDER,
WE CAN ONLY REITERATE OUR OBJECTIONS
CONCERNING THE STABILITY OF THIS TREE,
ESPECIALLY AS WE HAVE RECENTLY
EXPERIENCED REALLY ADVERSE WEATHER,
IE: TORRENTIAL RAIN & REALLY HIGH WINDS, WHICH,
ACCORDING TO METEOROLOGICAL FORECASTS, ARE
TO BECOME MORE FREQUENT OVER
THE COMING YEARS.

WE HOPE YOU WILL GIVE
DUE CONSIDERATION TO OUR
CONCERNS DURING YOUR
DELIBERATIONS ON THIS MATTER.

WE ARE ALSO BECOMING
INCREASINGLY CONCERNED ABOUT

YOURS SINCERLY
C.C. Dix
COIN DIX LEAN DIX

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**Bath and North East Somerset:
District Online**

GMIS Web Mapping PDF

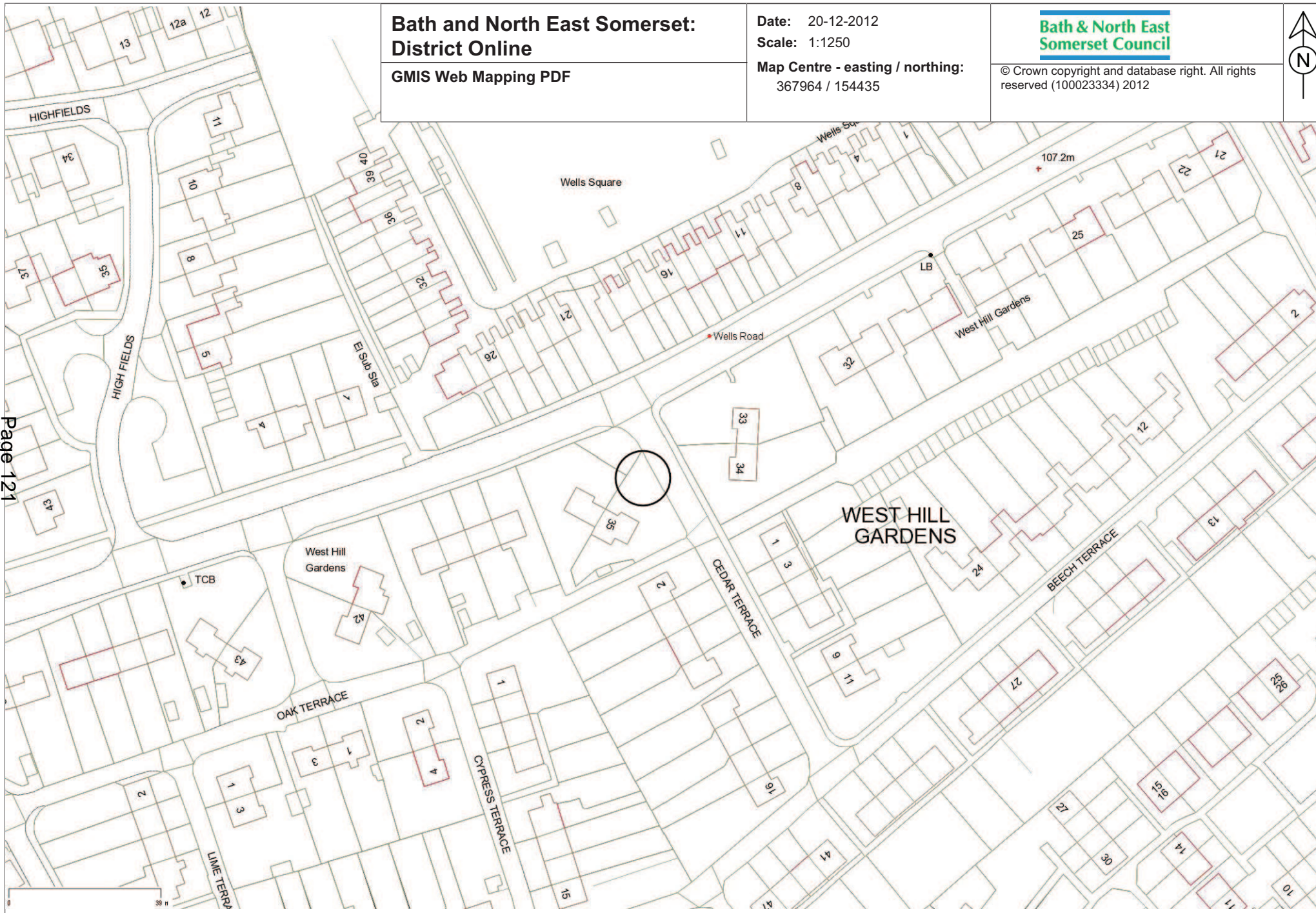
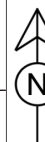
Date: 20-12-2012

Scale: 1:1250

Map Centre - easting / northing:
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**Bath & North East
Somerset Council**

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	16 th January 2013
TITLE:	Tree Preservation Order: Bath and North East Somerset Council (17 The Linleys, Bath No.279) Tree Preservation Order 2012
WARD:	Kingsmead
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <p>Plan of Site</p> <p>Copy of letters of objection to the Tree Preservation Order</p> <p>Copy of letter of support for the Tree Preservation Order</p>	

1 THE ISSUE

1.1 An objection has been received from both Mr and Mrs Selway of 40 Edward Street following the making of the Tree Preservation Order entitled Bath and North East Somerset Council (17 The Linleys, Bath No.279) Tree Preservation Order 2012 ("the TPO"), which was provisionally made on the 11th October 2012 to protect an Ash (encircled in black on the plan) which makes a contribution to the landscape and amenity of the conservation area.

2 RECOMMENDATION

2.1 The Development Control Committee is asked to confirm the Tree Preservation Order entitled Bath and North East Somerset Council (17 The Linleys, Bath No.279) Tree Preservation Order 2012 without modification.

3 FINANCIAL IMPLICATIONS

3.1 Financial: Under the law as it stands the owner of a tree cannot claim compensation from the Council for making a tree the subject of a tree preservation order. However if the tree is covered by a tree preservation order and the Council refuses an application to fell the tree, the owner may be able to claim compensation if he or she suffers a loss or damage as a consequence of that refusal.

3.2 Staffing: None.

3.3 Equalities: In deciding to make the TPO the provisions of the Human Rights Act 1998 have been taken into account. It is considered that Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property) of the convention rights apply in this matter. Confirmation of the TPO is however, considered to be a proportionate interference in the wider public interest.

3.4 Economic: None.

3.5 Environment: The tree which is the subject of this report makes an important contribution to the landscape and amenity of the conservation area.

3.6 Council Wide Impacts: The confirmation of the TPO will involve officers from Legal Services. Officers from Development Control will need to take account of the tree when considering any application for development or alterations on the site which might affect the tree.

4 THE REPORT

4.1 Background

4.2 The tree which is the subject of the TPO is one mature Ash growing close to the rear boundary wall of 17 The Linleys and encircled in black on the attached plan.

4.3 This tree is within the Bath Conservation Area and the TPO was made following a review of an old Order, City of Bath ('Linleys', Audley Park Road). Tree Preservation Order 1973 which was made prior to the construction of The Linleys. The review of older TPOs is considered best practice and follows guidance from central Government.

4.4 The tree was viewed and assessed and considered to remain of sufficient landscape merit to support the making of a new TPO.

4.5 Letter of objection to the Tree Preservation Order

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

4.7 Two objection letters were received from the residents of 40 Edward Street which is located to the rear of 17 The Linleys. The Committee are advised to read the objections attached.

4.8 The main objections as detailed within the letters are summarised below.

- i) The tree is too large for the location.
- ii) The tree is considered to be a risk should the tree collapse or be damaged by extreme weather conditions or disease.
- iii) Root growth has caused damage to the boundary wall and the objectors are concerned that the tree may damage their property.

4.9 The objections to the Tree Preservation Order outlined in section 4.5 above have been considered by Officers and the following comments are made:

- i) The tree is actively managed to contain its size within the residential area. The tree is close to the boundary wall, and therefore some overhang is inevitable, however, the objectors obtained consent to cut back a substantial amount of the overhang which, as a result will reduce the shading experienced. The tree is not considered to cause excessive shade being to the East of the objector's property.
- ii) The owner of the tree has demonstrated their duty of care by arranging for the tree to be managed and for deadwood to be removed. All tree owners are recommended to ensure that their trees are regularly inspected by a suitably qualified professional and any recommendations carried out. No arboricultural documentation has been provided by the objectors to support the need to fell the tree.
- iii) The owner of the Ash tree has written in support of the TPO and states that the boundary wall is their responsibility, not the objector's. No evidence has been provided to indicate that damage to the objector's property is foreseeable. A patio was not evident near to the tree in the objector's garden at the time of the Officer's inspection following receipt of an application to undertake tree works.

4.10 Relevant Recent History

4.11 12/02000/TPO – Reduction of canopy of overhanging growth as detailed in submitted photograph. CONSENT

4.12 12/02050/TPO - Crown lift 1 limb to 2.6m, crown thin by 20% and remove dead wood over 50mm. CONSENT

5.0 LEGAL AND POLICY FRAMEWORK

Tree Preservation Order

5.1 A tree preservation order is an order made by a local planning authority in respect of trees and woodlands. The principal effect of a tree preservation order is to prohibit the:

Cutting down, uprooting, topping, lopping, wilful damage or wilful destruction of trees without the council's consent.

5.2 The law on tree preservation orders is in the Town and Country Planning Act 1990 and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into effect on 6th April 2012 .

5.3 A local planning authority may make a tree preservation order if it appears

“Expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”

5.4 The Council’s Arboricultural Officers have a written method for assessing the ‘Amenity’ of trees and woodlands considered to be under threat. This is in keeping with Government guidance, and takes account of the visual impact of trees and their contribution to the landscape, their general overall health and condition, their longevity and their possible or likely impact on services and property.

5.5 This assessment concluded, having taken account of, visual amenity, tree health considerations and impact considerations, that it would be expedient in the interest of amenity to continue to provide the tree with protection under a TPO. The TPO was made on 11th October 2012 and took effect immediately and continues in force for a period of six months.

5.6 The tree is currently provided protection by virtue of being within the Bath Conservation Area and under the 1973 TPO, however, the intention is to revoke the old TPO.

Planning Policy

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

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

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

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

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

6. CONCLUSION

- 6.1 The tree makes a significant contribution to the landscape and amenity of the area and is readily visible to the general public.
- 6.2 Confirmation of the TPO would ensure the retention of the tree, however, should it be found in the future that it would be unreasonable to retain the tree an application can be made under the TPO for felling. The Council will then be able to condition appropriate replacement planting if considered appropriate.
- 6.3 In keeping with the Council's commitment to conserve and enhance the environment, it is recommended that the Committee confirm the TPO without modification.

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

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Tim Selway
40 Edward Street
Lower Weston
Bath
BA1 3BR

5th November 2012

Tree Preservation Order 2012 – Objection

Reference: 17 the Linleys Bath No. 279 T3 – Survey reference ST 738659

Dear Ms. Brewer,

Rather than a tree preservation order I would prefer the removal of the tree at reference i.e. the Ash tree in the rear of the garden of 17 the Linleys, adjacent to the boundary, for the following reasons:

1. The tree is too large for a residential area causing damage to other garden plants and shrubs by its large shade area and by drawing excessive water in the context of a residential garden. Whilst a beautiful tree for a rural area or park it is wholly inappropriate to a residential situation.
2. The height of the tree in combination with the size of its trunk and main boughs represents a risk to my house and potentially anyone inside my utility room or downstairs toilet, in the event of the tree collapsing, or main boughs breaking due to storm damage such as high winds or lightening strike. This risk is exacerbated by the recent epidemic of Chalara Fraxinea or Ash dieback disease. If as predicted the disease spreads virulently over the next few years, there appears to be a good chance that the tree in question could become infected, weakening the tree and increasing its vulnerability and thereby the risk it presents.
3. Root growth from the tree has caused damage to the boundary wall and surrounding area in the past requiring extensive and expensive repair. I am concerned that this could happen again. In addition I am concerned regarding the potential for root damage to my property in terms of my patio adjacent to the boundary wall and my house.

In the event that the council cannot order the removal of the tree in question, I am in favour of a tree preservation order that will ensure the tree is properly managed and maintained.

Yours Sincerely



T.M.L Selway

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



Jane Selway
40 Edward Street
Lower Weston
Bath
BA1 3BR

5th November 2012

Tree Preservation Order 2012 – Objection

Reference: 17 the Linleys Bath No. 279 T3 – Survey reference ST 738659

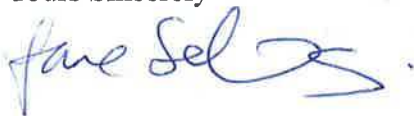
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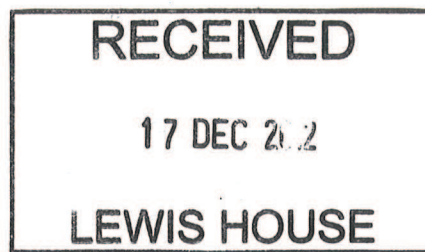


Jane Selway

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



Ms Jane Brewer
Senior Arboricultural Officer
Environment Team
Planning Services



17 The Linleys
Audley Park
Bath BA1 2XE
December 8, 2012

Town and Country Planning Act 1990
Bath and North East Somerset District Council (17 The Linleys, Bath no 279)
Tree Preservation Order 2012

Dear Ms Brewer,

Thank you for your letter of December 3 advising me that you had received a letter from the residents of 40 Edward Street objecting to the above Tree Preservation Order and that these objections will need to be considered by the Development Control Committee in due course where members will decide whether to confirm the Tree Preservation Order or not.

When I purchased 17 The Linleys in 1986, I was delighted to learn that there were tree preservation orders protecting the venerable ash and two walnuts on the property, as also those trees growing on the central island. These trees, planted long before the modern houses were built, are a haven for many birds, bestow a special grandeur on the area and provide a character in keeping with the ancient heritage of the city of Bath. Audley Park is graced with many old houses surrounded by gardens containing fine trees and would lose much of its attraction without them. I am also responsible for the fence on the right-hand side of the property and for the boundary stone wall at the back, another original feature.

A city without trees is deprived of its natural lungs. Threatened by the pollution arising from increased traffic in the environment, trees help to maintain the chemical balance and preserve health in the population. Beauty and practicality are equal partners. Bath is blessed with some splendid parks under the care of the Council but individual citizens need also to play their part.

Obviously old trees need to be kept in good condition with regular maintenance and judicious pruning and this has been done consistently in my garden. It can be argued that the large root system helps to hold together the sloping land of the site and creates stability. Earlier this year a major prune was carried out by Gary Rowlands of Greenman Environmental Management Ltd., a respected local company with whom I have always dealt. The owner of any property on which such trees grow is naturally expected to provide due care, as well as being sensitive to the feelings of his immediate neighbours. Indeed, I had thought all was well after this recent pruning when the Selways kindly sent me a letter on July 13, 2012: "We are very pleased with the work carried out on the ash tree; it has made a tremendous difference to our garden." Good relations amongst people are vital and a mark of civilized behaviour; it is such a shame that they now have new misgivings.

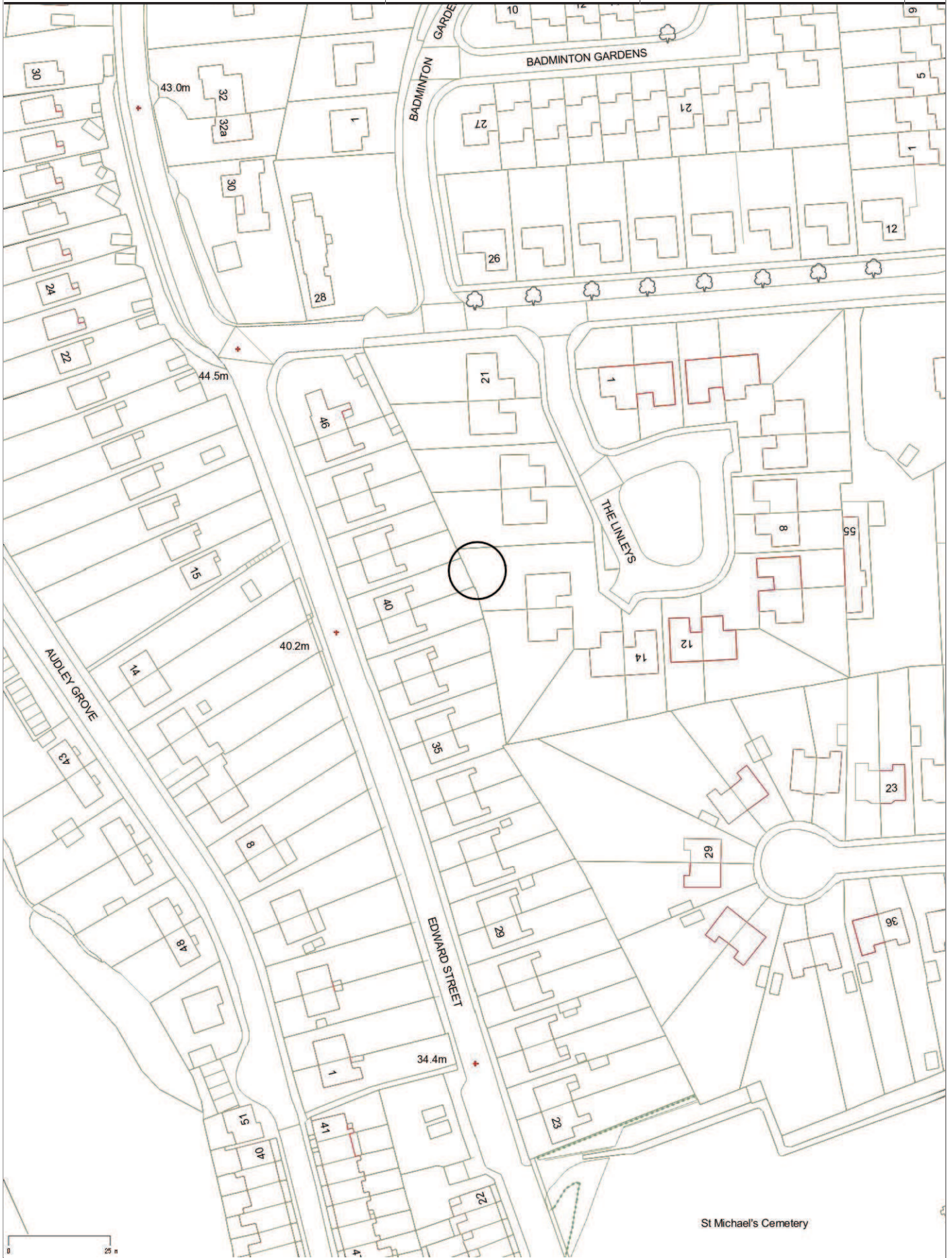
The advent of Chalara Fraxinea has brought a new concern with regard to the ash tree in the garden. Whether or not it will be affected cannot at the moment be known but I will obviously be awaiting the appearance of spring with considerable attention. Should the tree be infected, expert advice will be sought as to the best way to proceed, though it is to be expected that a tree of this size would take time to succumb. It is understood that some trees appear to have built up an immunity, in which case the surviving ones would undoubtedly become even more valuable and worthy of preservation.

It is to be hoped that Bath and North East Somerset Council will continue to provide the trees of the city with the protection offered by the Tree Preservation Order and so ensure all the benefits it offers will not be erased.

Yours sincerely,

Mrs Mavis V Harwood

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	16th January 2012
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Control Manager, Planning and Transport Development (Telephone: 01225 477281)
	AGENDA ITEM NUMBER
TITLE:	NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES
WARD:	ALL
BACKGROUND PAPERS:	None
AN OPEN PUBLIC ITEM	

APPEALS LODGED

App. Ref: 12/03052/FUL
Location: Downside 1 Copse Road Saltford BS31 3TH
Proposal: Erection of a two storey side extension following partial demolition of existing dwelling and demolition of existing outbuildings, garage and garden shed and change of use of adjoining field to domestic garden including a landscape proposal to the boundary.
Decision: REFUSE
Decision Date: 13 September 2012
Decision Level: Delegated
Appeal Lodged: 30 November 2012

App. Ref: 12/03040/FUL
Location: 34 Rotcombe Lane High Littleton Bristol BS39 6JP
Proposal: Erection of a single storey front extension following demolition of front porch.
Decision: REFUSE
Decision Date: 12 September 2012
Decision Level: Delegated
Appeal Lodged: 3 December 2012

App. Ref: 12/03447/FUL
Location: Pump Cottage Ashley Road Bathford Bath
Proposal: Erection of a side extension.
Decision: REFUSE
Decision Date: 27 September 2012

Decision Level: Delegated
Appeal Lodged: 7 December 2012

App. Ref: 12/01350/FUL
Location: Stokes Masonry Plots 9-12 The Smallholdings Claude Avenue Twerton Bath
Proposal: Erection of saw building (Resubmission)
Decision: REFUSE
Decision Date: 18 May 2012
Decision Level: Delegated
Appeal Lodged: 10 December 2012

App. Ref: 12/03301/LBA
Location: 27 Dafford Street Larkhall Bath BA1 6SW
Proposal: Alterations for the replacement of aluminium single glazed windows with softwood timber double glazed vertical sliding sash window units.
Decision: REFUSE
Decision Date: 22 October 2012
Decision Level: Delegated
Appeal Lodged: 12 December 2012

App. Ref: 12/03841/LBA
Location: 2 Bathwick Hill Bathwick Bath BA2 6EP
Proposal: Internal alterations to enlarge existing opening between the kitchen and conservatory
Decision: REFUSE
Decision Date: 5 November 2012
Decision Level: Delegated
Appeal Lodged: 13 December 2012

App. Ref: 12/02849/FUL
Location: Little Mead Pipehouse Lane Freshford Bath
Proposal: Erection of single storey extensions following demolition of existing side and rear extensions, and general renovation of existing studio outbuilding into additional accommodation ancillary to the main house.
Decision: REFUSE
Decision Date: 23 August 2012
Decision Level: Delegated
Appeal Lodged: 14 December 2012

App. Ref: 12/02767/FUL
Location: 5 Kilmersdon Road Radstock BA3 3QL
Proposal: Erection of one bed annexe to rear of property
Decision: REFUSE
Decision Date: 2 October 2012
Decision Level: Chair Referral

Appeal Lodged: 14 December 2012

App. Ref: 12/04399/FUL
Location: 168 Charlton Park Midsomer Norton BA3 4BN
Proposal: Rebuild front wall, erection of 3 pillars and erection of fencing in between pillars and to side of properties (Retrospective) (Resubmission)
Decision: REFUSE
Decision Date: 15 November 2012
Decision Level: Delegated
Appeal Lodged: 19 December 2012

APPEAL DECISIONS

App. Ref: 12/03008/FUL
Location: 6 Radford Hill, Timsbury
Proposal: Erection of two storey rear extension and front porch
Decision: Refuse
Decision Date: 11th September 2012
Decision Level: Delegated
Appeal Decision: Appeal dismissed, split decision porch extension allowed.

Summary

The main issue was the appearance of the flat roof rear extension and its impact on the character of the dwelling.

The Inspector issued a split decision allowing the front porch. There had been no objection to the front porch only the rear extension.

The Inspector found that whilst the extension would not be visible from the street the proposed extension would harm the appearance of the existing dwelling notwithstanding the fact that a similar extension had been constructed on the neighbouring property.

It was noted that there was no local opposition to the scheme and that the appellant is in need of enlarged living accommodation but this did not outweigh the objection to the design.

App. Ref: 12/01436/FUL
Location: 45 High Street, Chew Magna.
Proposal: Replacement of outbuilding roof, alterations to south gable elevation and eastern windows of outbuilding (retrospective).
Decision: Refuse
Decision Date: 28th June 2012
Decision Level: Delegated
Appeal Decision: Dismissed

Summary:

This property is a large detached house with a number of outbuildings all set back

from the High Street and accessed via a gated entrance. It is situated within the Chew Magna Conservation Area and the Green Belt.

The works that are the subject of this application have already been carried out and comprise alterations to the appearance of an outbuilding on the boundary with No.43 High Street and the replacement of its roof. The planning application was refused permission as it was considered that the new roof, due to its increase in height, mass and bulk would have an overbearing impact on the residents of No.43 High Street.

The appellant maintains that any increase in height of the roof is either small or merely perceived but the Inspector, and the Council, using photographs provided by nearby residents concluded that the roof is noticeably different and steeper than that which has previously existed. The Inspector also concluded that the roof, due to a combination of its steep pitch, overall height and length, appears as a significantly intrusive and unacceptably overbearing development. Therefore, in order to safeguard the outlook of the residents of No. 43 High Street the Inspector dismissed the appeal.

As the works have already been carried out the Council's Enforcement Team will now contact the appellant to see if a revised proposal could satisfactorily address the reason for refusal. If not the expediency of taking enforcement action will need to be considered.

App. Ref:	12/01717/VAR
Location:	Former Queen Charlton Concrete Works, Charlton Field Lane, Keynsham
Proposal:	To vary condition no. 3 of planning permission no. 10/00981/FUL, this requires work at the site to cease by 31st July 2012. The appellant has requested a further six months to complete the works.
Decision:	Refuse
Decision Date:	4 th July 2012
Decision Level:	Delegated
Appeal Decision:	Allowed

Summary:

The appeal site is a former quarry and concrete works situated in the Green Belt to the south of Keynsham. Planning permission for filling the former quarry was first applied for in 1997 with filling due to finish in August 2005 and restoration to be completed by August 2006. In June 2005, permission was sought for an extension of time to enable filling to continue until August 2007, with restoration due to be completed by August 2008. This application was refused in August 2005 but a further application for the extension of time, submitted in September 2005, was approved in July 2007. In March 2010 a full application was submitted for the 'phased completion of restoration of the site, using imported excavated materials and topsoil/compost'. The period sought was 18 months and the volume of material required to achieve the proposed final profile was stated to be 56,100 m³ of subsoil and topsoil. This application was approved in September 2010, and a condition of the permission required the importation of materials to cease 18 months from the commencement of operations i.e. by 31st July 2012. A further planning application was submitted to extend this period to 31st December 2012 but was refused permission in July 2012 on the grounds that the extension of time would further delay the restoration of the site to agriculture which is considered to have an adverse impact on the openness and visual amenities of the Green Belt in this location contrary to policies GB1 and GB2 of the Bath and NE Somerset Local Plan, including minerals and waste policies 2007. This

refusal is the subject of the appeal which was considered by way of a Hearing on 27th November 2012.

The levels to which the quarry should be in-filled were agreed as part of the 2010 planning permission. At the Hearing the Council argued that a satisfactory profile could be achieved with material already on the site and the difference between this and the approved profile would not be significant in terms of the after-use of the land. In contrast the appellant accepted that work had continued without planning permission but argued that this had been done to finish the work as quickly as possible and at the current rate of importation the appellant also stated that the subsoil would be in place by Christmas 2012. The Inspector acknowledged this and accepted that the sooner the work is complete the sooner the openness and visual amenity of the Green Belt can be safeguarded. The Inspector therefore allowed the appeal in a decision letter dated 27th December 2012 and stated 'in light of what I have read and heard I find that it would be reasonable to allow the requested 6 months extension, until 31st December 2012.' Accordingly, the Inspector varied condition no.3 to:

'The permission shall be limited to a period of 24 months from the commencement of operations as notified by condition 1, by which date the importation of materials shall have ceased and the site shall be restored in accordance with the approved details.'

However, it should be noted that at the Hearing it was agreed that operations commenced in January 2011 so according to the Inspectors new condition operations must cease in January 2013, rather than by the end of December 2012. As no specific date in January 2011 has been agreed for the commencement of operations Officers have decided not consider if works have ceased until after 31st January 2013.

App. Ref:	11/00151/UNDEV
Location:	Land at Stitching Shord Farm, Stitching Shord Lane, Bishop Sutton.
Development:	Unauthorised development comprising the erection of a wooden single storey building for use as a dwelling.
Notice Issued:	24 th January 2012
Appeal Decision:	Enforcement Notice quashed and planning permission granted for a temporary period.

Summary:

The Land is situated beyond the settlement of Bishop Sutton, within the Green Belt and the Mendip Hills Area of Outstanding Natural Beauty.

The appeal was made against an enforcement notice relating to the erection of a wooden single storey building for use as a dwelling. The notice required the demolition of the building and the removal of all materials resulting therefrom, within a period of 6 months. The appeal was lodged on ground (a) – *that planning permission should be granted for what is alleged*; ground (b) – *that the breach alleged has not occurred as a matter of fact*; ground (c) – *that there has not been a breach of planning control*; and ground (f) – *that the compliance period is unreasonable*.

With regard to ground (b), the Inspector was not persuaded by the appellant's claim that the building had been erected for agricultural purposes and noted that, had it been so, then the

necessary process of prior notification had not taken place. He concluded that the breach alleged had occurred as a matter of fact.

With regard to ground (c), the Inspector concluded that the necessary planning permission had not been granted for the development and that there had, therefore, been a breach of planning control.

With regard to ground (a), the Inspector considered the main issue to be whether the building comprises inappropriate development in the Green Belt and, if so, whether the harm (by reason of inappropriateness) and any other harm is clearly outweighed by other considerations amounting to very special circumstances.

The Inspector determined that the building comprises inappropriate development in the Green Belt. He considered however that a functional need for an agricultural dwelling had in the circumstances been demonstrated, and that such need would not be fulfilled by other properties in Bishop Sutton. He further found there to be financial justification at present for a worker to live on the holding.

Besides harm to the Green Belt through inappropriate development, the Inspector found that the dwelling, being fairly well concealed, has a harmful but limited effect on the openness of the Green Belt and the natural beauty of the AONB. Traffic movements, he considered, would be likely to be no more than would be the case if the appellant were to travel to and from the land from a dwelling elsewhere.

In conclusion, the Inspector determined that the building comprises inappropriate development in the Green Belt although, overall, the harm and any other harm is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development. Accordingly, the Inspector allowed the appeal, quashed the enforcement notice and granted conditional planning permission in respect of the deemed application. The first condition limits the permission to 3 years; the second limits occupation to those engaged in agriculture; and the third restricts permitted development rights.

App. Ref:	10/05121/FUL
Location:	Gladys House, 2 South Road, Midsomer Norton.
Proposal:	Change of use of ground floor from offices to 2no flats.
Decision:	Refuse
Decision Date:	20 th October 2011
Decision Level:	Delegated
Appeal Decision:	Appeal dismissed.

Summary:

The Inspector identified the main issue to be whether the proposal would be contrary to the Council's strategy for safeguarding employment land.

He opined that both the Local Plan and the (then) Draft Core Strategy gave clear indication of the continued need for increased employment space within this location, of the kind that has been made available by the appeal building. Furthermore, he noted that there was nothing to suggest that Gladys House, which is a modern building constructed specifically for office purposes, is incapable of offering such accommodation to an adequate standard; and that the proposal did not seek to provide any alternative employment opportunities of an equivalent economic benefit to the area. The change of use of the ground floor of the premises to residential use

The Inspector was not persuaded by the appellant's argument that there is no reasonable prospect of the building being used for employment purposes.

Whilst he found that there was no evidence to suggest that the proposed residential use would generate any unacceptable levels of parking on street, the Inspector concluded, overall, that the proposal would be contrary to the Council's strategy for safeguarding employment land.

App. Ref:	11/00896/FUL
Location:	School House, Chapel Road, Clandown.
Proposal:	Change of use of premises from Non-Residential Institution (formally Clandown Primary School) (Use Class D1) to Storage and Distribution
Decision:	Refuse.
Decision Date:	23 rd December 2011
Decision Level:	Delegated.
Appeal Decision:	Dismissed.

Summary:

The appeal in fact relates to the entire former Clandown School.

Three main issues were identified. Firstly, the effect of the use on highway safety; secondly, the effect of the use on the living conditions of occupiers along Chapel Road; and thirdly, whether the use preserves or enhances the character and appearance of the Conservation Area.

On the first issue, the Inspector noted the restricted nature of Chapel Road, and the potential for conflict resulting in particular from its use by large vehicles generated by the existing business at its western end. The Inspector accepted that the proposed use would likely result in a greater number of such vehicles; and that vehicle movements generated by the proposal would be markedly different to those which would have been generated by the former school, and would result in an escalation in conflict between different vehicles using the highway and also between vehicles and pedestrians along this residential street. The restricted nature of the area at the point of access to the site added to the Inspector's overall concern in relation to the practical use of the site for general storage and distribution purposes and the implications for highway safety.

On the second issue, the Inspector recognised that the movement of large vehicles was already a feature along Chapel Road. He considered however that the proposed use could give rise to unacceptable intensification of goods vehicle traffic. In addition to highway safety issues, this would result in a noticeable increase in noise nuisance and disturbance from an upsurge in such vehicles and the conflict arising between them. The Inspector determined that harm to the amenities of neighbouring occupiers would result.

On the third issue, the Inspector observed that whilst the adjoining scrapyard has a predictably industrial appearance about it, it was not typical of the developed and open parts of the Conservation Area. Furthermore, he considered that the form of the former school set it apart from the intensive use of the neighbouring land. In his view the ad hoc storage associated with the use dominated the site and detracted from the simple form and arrangement of the existing building. Overall, he considered the proposal to be harmful to the character and appearance of the Conservation Area.

In dismissing the appeal, the Inspector recognised the economic benefits of the proposal, but concluded that such benefits did not outweigh the identified harm.

App. Ref: 10/05317/FUL
Location: Builders Yard, Kilkenny Lane, Bath
Proposal: Erection of a replacement builders store and workshop.
Decision: None
Decision Date: None – non determination
Decision Level: None
Appeal Decision: Appeal dismissed.

Summary:

The main issues were determined to be a) whether the proposed development constitutes inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt; and c) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The Inspector found that the proposal represented inappropriate development in the Green Belt which is, by definition, harmful.

Although the proposed development would replace the existing store, the Inspector found that it would be significantly taller with a larger footprint, introducing additional development to the Green Belt to the detriment of its openness, adding to the harm by virtue of inappropriateness.

The Inspector noted that although the existing building is in a poor state of repair and somewhat unsightly in appearance landscape and would appear as an obtrusive feature, adding to the harm and contrary to Policies D.2 and D.4 which seek to ensure that development responds to its local context and maintains or enhances the public realm; and to Policy NE.1 which states that development which does not either conserve or enhance the character and local distinctiveness of the landscape will not be permitted.

The benefit of secure storage did not in his opinion clearly outweigh the harm by virtue of inappropriateness and other harm so as to justify the scheme on the basis of very special circumstances. The proposed development is therefore contrary to national policy and Policy GB.1.

App. Ref: 07/00952/UNDEV
Location: Prospect Stile Farm, Limestone Link, Hinton Blewitt.

Development: Unauthorised development comprising (1) the stationing of a mobile home and the use of the land for residential purposes; and (2) engineering works.
Notice Issued: 17th March 2011
Appeal Decision: Enforcement Notice upheld, as corrected and varied.

Summary:

At the hearing the Council requested that the notice be corrected by the deletion of the allegation relating to the stationing of a mobile home and the use of the land for residential purposes. This issue may however yet be the subject of a further Enforcement Notice. Furthermore, having considered the nature of the engineering works, the Inspector corrected the notice to make it clear that the breach of planning control alleged in the notice relates to the carrying out of works for the erection or extension of a building.

The corrected notice requires the cessation of the works relating to the erection/extension of a stone barn, and the reinstatement of the land to its former levels. The appeal was lodged on grounds (c), (d), (f) and (g), although grounds (d) and (f) related to the mobile home and were not ultimately considered in view of the corrections to the notice.

With regard to ground (c), the Inspector did not accept the appellant's argument that the works comprised 'permitted development', since the necessary conditions for such development had not been complied with. He found that the appellant had not discharged the burden of proof placed upon him of showing that there has not been a breach of planning control.

With regard to ground (g), the Inspector considered that a compliance period of 6 months (rather than the 3 months stated in the notice) was reasonable in view of the likely weather conditions during the winter months.

App. Ref: 10/05272/FUL
Location: Oxleaze Farm, Nempnett Thrubwell.
Proposal: Installation of 2no. 11kW Gaia wind turbines
Decision: None
Decision Date: None – non determination
Decision Level: None
Appeal Decision: Appeal dismissed.

Summary:

The main issues were determined to be a) whether the proposed development constitutes inappropriate development in the Green Belt; b) its effect on the openness of the Green Belt and the landscape character of the surrounding area; c) its effect on living conditions at nearby properties; and d) if it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Whilst noting that there were some points from which the turbines would not be visible, the Inspector was not persuaded by the appellant's argument that, when viewed from points at

distances of about 150 metres, the proposal would conserve or enhance the landscape. He considered, rather, that the turbines would add to the visual harm caused by an existing electricity pylon and, by the introduction of new built structures, would reduce the openness of the Green Belt.

The Inspector did not fully accept the Council's concerns with regard to the assessment of potential noise nuisance. He found that a simplified noise condition – as advocated in the published guidance – would adequately safeguard the amenities of nearby residential properties.

The Inspector attached substantial weight to the harm to the Green Belt by reason of inappropriateness. He attributed significant weight to the wider environmental and economic benefits associated with the proposal, and concluded that such benefits did not clearly outweigh the harm to the Green Belt by reason of inappropriateness, and the identified harm to openness and the landscape. Accordingly, he found that the question of very special circumstances could not arise.

App. Ref: 09/04350/FUL
Location: Old Chapel Site, The Firs and Old Pit Lane, Clandown.
Proposal: Change of use of land to provide secondary peak time vehicle access to/from Tiger Works with provision of 5no. customer parking spaces and landscape moundings
Decision: None
Decision Date: None – non determination
Decision Level: None
Appeal Decision: Appeal dismissed.

Summary:

The Inspector noted that land which formed part of the appeal site is the subject of an Enforcement Notice – upheld on appeal - which related, inter alia, to engineering works comprising the construction of an access road.

The main issues were determined to be a) the effect of the proposed development on the character and appearance of the Conservation Area; b) its effect in terms of the safety and convenience of users of Old Pit Lane; and c) its effect on the living conditions of neighbouring residents.

On the first issue, the Inspector noted that Clandown Batch is a distinctive and prominent feature in the local landscape which makes a positive contribution to the character and appearance of the Conservation Area; and that there was a clear distinction between the undeveloped character of the Batch and the developed part of the village below. He considered it likely that the proposed track would be used to an extent that would have an appreciable impact when viewed from Chapel Road.

The Inspector opined that the proposed earth bank would be seen as a contrived response to concerns previously expressed in relation to the enforcement appeal and would not entirely achieve its aim of screening the harmful effect identified by the Inspector in that appeal from

view. In addition he considered that the movement of vehicles across the Batch would be uncharacteristic of this part of the CA and would detract from its character and appearance.

Whilst noting that much of the length of the track would be screened by the trees and vegetation on the Batch, supplemented by additional tree planting, the Inspector considered that vehicles using the track towards its junction with Old Pit Lane would be widely open to view from numerous public viewpoints in the surrounding area.

On the second issue, the Inspector noted that Old Pit Lane is a well-used public footpath, with only limited vehicular access; and that the proposed access would likely result in it being used by vehicles to a significantly greater extent. The restricted width of the lane would, he felt, result in conflict between vehicles and pedestrians.

Whilst the Inspector considered that visibility at the junction of Old Pit Lane with Smallcombe Road was acceptable, and that there would be some consequent reduction in traffic along Chapel Road, he concluded that the proposed development would have an unacceptable effect on the safety and convenience of users of the public footpath.

On the third issue, the Inspector found that the vehicular use of Old Pit Lane would result in increased overlooking, a perception of being overlooked and an overall degree of disturbance which would cause significant harm to the amenities of the occupiers of properties adjacent to the lane. The harm would not, he considered, be outweighed by any benefits to residents along Chapel Road.

An application for an award of costs against the Council was dismissed.

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