

Democratic Services

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Date: 29 April 2014

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To: All Members of the Development Control Committee

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

Permanent Substitutes:- Councillors: Rob Appleyard, John Bull, Sarah Bevan, Sally Davis, Dave Laming, Vic Pritchard and Jeremy Sparks

Chief Executive and other appropriate officers
Press and Public

Dear Member

Development Control Committee: Wednesday, 7th May, 2014

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 7th May, 2014 at 2.00pm** in the **Brunswick Room - Guildhall, Bath**

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 6th May 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, 7th May, 2014
at 2.00pm in the Brunswick Room - Guildhall, Bath**

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

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

2. ELECTION OF VICE CHAIR (IF DESIRED)

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

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

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

(b) The nature of their interest.

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

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

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

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

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

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

7. ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

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

8. MINUTES: 9TH APRIL 2014 (PAGES 9 - 30)

To approve as a correct record the Minutes of the previous meeting held on Wednesday 9th April 2014

9. SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (PAGES 31 - 46)

10. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (PAGES 47 - 102)

11. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (PAGES 103 - 108)

To note the report

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

Delegated List Web Link: <http://www.bathnes.gov.uk/services/planning-and-buildingcontrol/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 the Constitution or the Code of Conduct for Members and Co-Opted Members adopted by the Council on 19th July 2012 to which full reference should be made as appropriate).

1 Declarations of Interest (Disclosable Pecuniary or Other Interest)

These are to take place when the agenda item relating to declarations of interest is reached. It is best for Officers' 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 a plan or from written or oral submissions or the proposal is particularly contentious. The 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. Protocol for Decision-Making

When making decisions, the Committee must ensure that it has regard only to relevant considerations and disregards those that are not material. The Committee must ensure that it bears in mind the following legal duties when making its decisions:

Equalities considerations
Risk Management considerations
Crime and Disorder considerations
Sustainability considerations
Natural Environment considerations
Planning Act 2008 considerations
Human Rights Act 1998 considerations
Children Act 2004 considerations
Public Health & Inequalities considerations

Whilst it is the responsibility of the report author and the Council's Monitoring Officer and Chief Financial Officer to assess the applicability of the legal requirements, decision makers should ensure that they are satisfied that the information presented to them is consistent with and takes due regard of them.

6. **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.

7. **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.

8. **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. Shaine Lewis, Principal Solicitor
Tel. No. 01225 39 5279
2. Simon Barnes, Principal Solicitor
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, Senior Democratic Services Officer Tel No. 01225 39 4414

**Planning and Environmental Law Manager, Development Manager,
Democratic Services Manager, Monitoring Officer to the Council
August 2013**

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, 9th April, 2014

Present:- Councillors Gerry Curran, Ian Gilchrist, Liz Hardman, Eleanor Jackson, Les Kew, Malcolm Lees, Bryan Organ, Vic Pritchard (In place of David Veale), Manda Rigby, Nigel Roberts, Martin Veal and Brian Webber

Also in attendance: Councillors Rob Appleyard, June Player and Ben Stevens

155 TEMPORARY ABSENCE OF THE CHAIR

Councillor Manda Rigby was elected to Chair the start of the meeting in the absence of Councillor Gerry Curran

156 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

157 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not required

158 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There was an apology for absence from Councillor David Veale whose substitute was Councillor Vic Pritchard, There was also an apology from Councillor Doug Nicol.

159 DECLARATIONS OF INTEREST

Councillor Martin Veal stated that, in the report on the planning application at Bath Soft Cheese, Park Farm, Church Lane, Kelston (Item 3, Report 9) there was a reference to him supporting the proposal; however, he had not predetermined the application and would hear the debate before voting. Councillor Manda Rigby later declared a non-prejudicial interest in the application at 66 Upper East Hayes, Bath (Item 5, Report 9) as her property was across the road (A4) from the site and therefore she would speak and vote on the application.

160 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none

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

The Senior Democratic Services Officer explained the process for public speaking and indicated that there were a number of people wishing to make statements on

planning applications in Report 9 and that they would be able to do so when reaching those items. The Chair had previously indicated that the speaking time on the application at 60 Ringwood Road could be extended from the standard 3 minutes to 5 minutes in view of the number of objectors.

162 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

There was none

163 MINUTES: 12TH MARCH 2014

The Minutes of the previous meeting held on 12th March 2014 were approved as a correct record and signed by the Chair

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

The Committee considered

- A report by the Divisional Director – Development on various applications for planning permission etc
- An Update Report by the Divisional Director – Development on Item Nos 1 and 6, a copy of which is attached as *Appendix 1* to these Minutes
- Oral statements by members of the public etc on Item Nos 1, 3, 4, 6 and 7, the Speakers List being attached as *Appendix 2* to these Minutes

The Team Manager – Development Management stated that, where reference was made in the report to the Development Manager, Head of Planning Services etc, it should now read Divisional Director – Development.

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

Item 1 Milford Head, Stitchings Shord Lane, Bishop Sutton – Demolition of existing buildings and redevelopment of the site to provide 9 dwellings (Outline with all matters reserved except access)(Resubmission of 12/05599/OUT)

– The Case Officer reported on this application and his recommendation to (A) authorise the Divisional Director - Development to grant permission subject to the applicant entering into a legal agreement to secure various provisions relating to Education, Open space and recreational facilities, Transport and Protection of boundary hedges; and (B) subject to the prior completion of the above Agreement, authorise the Divisional Director - Development to grant permission subject to conditions.. He referred to submission of an indicative plan showing a revised layout of the development as set out in the Update Report.

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

Councillor Vic Pritchard as Ward Member on the Committee opened the debate. He was not comfortable with the proposal for many reasons including that it was in the AONB, adjoining the Green Belt and outside the housing boundary, it was designated an RA1 village in the Emerging Core Strategy, there was risk of flooding

in the Lane and it affected the 5* caravan park adjoining the site. Councillor Les Kew supported these views and in addition considered that it was overdevelopment and the cumulative effect of housing development in the village would undermine the plan-making process. He therefore moved that Officers be authorised to refuse permission on the basis of these comments which was seconded by Councillor Eleanor Jackson. The Team Manager – Development Management gave advice on how housing schemes such as this could have an adverse cumulative effect on the Council's plan-making process by undermining the Council's housing strategy as set out in the Emerging Core Strategy. At Councillor Nigel Robert's request, the mover and seconder agreed that the impact on the AONB should be included as a reason for refusal. After a short debate, the motion was put to the vote and was carried, 8 voting in favour with 0 against and 3 abstentions.

(Note: Councillor Gerry Curran was not present for consideration of this item)

Item 2 No 40 Bryant Avenue, Westfield, Radstock – Construction of new dwelling – The Case Officer reported on this application and the recommendation to refuse permission.

The Ward Councillor Rob Appleyard made a statement in support of the application.

Members discussed the application. Councillor Bryan Organ considered that the design was not acceptable and moved the Officer recommendation to refuse permission which was seconded by Councillor Les Kew.

Members debated the motion. Various issues were raised including the design, car parking, overlooking and the fact that there had been no objections to the proposal. Councillor Malcolm Lees pointed out that the existing property had permission for a single storey side extension which would leave little amenity space. Members had opposing views on some of these issues. The Team Manager – Development Management responded to some of the comments raised and stated that it would not be appropriate to use obscured glass in the first floor rear bedroom window to prevent overlooking. If the motion to refuse was agreed, the applicant could appeal against the decision or submit a revised proposal. The motion was then put to the vote and was carried, 6 voting in favour and 4 against with 1 abstention.

(Note: Councillor Gerry Curran was not present for consideration of this item)

Item 3 Bath Soft Cheese, Park Farm, Church Lane, Kelston - Erection of extension to existing agricultural building to create a cheese dairy – The Case Officer reported on this application and her recommendation to refuse permission.

The applicant made a statement in support of the proposal.

Councillor Martin Veal, the Ward Member on the Committee, read a statement by Councillor Geoff Ward, one of the other Ward Members. He then gave his own views on the application but considered that it would be useful if Members saw the site. He therefore moved that the application be deferred for a site visit which was seconded by Councillor Les Kew.

The motion was put to the vote and was carried, 9 voting in favour and 1 against with 1 abstention.

(Note: Councillor Gerry Curran was not present for consideration of this item)

Item 4 No 60 Ringwood Road, Twerton, Bath – Erection of single storey rear extension, new dormer to rear roof slope and alterations to form 6 bedroom House in Multiple Occupation (HMO) – The Case Officer reported on this application and her recommendation to grant permission with conditions.

The public speakers made their statements against and in favour of the proposal which was followed by a statement by the Ward Councillor June Player expressing concerns about the proposed development.

Members discussed the application. The Team Manager – Development Management informed the Committee that this was not an application to change the use of the existing property to an HMO but an extension of the building in its current use which could be occupied by up to 6 persons without requiring planning permission. There was no restriction on use by students or on car use by occupiers and any such restriction would be difficult to enforce. The Case Officer stated that there were no facilities for cycle storage at the front of the property although provision could be made at the rear. Councillor Nigel Roberts pointed out that there was a cycle path at the rear of the property and that a tenancy agreement could be negotiated to limit car use and encourage the use of cycles.

Members continued to discuss the proposal and possible reasons for refusal. Councillor Vic Pritchard felt that the proposed development exceeded reasonable limits for this size of property and therefore moved that Officers be delegated to refuse permission on the grounds of loss of amenity to local residents, car parking problems being exacerbated and overdevelopment. The motion was seconded by Councillor Brian Webber. The Team Manager – Development Management clarified some wording of the motion by stating that it could refer to the intensification of the use to the detriment of adjoining residents. Members debated the motion but it was felt by some Members that these were not adequate grounds for refusal. The motion was put to the vote. Voting: 4 in favour and 6 against with 1 abstention. Motion lost.

Councillor Les Kew therefore moved the Officer's recommendation to grant permission subject to conditions which was seconded by Councillor Eleanor Jackson. After a short discussion regarding restricting car use by occupiers under a tenancy agreement, the motion was put to the vote and was carried, 5 voting in favour and 2 against with 4 abstentions.

(Note: After this item at 4.05pm, the meeting adjourned for 10 minutes for a comfort break after which Councillor Gerry Curran took the Chair for the remainder of the meeting)

Item 5 No 66 Upper East Hayes, Walcot, Bath – Change of use from a House in Multiple Occupation (HMO)(Use Class C4) to Use Class Sui Generis for up to 9 persons – The Case Officer reported on this application and her recommendation to grant permission subject to conditions. Councillor Manda Rigby declared a non-prejudicial interest as her house was across the road (A4) and therefore she would still speak and vote on the matter.

Councillor Nigel Roberts considered that it would be difficult to refuse the application and moved the recommendation to grant permission with conditions. The motion was seconded by Councillor Les Kew.

Members debated the motion. It was queried whether the application passed the Stage 2 test for HMOs as prescribed in the Supplementary Planning Document. The Officer confirmed that it was not necessary as it had passed the Stage 1 test.

The motion was put to the vote and was carried, 10 voting in favour and 0 against with 1 abstention.

Item 6 No 61 Lorne Road, Westmoreland, Bath – Change of use from dwelling (Use Class C3) to House in Multiple Occupation (HMO) (Use Class C4) – The Planning Officer reported on this application and the recommendation to refuse permission. The Update Report referred to the receipt of a further representation.

The applicants made statements in support of the proposal which was followed by a statement by the Ward Councillor Ben Stevens.

Councillor Ian Gilchrist opened the debate as the Ward Member on the Committee. He supported the comments of the other Ward Member and moved that permission be granted subject to appropriate conditions. Councillor June Player made a statement on the matter and gave reasons why the road should be exempt from the Article 4 Direction which controls changes of use to HMOs. The motion was seconded by Councillor Martin Veal who felt that this Road should be exempt from the Direction. The Team Manager – Development Management informed Members that the Stage 2 test had been undertaken and it had been confirmed that 50% of properties within 100m of the site were currently in use as HMOs. As the applicants had stated that approximately 80% of the houses in Lorne Road were HMOs, he advised that it would be more appropriate to defer consideration of the application to give Officers time to obtain further information on the number of properties in the Road that were currently being used as HMOs.

Members discussed the situation and this recommendation. There were mixed views on the proposed development and the way forward to make a decision. Councillor Ian Gilchrist therefore withdrew his motion and moved that consideration be deferred for a further report on the figures relating to HMOs in this Road and asked if Cabinet could consider a review of the Article 4 Direction with a view to making this Road exempt. The motion was seconded by Councillor Martin Veal.

Members debated this motion. It was considered that the Ward Councillor Ben Stevens as a Cabinet Member could raise this on behalf of the Committee. The timescale was discussed and the Team Manager – Development Management stated that the figures could be assessed within a matter of weeks but any review of Policy would take much longer. The Chair summed up the debate and stated that the numbers of HMOs in Lorne Road needed to be clarified but that the Policy of controlling the number of HMOs needed to be reviewed by Cabinet.

The motion was put to the vote and was carried, 9 voting in favour and 0 against with 2 abstentions.

Item 7 No 3 Stirtingale Avenue, Kingsway, Bath – Provision of loft conversion to include side and rear dormer and roof lights to front elevation roof slope –
The Planning Officer reported on this application and the recommendation to refuse permission.

The applicant made a statement in support of the proposal.

Councillor Nigel Roberts drew attention to the large extension at the side and rear of the adjoining property. He felt that the properties in the street had no special architectural merit and therefore moved that the recommendation be overturned and that Officers be authorised to grant permission subject to appropriate conditions. This was seconded by Councillor Liz Hardman.

The Members debated the motion. It was considered that it was in accord with paragraph 56 of the NPPF and would provide better living accommodation.

The motion was put to the vote and was carried, 11 voting in favour and 0 against with 1 abstention.

Item 8 Land and buildings to rear of Nos. 1-7 High Street, Mill Hill, Wellow – External alterations to include changes to glazed screen to kitchen and roof materials on barn to approved scheme (13/02813/LBA) - The Case Officer reported on this application and his recommendation to grant consent subject to conditions.

Councillor Nigel Roberts moved the Officer recommendation which was seconded by Councillor Bryan Organ.

Members debated the motion and asked questions to which the Case Officer responded. It was felt that the restoration work was creditable but the roof materials were not appropriate for this building in this locality. The motion was put to the vote. Voting: 4 in favour and 7 against with 1 abstention. Motion lost.

Councillor Eleanor Jackson therefore moved that consent be refused on the grounds that the roof materials did not preserve or enhance the Conservation Area contrary to S12 of the NPPF and detracted from the character of this listed building. It was seconded by Councillor Les Kew. The motion was put to the vote and was carried, 7 voting in favour and 4 against with 1 abstention.

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

The Team Manager – Development Management pointed out that the decision on the appeal at Tree Tops, Horsecombe Grove, Combe Down, Bath, had been allowed and not dismissed as indicated in the report.

The Committee noted the report.

The meeting ended at 5.30 pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

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BATH AND NORTH EAST SOMERSET COUNCIL

Development Control Committee

9th April 2014

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

ITEM

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
1	13/02728/OUT	Milford Head, Stitching Shord Lane, Bishop Sutton

On 3rd April 2014 a revised indicative plan was submitted illustrating an alternative way in which the proposed 9 dwellings could be laid out within the site. The revised plan has been loaded to the Council's website, but there has been insufficient time to re-consult residents on it ahead of the committee meeting.

The revised illustrative plan proposes to reduce the number of dwellings located in the area of the tennis courts to 3 properties, with the number of dwellings proposed to be located in the southern end of the site to be increased to 6. Plots 1 – 3 (in the tennis court area) and plots 4 – 6 inclusive (in the area of the existing site office) are illustrated as bungalows in order to lessen perceived overlooking conflicts with the adjoining caravan site.

The application is in outline with layout as a reserved matter, so the plan should be interpreted as an illustration of another way in which the proposed dwellings could be accommodated within the site.

Officers still consider that the development would not give rise to an unacceptable overlooking conflict with the adjoining caravan park.

Item No.	Application No.	Address
6	14/00406/FUL	61 Lorne Road, Westmoreland, Bath

A representation has been received on 03 April 2014 from a local resident in relation to this application since the Committee Report was submitted. This representation raises concern about the impact of granting planning permission for more HMOs on the mix and affordability of properties in the area.

The issues of housing mix and affordability are considered within the assessment set out in the Committee Report and form the basis for the reason for refusal.

**PUBLIC SPEAKERS LIST
BATH AND NORTH EAST SOMERSET COUNCIL**

**MEMBERS OF THE PUBLIC WHO MADE A STATEMENT AT THE MEETING OF
THE DEVELOPMENT CONTROL COMMITTEE ON WEDNESDAY, 9TH APRIL 2014**

SITE/REPORT NAME/REPRESENTING FOR/AGAINST

PLANS LIST - REPORT 9		
Milford Head, Stitchings Shord Lane, Bishop Sutton (Item 1, Pages 76-97)	Councillor Heather Clewett (Stowey Sutton Parish Council)	Against
	Keith Betton	Against
	Tony Doyle, LPC (Applicants' Agents)	For
Bath Soft Cheese, Park Farm, Church Lane, Kelston (Item 3, Pages 105-115)	Hugh Padfield (Applicant)	For
60 Ringwood Road, Twerton, Bath (Item 4, Pages 116-122)	1.Cllr June Player on behalf of Mrs Greenslade 2.Mr King 3.Cllr June Player on behalf of Jackie French 4.Cllr June Player on behalf of June Morgan 5.Peter Valentine	Against – 1 minute each to a total of 5 minutes
	David Walsh (Applicant)	For – Up to 5 minutes
61 Lorne Road, Westmoreland, Bath (Item 6, Pages 128-132)	Johnny Kidney <u>AND</u> Sophie Stanford-Tuck (Applicants)	For – To share 3 minutes
3 Stirtingale Road, Kingsway, Bath (Item 7, Pages 133-137)	David Bain (Applicant)	For

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BATH AND NORTH EAST SOMERSET COUNCIL

DEVELOPMENT CONTROL COMMITTEE

9th April 2014

DECISIONS

Item No:	01	
Application No:	13/02728/OUT	
Site Location:	Milford Head, Stitchings Shord Lane, Bishop Sutton, Bristol	
Ward: Chew Valley South	Parish: Stowey Sutton	LB Grade: N/A
Application Type:	Outline Application	
Proposal:	Demolition of existing buildings and redevelopment of the site to provide 9no. dwellings (Outline with all matters reserved except access). (Resubmission of 12/05599/OUT)	
Constraints:	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Coal - Referral Area, Forest of Avon, Greenbelt, Public Right of Way, Water Source Areas,	
Applicant:	Keynsham Property Developments Ltd	
Expiry Date:	21st August 2013	
Case Officer:	Daniel Stone	

DECISION REFUSE

1 The Council's Draft Core Strategy has been submitted to the Secretary of State and is currently being examined by an appointed Inspector. The cumulative effect of the proposal, which is outside of the existing Housing Development Boundary, and other recently permitted housing developments within Bishop Sutton and the southern half of the district is so significant that to grant planning permission would undermine the Council's plan-making process by predetermining decisions about the scale location and phasing of new housing development that are central to the Council's emerging Core Strategy. The proposed housing development is therefore contrary to the provisions of the National Planning Framework and National Planning Practice Guidance.

2 Inadequate information has been submitted to demonstrate that safe vehicular access to the site can be maintained during flood events. The access road leading to the site suffers from frequent and well documented flooding and is not served by surface water drains. As such the proposed development would be contrary to saved policies NE.14 (i) of the Bath & North East Somerset Local Plan including minerals and waste policies Adopted October 2007, policy CP5 of the draft Bath and North East Somerset Council Core Strategy March 2013 and the guidance in the National Planning Policy Framework (paragraph 103).

3 The proposed development would have an adverse impact on the character and setting of the Area of Outstanding Natural Beauty. As such the proposals are considered to be contrary to policy CP6 of the Bath and North East Somerset Council Core Strategy March 2013, policies NE.1 and NE.2 of the Bath & North East Somerset Local Plan including

minerals and waste policies Adopted October 2007 and the guidance in the National Planning Policy Framework.

PLANS LIST:

This decision relates to drawing nos

- SITE LOCATION PLAN
- Flood Risk Assessment - Ref 3702 Revision A
- site drainage - SW drainage layout
- Proposed SITE LOCATION PLAN - PERMEABLE AREAS
- Site Survey - drawing 2293/100
- Site Survey - drawing - 29/12
- Tree Protection Plan - 130619-MH-TPP- Re A
- SUSTAINABLE CONSTRUCTION CHECKLIST
- Transport assessment
- TREE report
- WESSEX WATER PLAN
- TRIAL PIT EXCAVATION. SITE INSPECTION RE...

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. Informal advice offered by the Local Planning Authority the submitted application was taken into account by the applicant in the design and layout of the scheme and assistance was given in seeking to overcome issues raised during the processing of the application, however the Development Control committee resolved to refuse the application.

Need for Watercourse Consent to Discharge to Ditch

The proposals indicate discharging flows to an existing drainage ditch at the west end of the site. Any discharges to this watercourse will require Ordinary Watercourse Consent from this office. Details about how to apply for Ordinary Watercourse Consent can be obtained by emailing engineering_design_land_drainage@bathnes.go.uk

The developer should also be aware that the Council's Highway Authority does not adopt roads that include permeable paving.

Item No:	02	
Application No:	14/00217/FUL	
Site Location:	40 Bryant Avenue, Westfield, Radstock, Bath And North East Somerset	
Ward: Westfield	Parish: Westfield	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Construction of new dwelling	
Constraints:	Agric Land Class 3b,4,5, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,	
Applicant:	Mrs K Lewis	
Expiry Date:	19th March 2014	
Case Officer:	Heather Faulkner	

DECISION REFUSE

1 The proposed dwelling due to its scale, bulk, siting and design within close proximity of the neighbouring boundaries is considered to have an overbearing impact. The windows on the rear elevation would also result in loss of privacy and a greater perception of being overlooked. The residential amenity currently enjoyed by these neighbouring occupiers is therefore considered to be significantly harmed. This would be contrary to policy D2 of the Bath and North East Somerset Local Plan (including minerals and waste) 2007 and the National Planning Policy Framework (March 2012).

2 The proposed development by reason of its scale, siting and design would result in the overdevelopment of the site and would result in a cramped form of development which fails to respond positively to the built form of this locality and is considered detrimental to the character and appearance of the streetscene and surrounding area contrary to policy D.2 and D.4 of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007 and the Nation Planning Policy Framework (March 2012).

PLANS LIST:

Drawings received 17th January 2014

Site Location Plan

- 1
- 2
- 3
- 4

DECISION TAKING STATEMENT

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The Local Planning Authority acknowledges the approach outlined in paragraphs 188-192 in favour of front loading and operates a pre-application advice service. Further advice was sought following the previous application being withdrawn however no changes were made to the proposals. The proposal was considered unacceptable for the reasons given and the

agent was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application, and having regard to this the Local Planning Authority moved forward and issued its decision.

Item No:	03
Application No:	14/00140/FUL
Site Location:	Bath Soft Cheese Park Farm, Church Lane, Kelston, Bath
Ward: Bathavon North	Parish: Kelston LB Grade: N/A
Application Type:	Full Application
Proposal:	Erection of extension to existing agricultural building to create a cheese dairy.
Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt, MOD Safeguarded Areas,
Applicant:	Park Farm LTD
Expiry Date:	18th March 2014
Case Officer:	Sasha Coombs

DECISION Defer consideration to allow members to visit the site.

Item No:	04
Application No:	13/05504/FUL
Site Location:	60 Ringwood Road, Twerton, Bath, Bath And North East Somerset
Ward: Westmoreland	Parish: N/A LB Grade: N/A
Application Type:	Full Application
Proposal:	Erection of single storey rear extension, new dormer to rear roof slope, and alterations to form 6 bedroom HMO
Constraints:	Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, World Heritage Site,
Applicant:	Mr David Walsh
Expiry Date:	13th February 2014
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 The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

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

PLANS LIST:

This decision relates to drawing nos 2032.1, 2 and 3 received 19th December 2013.

DECISION TAKING STATEMENT:

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

Item No:	05
Application No:	14/00194/FUL
Site Location:	66 Upper East Hayes, Walcot, Bath, Bath And North East Somerset
Ward: Walcot	Parish: N/A LB Grade: II
Application Type:	Full Application
Proposal:	Change of use from a House in Multiple Occupation (HMO) (Use Class C4) to Use Class Sui Generis for up to 9 persons
Constraints:	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, MOD Safeguarded Areas, World Heritage Site,
Applicant:	Mrs Helen Martin
Expiry Date:	13th March 2014
Case Officer:	Alice Barnes

DECISION PERMIT

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

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

2 The development hereby approved shall not be occupied by more than 9 unrelated occupants.

Reason: An increase in the number of occupants would need further consideration by the Local Planning Authority.

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
Block plan
Existing and proposed first floor layout plan
First floor layout plan

Item No:	06
Application No:	14/00406/FUL
Site Location:	61 Lorne Road, Westmoreland, Bath, Bath And North East Somerset
Ward: Widcombe	Parish: N/A LB Grade: N/A
Application Type:	Full Application
Proposal:	Change of use from dwelling (Use Class C3) to HMO (Use Class C4) house of multiple occupation.
Constraints:	Agric Land Class 3b,4,5, Article 4, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, World Heritage Site,
Applicant:	Mr Johnny Kidney
Expiry Date:	26th March 2014
Case Officer:	Jonathan Fletcher

DECISION Defer consideration to clarify number of HMOs within the vicinity of the property.

Item No:	07
Application No:	14/00793/FUL
Site Location:	3 Stirtingale Road, Southdown, Bath, Bath And North East Somerset
Ward: Oldfield	Parish: N/A LB Grade: N/A
Application Type:	Full Application
Proposal:	Provision of loft conversion to include side and rear dormer and rooflights to front elevation roof slope.
Constraints:	Agric Land Class 3b,4,5, Article 4, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, World Heritage Site,
Applicant:	Mr Bain
Expiry Date:	16th April 2014
Case Officer:	Chris Griggs-Trevarthen

DECISION PERMIT

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

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

2 All external walling and roofing materials to be used shall match those of the existing building.

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:

MT_661 01

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. Negotiations were entered into with the applicant in an effort to resolve the issues discussed above. However, a solution was not found and the proposals remain unacceptable. The Local Planning Authority encourages the use of pre-application advice which was not sought in this case. Additionally, the applicant has been offered the opportunity to withdraw the application.

Item No:	08
Application No:	14/00535/LBA
Site Location:	Land And Buildings To Rear Of 1-7 High Street, Mill Hill, Wellow, Bath
Ward: Bathavon South	Parish: Wellow LB Grade: II
Application Type:	Listed Building Consent (Alts/exts)
Proposal:	External alterations to include changes to glazed screen to kitchen and roof materials on barn to approved scheme 13/02813/LBA
Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Conservation Area, Greenbelt, Housing Development Boundary, Listed Building,
Applicant:	Mr Chris Watt
Expiry Date:	10th April 2014
Case Officer:	John Davey

DECISION REFUSE

1 The proposed use of metal sheeting for the roof would harm the character and appearance of both the listed building and the conservation area.

PLANS LIST:

Drawing numbers 2544-02 AB, 2544-03, 2544-04 ABCDE, 2544-05, 2544-07 ABC, 2544-13 ABC, 2544-14 AB, 2544-14 ABC and 2544-15, 2544-S-02, 2544-S-03 and 2544-S-04, D01, D04, D05, D06 and D08 and 12654-200-001, all received on 3 February 2014.

Drawing numbers E01 - E03 inclusive and D01 - D09 inclusive, and Infiniti Glazing Specification all received on 13 February 2014.

Statement of Significance received on 17 March 2014

Email confirmation of manufacturer dated 20 March 2014.

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 Committee report a positive view of the proposals was taken and consent was granted.

Bath & North East Somerset Council		
MEETING:	Development Control Committee	
MEETING DATE:	7th May 2014	AGENDA ITEM NUMBER <div style="border: 1px solid black; width: 80px; height: 40px; margin: 5px auto;"></div>
RESPONSIBLE OFFICER:	Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)	
TITLE:	APPLICATIONS FOR PLANNING PERMISSION - Site Visit	
WARDS:	ALL	
BACKGROUND PAPERS:		
AN OPEN PUBLIC ITEM		

BACKGROUND PAPERS

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

- [1] Application forms, letters or other consultation documents, certificates, notices, correspondence and all drawings submitted by and/or on behalf of applicants, Government Departments, agencies or Bath and North East Somerset Council in connection with each application/proposal referred to in this Report.

- [2] Department work sheets relating to each application/proposal as above.

- [3] Responses on the application/proposals as above and any subsequent relevant correspondence from:
 - (i) Sections and officers of the Council, including:
 - Building Control
 - Environmental Services
 - Transport Development
 - Planning Policy, Environment and Projects, Urban Design (Sustainability)

 - (ii) The Environment Agency
 - (iii) Wessex Water
 - (iv) Bristol Water
 - (v) Health and Safety Executive
 - (vi) British Gas
 - (vii) Historic Buildings and Monuments Commission for England (English Heritage)
 - (viii) The Garden History Society
 - (ix) Royal Fine Arts Commission
 - (x) Department of Environment, Food and Rural Affairs
 - (xi) Nature Conservancy Council
 - (xii) Natural England
 - (xiii) National and local amenity societies
 - (xiv) Other interested organisations
 - (xv) Neighbours, residents and other interested persons
 - (xvi) Any other document or correspondence specifically identified with an application/proposal

- [4] The relevant provisions of Acts of Parliament, Statutory Instruments or Government Circulars, or documents produced by the Council or another statutory body such as the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007

The following notes are for information only:-

- [1] "Background Papers" are defined in the Local Government (Access to Information) Act 1985 do not include those disclosing "Exempt" or "Confidential Information" within the meaning of that Act. There may be, therefore, other papers relevant to an application which will be relied on in preparing the report to the Committee or a related report, but which legally are not required to be open to public inspection.

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

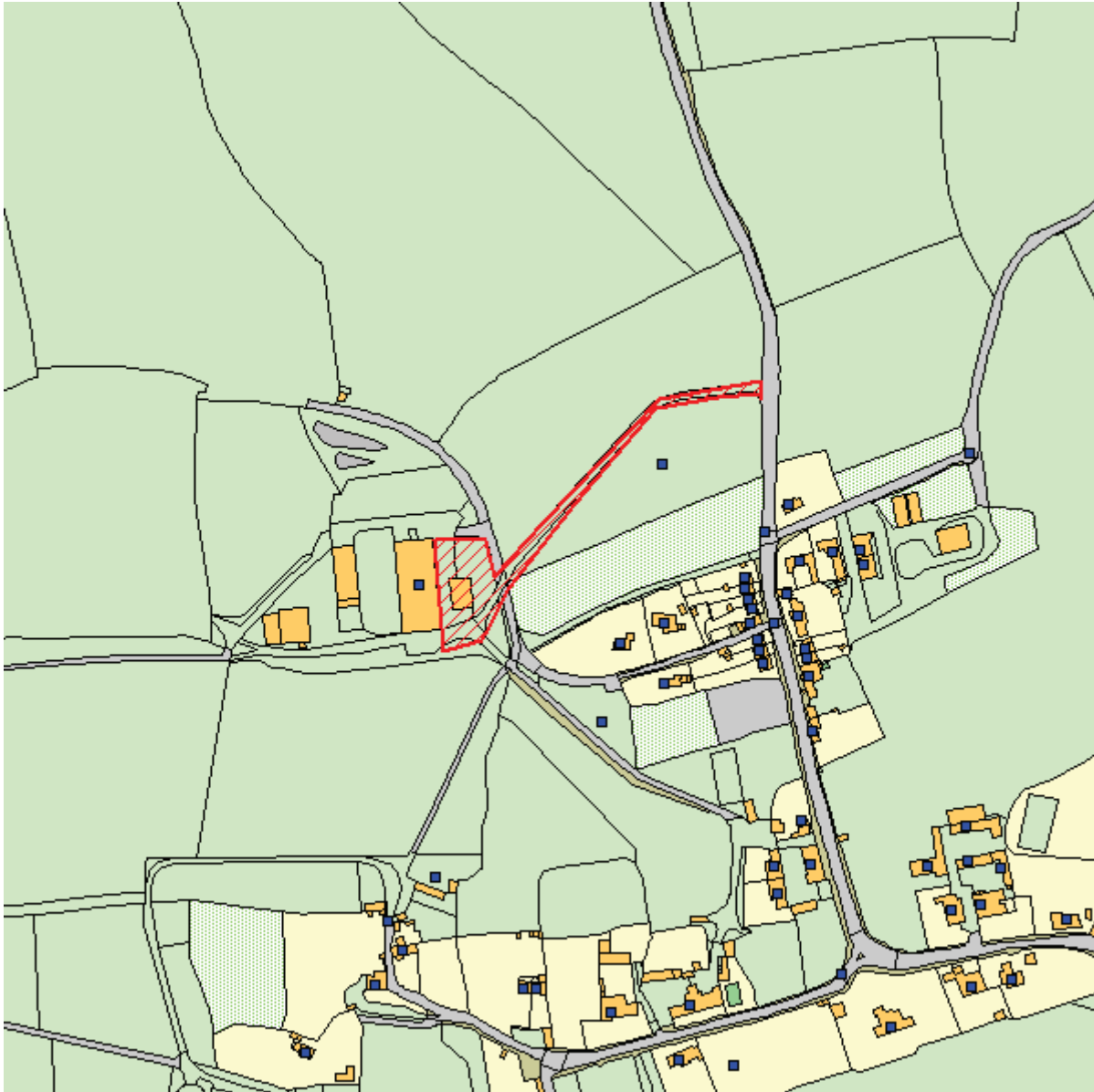
INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
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01	14/00140/FUL 18 March 2014	Park Farm LTD Bath Soft Cheese Park Farm, Church Lane, Kelston, Bath, Bath And North East Somerset Erection of extension to existing agricultural building to create a cheese dairy.	Bathavon No orth	Sasha Coombs	REFUSE
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**REPORT OF THE GROUP MANAGER, DEVELOPMENT MANAGEMENT ON
APPLICATIONS FOR DEVELOPMENT**

Item No: 01
Application No: 14/00140/FUL
Site Location: Bath Soft Cheese Park Farm Church Lane Kelston Bath Bath And North East Somerset



Ward: Bathavon North **Parish:** Kelston **LB Grade:** N/A
Ward Members: Councillor M Veal Councillor Geoff Ward
Application Type: Full Application
Proposal: Erection of extension to existing agricultural building to create a cheese dairy.
Constraints: Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt, MOD Safeguarded Areas,

Applicant:	Park Farm LTD
Expiry Date:	18th March 2014
Case Officer:	Sasha Coombs

REPORT

REASONS FOR REFERRING TO COMMITTEE

This application was initially referred to the committee on 9 April 2014 at the request of Kelston Parish Council, Cllr Geoff Ward and Cllr Martin Veal. The application was then deferred to enable members to carry out a site visit in order to assess the proposal site within its context.

APPLICATION

Park Farm is situated on the south and west side of the village of Kelston and runs up to the A431 Bristol-Bath Road. This agricultural holding is a well-established dairy unit, which also produces a range of cheeses ('Bath Soft Cheese' business has been expanding for the past decade or so). The farm occupies the area of about 256.57 hectares and consists of a Grade II listed stone farmhouse with adjoining traditional buildings arranged around a farmyard, grazing land and a number of large farm buildings set some 250m to the north-west of the main house. There is also an additional dwelling currently under construction to the north-west of the house. Many outbuildings in the farmyard have been converted to cheese-making and storage use; there is also a small farm shop.

The application site is located within the Green Belt and Cotswolds Area of Outstanding Natural Beauty.

In March 2013, permission was granted for change of use of an existing agricultural building next to the milking dairy into a new cheese dairy.

This application seeks to extend this building to provide a larger cheese-making facility. A number of extensions are proposed to be added to this agricultural building, which would result in volume increase from approximately 1147m³ to 3018.2m³ (gain of 1871.2m³). The applicant states that this would allow the cheese to be ripened, stored, packed and dispatched on the same site.

PLANNING HISTORY

The farm has a very extensive planning history. Below are the extracts which exclude pre-2000 applications, any non-material amendments and discharge of conditions applications:

DC - 00/00678/FUL - PERMIT - 24 May 2000 - New farm access as clarified by plans received 23.5.00

DC - 00/01072/FUL - PERMIT - 4 December 2000 - Conversion of 2 barns into 3 dwellings

DC - 00/01253/LBA - CON - 1 December 2000 - Conversion of 2 No. barns into 3 No. dwellings

DC - 01/00712/AGRN - PAPNRQ - 19 April 2001 - New building for crop storage

DC - 01/01681/FUL - PERMIT - 19 September 2001 - Two clear span steel frame barns for agricultural use and extension to existing barn.

DC - 99/01185/FUL - PERMIT - 16 March 2000 - Conversion of barn into farm manager's accommodation

DC - 05/01179/FUL - PERMIT - 13 June 2005 - 4no. temporary wooden storage sheds and 2no. steel container boxes of cheese storage.

DC - 05/03875/OUT - CON - 8 February 2007 - Erection of agricultural workers dwelling

DC - 09/00687/FUL - RF - 22 May 2009 - Provision of temporary storage unit and relocation of existing tennis court

DC - 09/03108/FUL - PERMIT - 10 November 2009 - Provision of temporary storage units and relocation of existing tennis court (Resubmission)

DC - 10/00315/RES - PERMIT - 30 April 2010 - Approval of reserved matters regarding planning application 05/03875/OUT permitted on 8th February 2007 for the erection of agricultural workers dwelling

DC - 10/00482/AGRN - Agricultural Prior Approval Required - 2 March 2010 - Erection of timber clad dairy building with grass covered roof

DC - 12/04598/FUL - PERMIT - 18 February 2013 - Installation of 2no. refrigerated containers and 1no. ambient storage container (Retrospective).

DC - 13/03585/AGRN - AP - 11 September 2013 - Erection of a new building and erection of an extension

DC - 13/04293/AGRN - AN - 5 November 2013 - Erection of a new building and erection of an extension

DC - 13/00323/FUL - PERMIT - 22 March 2013 - Conversion of an existing agricultural building to create a cheese dairy.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highways - no objections, subject to Site Management Plan, including Traffic Management, submitted and approved prior to commencement of development. (Full comments available on file)

Environmental Services (Food Safety) - support. Bath Soft Cheese has outgrown its existing buildings, this application if approved, will ensure the business can continue to meet Food Safety Legislation in the future by reducing the number of potential risks posed by the current cheese dairy. (Full comments available on file)

Environmental Protection (Pollution) - no objections, providing conditions are imposed to control the noise rating level at the façade of the nearest noise sensitive premises. (Full comments available on file)

Kelston Parish Council - support. This would concentrate the cheese activities on one site and satisfy all planning issues.

Cllr Martin Veal and Cllr Geoff Ward - support. This business is important to the local rural economy and should be encouraged to grow in order to support jobs and enterprise. (Full comments available on file)

Third Party Letters - none received

POLICIES/LEGISLATION

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

D.2 - Residential Amenity Consideration

D.4 - Design Consideration

T.24 - Highways safety

ES.12 - Noise and Vibration

GB.1- Control of development in the Green Belt

GB.2 - Visual amenities of the Green Belt

ET.7 - Use of agricultural land

ET.8 - Farm diversification

ET.9 - Re-use of rural buildings

BH.6 - Development within/affecting conservation areas

NE.1 - Landscape character

NE.2 - Areas of Outstanding Natural beauty

NE.10 - Protected species and habitats

BATH AND NORTH EAST SOMERSET SUBMISSION CORE STRATEGY (MAY 2011)

The following policies should be considered as they correspond with the national policy approach on the relevant matters:

CP6 - Environmental Quality

CP8 - Green Belt

NATIONAL PLANNING POLICY FRAMEWORK ADOPTED MARCH 2012

Section 3: Supporting a prosperous rural economy

Section 9: Protecting Green Belt Land

OFFICER ASSESSMENT

BACKGROUND

Kelston lies within the Bath-Bristol Green Belt, which is intended primarily to prevent the urban sprawl by retaining the open character of land, defined largely by freedom from development. The village is in an area of countryside designated as the Area of Outstanding Natural Beauty. Park Farm lies off Church Lane on the western edge of the village, on lower land which eventually slopes down to the River Avon. The listed farmhouse is set about 300m to the south-east of the site. The site itself is relatively open

and can be viewed from a number of public rights of way that criss-cross the fields, as well as in longer views across the valley.

Park Farm started its operations as a dairy farm, but over the years, the cheese-making has been enlarged in a piecemeal manner and now, according to the applicant, the business employs 15 full time staff and several more part-time staff.

The production is mainly taking place in a number of converted outbuildings, near the farmhouse, however a number of permissions have been recently granted to disperse/relocate this activity:

Most recently, the Council has dealt with regularisation of two additional refrigeration containers for storage/ripening of cheese (ref. 12/04598/FUL), which were placed on land to the north of the farmhouse. Whilst it was found that the containers were inappropriate development in the Green Belt, on balance of issues it was considered that the loss of these containers would result in a contraction of business and a loss of employment and this would outweigh the resulting harm and impact on openness of Green Belt.

This permission was followed by another application (ref 13/00323/FUL) to change the use of one of the existing agricultural buildings on farm to a cheese-making dairy. This application was linked to a grant to assist in building costs. It was assessed that the re-use of existing buildings is not inappropriate, providing such developments preserve the openness of the Green Belt and does not conflict with the purposes of including land in Green Belt.

The current proposal duplicates the proposal to change the use of the building, but also seeks to provide a sizable extension to facilitate creation of a much larger cheese-making facility.

KEY ISSUE

NPPF states that planning should support economic growth in rural areas in order to create jobs and prosperity. It requires LPAs to take a positive approach to sustainable new development. National policy supports the expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well-designed new buildings. NPPF promotes the development and diversification of agricultural and other land based rural businesses.

However, specifically within Green Belts, NPPF does not provide concessions to any form of business or commercial development and any proposal must be assessed with regards to key protection rules within the national and local policies. The special role of Green Belts has been re-emphasised in the recent ministerial letter of 3 March 2014.

The re-use of buildings that are of "permanent and substantial construction" are not inappropriate in a Green Belt provided they preserve its openness and do not conflict with the purposes of including land in Green Belt.

The principle of change of use of an existing building to industrial use had been explored in the preceding application 13/00323/FUL, and the overriding issue here is the proposed extension to this building.

The site is in the Green Belt, and the proposed extension of the building would result in over 2.6 times expansion in volume (from approximately 1147m³ to 3018.2m³) or, to put in another way - 163% volume addition in relation to existing.

This clearly would constitute a disproportionate addition, well over and above the original building which would have a significant impact on the openness of Green Belt and therefore is considered as inappropriate development within Green Belt (NPPF paragraphs 89 and 90 and local policy GB.1).

Para.87 of the NPPF explains that inappropriate development is inherently harmful to the Green Belt and should not be approved except in very special circumstances.

The overriding issue is therefore whether there are other considerations which clearly outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm, resulting in very special circumstances sufficient to justify the grant of planning permission.

The principal matters to be considered in this respect relate to the effect the enlargement of the building would have on the openness of the green belt; the impact of the extended building on the character and appearance of the area; the need for compliance with food hygiene; the effect on the living conditions of local residents, with particular regard to noise; the effect on the surrounding highway network; the sustainability of the development in terms of its location and accessibility; and the implications for further farm diversification.

THE EFFECT THE ENLARGEMENT OF THE BUILDING WOULD HAVE ON THE OPENNESS OF THE GREEN BELT

The extensions would be wrapped around all four sides of the existing building and would triple its footprint from about 220 to 660 square metres; in terms of volume, the increase would be approx. 163%. The extended building would be about 33.7 metres long and 25.5 metres wide. The highest part of the existing roof is about 5.2 metres above ground level, and part of the roof of the new extended building would be at the higher level (6.5m). Thus, in aggregate, this would be a very significant increase in building size.

It is noted that the building is set away from the farmhouse, amongst other agricultural farm buildings, however in consideration of disproportionate enlargements and their effect on openness of the Green Belts NPPF makes no concession for the presence of other buildings (visual effects are discussed below).

Overall it is considered that the impact of the enlarged building on the openness of the Green Belt would be obvious and would lead to significant aggrandisement of development on site.

THE IMPACT OF THE EXTENDED BUILDING ON THE CHARACTER AND APPEARANCE OF THE AREA

Most of the village is designated as a conservation area with many of the fine buildings clustered along the main road, listed for their special architectural and historic interest.

The compact built form of this small nucleated village, in its hill-side location, is a key feature of the landscape and contributes significantly to the particular character of the AONB. Part of the holding, which includes the historic farmhouse, lies within the conservation area. Because of the topography and screening vegetation, the dairy would not be readily visible from the centre of the village. It can however be seen from edges of the conservation area and the public footpaths which criss-cross the fields beyond, as well as longer views towards the village.

The design of the building seeks to mimic the external appearance of an agricultural building using timber cladding and metal sheet profile roofs. It is nevertheless considered that the building is likely to appear more industrial rather than agricultural in its character due to the fully enclosed sides, use of doors/windows and delivery hatches. However, on balance, it is considered that the setting of the conservation area and the wider visual impacts within the landscape would be mitigated by the topography and the presence of other large scale agricultural buildings on site.

As such there would be no seriously adverse effect on the character and appearance of the surrounding area.

NATURAL ENVIRONMENT

There would be some impact on the root protection areas of trees to the east of the existing building, but it is likely to be modest and is unlikely to lead to significant loss of trees on site. Some replanting could always be requested via a condition. Consideration should also be given in any case to providing additional or replacement nesting sites in suitable locations elsewhere around the site for birds through installation of nest boxes swallow cups and native shrub planting. There are bat roost and activity records in close proximity to the site, including records for lesser horseshoe bats (known to be sensitive to lighting levels). The proposal has not provided a detailed assessment, but like with the previous application a condition could be imposed in relation to future installation of new lighting.

THE NEED FOR COMPLIANCE WITH FOOD HYGIENE REGULATIONS

The Council's Senior Environmental Health Officer has advised that the original Cheese Rooms which have been operational on the site continue to be operated in a very safe way meeting the enhanced hygiene requirements for the production of dairy products. The size of the rooms and available facilities do however present a number of challenges, and the relocation would remove these challenges.

The layout of the conversion approved under 13/00323/FUL presented issues in relation to approval under the EU Regulation 853/2004, and the current revised plan meets all these requirements within one building.

Yet, it was also pointed out that EU Regs approval may still be granted with separately located storage facilities as long as they meet Food Safety requirements.

THE EFFECT ON THE LIVING CONDITIONS OF LOCAL RESIDENTS

A number of residential amenity concerns were expressed during the late 2012 application for the refrigeration containers to the north of the farmhouse. They mainly related to the noise nuisance caused by these units. To the east of the site there are several dwellings, which do not form part of the farm and their gardens are located some 20m away from the containers. At the time it was negotiated that the desired noise attenuation could be achieved through the imposition of conditions for mitigation measures, the restrictions on overall noise rating levels and the operational hours.

There are no guarantees within this application that these or other units would be made redundant, even though the supporting statement alludes that the refrigeration may be turned off on the other containers, next to the listed buildings.

Notwithstanding the above, the new dairy building on its own would be set away from the houses and therefore the noise levels could be lesser an issue. The bottling and refrigeration could produce noise, but the comments received from Environmental Health suggest that, just like with the previous application, it could be controlled via a condition.

The officers are nevertheless mindful that a much bigger building would make possible a considerable increase in the overall operations on site, and their effect on the neighbouring residents could be much more complex. The supporting statement envisages that the increase in the size of the dairy would allow the business to grow to double the production of cheese on site. This would increase comings and goings, the amount of liquid and solid waste produced, and intensify the use of chilling and other equipment on site.

THE EFFECT ON THE SURROUNDING HIGHWAY NETWORK

These matters were considered during the previous application, when some concerns were voiced over the resulting intensification in use of the existing access from the A431 north of Kelston village. The proposed access is currently used in connection with agricultural activities on the farm.

In this instance Highways Officer commented that the current proposals are significantly larger and this may result in an intensification of the site access and parking on the site itself. The previous permission required that a Site Management Plan be agreed before the occupation of the development, and the same condition was required in this instance.

The increase in production capacity could potentially result in more frequent vehicle movements to and from the site. It is anticipated that the number of dispatches of cheese would increase with the expansion of business: at the moment the deliveries of cheese are already made to farmers markets across the South West and London; it is also apparent from the company's website that Bath Cheese supplies a number of wholesalers with distributions as far as Midlands.

Furthermore, whilst it is still envisaged that the cheese would be produced from the farm's milk (hence no need for deliveries of milk from other farms), it is also anticipated that the growing business could double the employment. No account has been so far taken of staff travel and more employees would mean more individual trips to and from the site.

THE IMPLICATIONS FOR FARM DIVERSIFICATION

While Bath Soft Cheese is still a farm-based business, there is a concern that it is gradually developing into an industrial scale use and could become the on par or primary enterprise at Park Farm.

It needs to be remembered at the outset that, inter alia, only a primary use can have PD rights. There are no PD rights for mixed or composite uses eg agricultural/industrial uses (*Scurlock v SSW* [1976] JPL 431). This may restrict the PD rights of both the farm and the industrial component of this planning unit.

In the past it has been considered that the processing of farm produce at a farm was not an agricultural use, rather an industrial one (the judgment in *Salvatore Cumbo v SOS & Dacorum* DC 16/5/1991), and therefore was not an activity that could be used to justify exceptions to Green Belt policies.

This was confirmed by *Millington v SOS & Another* 25/6/1999 case, when the Court of Appeal considered that farm foods manufacturing cannot be deemed as an agricultural use even if it involves the processing of produce from the farm in question.

Another court case, which is of particular relevance is *Summers Poultry Products Ltd v SoS* 17/2/2009. Here, the court ruled that the inspector was right in assessing that the need to comply with the Food Hygiene regulations did not enable any building to be built without due regard to Green Belt policy. The inspector recognised that failure to modernise could result in closure and the loss of jobs. However, he heard no convincing evidence to show why the building could not be refurbished to meet current regulations without major extension, albeit with a loss of capacity. He acknowledged that this might affect viability but held that closure, refurbishment or relocation was ultimately a business decision for the owners and operators.

At the moment, the cheese-making activity at the farm, whilst being industrial in its nature, is still considered ancillary to the primary agricultural function. Currently 40% of farm's milk is processed to create cheese. The envisaged increase in operations seeks to double this figure, simultaneously increasing the levels of employment, storing and packing.

There appears to be a capacity to provide some growth by utilizing the extant permissions and the already existing premises. Such approach would not be inappropriate within the Green Belt and would not harm it.

CONSIDERATION OF WHETHER VERY SPECIAL CIRCUMSTANCES EXIST

The currently proposed increase in volume would result in a disproportionate addition over and above the original building which would have an considerable impact on the openness of Green Belt and therefore is considered as inappropriate development within Green Belt (NPPF paragraphs 89 and 90 and local policy GB.1).

Para.87 of the NPPF explains that inappropriate development is inherently harmful to the Green Belt and should not be approved except in very special circumstances.

The applicant has not expressly stated what these very special circumstances are, but the supporting statement argues that the scheme would have a number of benefits providing bigger and better facilities to allow the cheese production on site to grow and reach its full potential, in addition to gaining maximum benefit from the rural development grant that has been awarded to the farm.

Indeed, the proposal would result in financial benefits for the well-established local dairy farm business and potentially increase the level of employment within Kelston. These factors weigh in favour of the proposal.

It would not detrimentally affect the visual amenities of the area and its impact on natural environment and residential amenity to an extent could be controlled via conditions. These are the neutral impacts of the scheme.

Against this, almost tripling the size of the building on the site would significantly decrease the openness of the Green Belt, its most important attribute. It would harm the rural character of the Green Belt and the purposes of including land in it, particularly in safeguarding the countryside from encroachment. The significant enlargement of the building for creation of industrial premises would not meet the objectives for the use of land in the Green Belt.

It is fully recognised that the cheese-making business has to be modernised, especially in view of the financial grant opportunity, and that there is a potential to grow. However, this proposal is a somewhat simplistic approach to meeting the above requirements by just vastly enlarging the building without reference to the restrictions of its Green Belt location. The need for compliance with regulations and desire to grow are a normal requirement of the business and cannot be seen as in any way special, sufficient to justify such an approach.

The officers heard no convincing evidence to show why the existing building (or a combination of buildings) could not be successfully refurbished to meet current regulations without major extension. This might affect the anticipated ambitious dynamics of growth, but expansion through refurbishment or relocation is ultimately a business decision for the owners and operators. While lesser operations mean lesser jobs and income, this would have a limited effect on the rural economy since the dairy farm is currently successfully operating being supported by the existing level of production.

The applicant has stressed that this is one of very few remaining dairy farms in the locality and, if the majority of the milk was to be processed and sold as cheese, the milk-producing function would be effectively lost to the local community. Furthermore it has not been demonstrated that the majority of employees would live locally.

It is therefore not considered that the applicant has demonstrated very special circumstances to outweigh the harm to the Green Belt and other harm. Whilst planning supports economic growth in rural areas in order to create jobs and prosperity, it is very important that full weight is given to the proposition that inappropriate development is by definition harmful to the Green Belt.

Relevant policy and case law indicate that, just like in this case, there may be many applications in the Green Belt where it could be argued that the proposal would be more

workable in terms of the appellant's personal financial needs, but if such arguments were to be repeated the cumulative effect of many permissions would destroy the very qualities that underlie Green Belt designation

It is therefore considered that, based on all the above balanced issues, there are no very special circumstances individually or cumulatively sufficient to justify the grant of planning permission. For that reason it is recommended that the application should be refused.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposal, by reason of its scale, bulk and the resulting volume increase above the original building, would represent a disproportionate addition over and above the original building, leading to a reduction of openness within the Green Belt. This represents inappropriate development in the Green Belt which is harmful by definition and, in absence of very special circumstances to clearly outweigh the harm, is contrary to Policies GB.1 of the Bath and North East Somerset Local Plan, including minerals and waste policies (2007), as well as advice contained in National Planning Policy Framework (2012).

PLANS LIST:

1	Drawing	20 Jan 2014	1876 100	REVISION B	SITE LAYOUT AS EXISTING
	Drawing	20 Jan 2014	1876 101	REVISION B	SITE LAYOUT AS PROPOSED
	Drawing	20 Jan 2014	1876 102	REVISION B	FLOOR/ROOF LAYOUT AS PROPOSED
	Drawing	20 Jan 2014	1876 103	REVISION B	ELEVATIONS AS PROPOSED
	Drawing	20 Jan 2014	1876 104	REVISION A	SECTIONS AS EXISTING
	Drawing	20 Jan 2014	1876 105	REVISION B	PROPOSED SECTIONS
	Drawing	20 Jan 2014	1876 106	REVISION A	ELEVATION AND ROOF PLAN AS EXISTING
	Drawing	21 Jan 2014	1876 - 107		EXISTING FLOOR PLANS
	Drawing	14 Jan 2014	1876 - 004		PERSPECTIVE VIEW
	OS Extract	20 Jan 2014	1876-008	REVISION A	LOCATION PLAN

Decision Taking Statement

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

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	7th May 2014
RESPONSIBLE OFFICER:	Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)
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 Group Manager, Development Management 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.

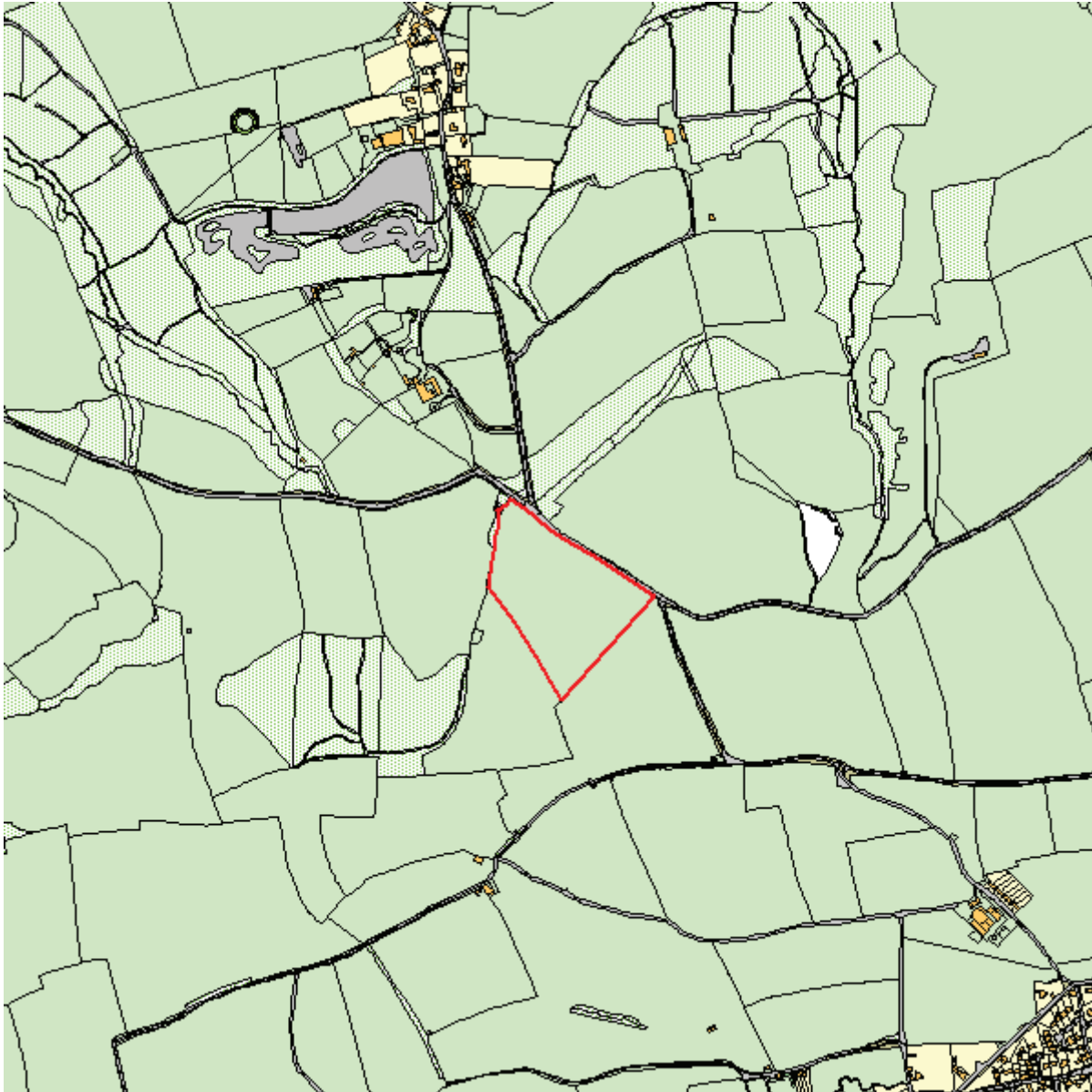
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting 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	14/00424/FUL 12 May 2014	TGC Renewables Ltd Parcel 0153, Chelwood Road, Marksbury, Bath, Erection of Solar PV Farm and associated works to Parcel 0153, Chelwood Road. (Resubmission)	Farmboroug h	Daniel Stone	PERMIT
02	13/04607/FUL 20 December 2013	Poulton Ltd Somerset Inn, Bath Road, Poulton, Bristol, Bath And North East Somerset Conversion from a Public House (Use Class A4) to form a single dwelling (Use Class C3) and associated works.	Poulton	Daniel Stone	PERMIT
03	13/05256/FUL 14 February 2014	Fosse Way School Fosse Way School, Longfellow Road, Westfield, Radstock, Bath And North East Somerset Provision of new building to accommodate Post 16 teaching area	Westfield	Tessa Hampden	PERMIT
04	14/00875/OUT 21 April 2014	Mr Barrie Lake Sherbourne Cottage, Redland Lane, Bishop Sutton, Bristol, Bath And North East Somerset Proposed dwelling on land to the rear of Sherbourne Cottage	Chew Valley South	Rebecca Roberts	REFUSE
05	14/00591/FUL 4 April 2014	Mr R Mohr Land Between Access Road And Canal, Sham Castle Lane, Bathwick, Bath, Erection of 1no. detached dwelling (revised resubmission).	Bathwick	Alice Barnes	PERMIT

REPORT OF THE GROUP MANAGER, DEVELOPMENT MANAGEMENT ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 14/00424/FUL
Site Location: Parcel 0153 Chelwood Road Marksbury Bath



Ward: Farmborough **Parish:** Marksbury **LB Grade:** N/A
Ward Members: Councillor S Davis
Application Type: Full Application
Proposal: Erection of Solar PV Farm and associated works to Parcel 0153, Chelwood Road. (Resubmission)
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt, Public Right of Way,
Applicant: TGC Renewables Ltd
Expiry Date: 12th May 2014
Case Officer: Daniel Stone

REPORT

Details of location and proposal and Relevant History:

At the request of Councillor Sally Davis and with the agreement of the Chair the application is to be considered by Committee due to the siting of the development in the Green Belt and the visual impact of the development. As the development by its nature would have a significant impact on the openness of the Green Belt, should the committee be minded to approve the application, it needs to be referred to the Secretary of State for a possible call-in before a decision to approve the application can be issued.

SITE CONTEXT

The application site consists of an arable field to the south of the A368 approximately 500 metres to the south of Hunstrete and 1.2 km to the west of Marksbury. The site lies within the Green Belt and totals 5 hectare of grade 3b agricultural land, in arable use.

From the site, there are extensive medium and long-range views, into the Chew valley to the north, and more distantly of Bristol to the north-west, Keynsham and the edge of Bath to the north and north-east.

PROPOSALS

Permission is sought for the erection of a 2.3MW solar farm. The applicants estimate that this would power approximately 625 houses.

The solar farm would comprise 8,220 solar modules which would be installed on gantries driven into the ground up to a depth of 1.5 metres. The combined gantries and solar panels would project above ground level by 3 metres in total and would be high enough that sheep could graze beneath the panels without interruption.

The fields of solar panels would be contained within 2.4m high wire mesh paladin fencing, set within the existing and proposed boundary hedges. Security cameras would be positioned at regular 50 metre intervals along the external boundaries of the site.

In order to export electricity to the grid, a control room, substation and switchgear buildings would be required. Two additional inverter cabins would be also be required to house electrical equipment and would be positioned at intervals around the site. The applicants propose reinforcing the hedgerows around the boundaries of the site.

The applicants estimate that it would take would take approximately 3 months to install the solar farm.

The Landscape and Visual Impact Assessment advises that were planning permission to be granted, the anticipated lifetime of the development is 25 years.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSULTATION

Consultation letters were sent out to 6 properties, a notice was placed in the local press and additionally two site notices were displayed. To date 2 letters of objection has been received (including the call-in request from Councillor Davis), raising concerns about the development of agricultural land in the green belt and that the development would exacerbate flooding issues. Eleven letters of support have been received, making the following comments:

Development would reduce the harmful emissions leading to climate change whilst providing energy, provide an income for community projects,

The development would keep the land in agricultural use and provide a meadow for biodiversity in the meantime,

The proposals are sufficiently screened from view and will not significantly interrupt the local views

Once the solar farm is permitted it could be owned by the community who could benefit directly from investing in it, thereby keeping financial benefits with the local area.

Alternative energy production is much better for the environment than fracking.

The land can be left semi wild so encourage wildlife and pollinators and can easily revert back to farm land if required.

MARKSBURY PARISH COUNCIL - OBJECT IN PRINCIPLE

In spite of the community benefits offered, no Very Special Circumstances have been submitted to justify development in the Green Belt. Despite the reduction in scale from the refused application, the development would be visually detrimental to the openness of the green belt and the character of the countryside. The proposed construction access from the A368, which a narrow and winding road, would be unsafe.

HIGHWAYS DEVELOPMENT CONTROL - Raised concerns about the poor access to the site and intensification of the use, given the 50 mph speed limit, and queried whether the access could be relocated to a location with better visibility.

The critical period would be during the estimated 3 month construction period, after which access would appear to necessitate a visit by a single vehicle on a quarterly basis. It may be possible for measures to be put in place, on a temporary basis, to enable use by construction traffic, either by traffic control, the provision of temporary accesses at safer locations, and/or by setting back existing hedges. However, due to the potential impact of such solutions, it is recommended that this matter must be addressed as part of this application rather than being reserved for future resolution.

Should you consider the resolution of matters associated with access for construction can be reserved for future determination and be minded to grant planning permission, conditions are recommended requiring a construction management plan and operational statement detailing the use of the maintenance access.

LANDSCAPE OFFICER - No objections

It is clear that the impacts of the reduced (current) scheme are now significantly less than the original refused (application / appeal) scheme. I have had meetings with the applicants and the current iteration now addresses my primary concerns in respect of the views into the site via the main entrance and the extent of the perimeter planting.

I would not object in principle and, should permission be granted then I would ask that Condition LND01 & 02 be attached to ensure that we can control the precise detail of the soft landscape scheme as well as the detailing of the perimeter fencing and, specifically, the location of the security camera system

HIGHWAYS DRAINAGE - NO OBJECTIONS

ENVIRONMENT AGENCY - No objection subject to conditions covering surface water drainage

ECOLOGY - No objection subject to conditions

An ecological survey report has been submitted with the proposal. The site comprises two arable fields, with boundary hedgerows and trees. No other significant ecological features nor protected species were noted from the survey.

The planning application for solar panels includes retention of existing hedgerows and proposals for new hedgerows and additional planting to strengthen existing hedgerows.

The application also states its intention to convert the arable fields to species rich calcareous grassland beneath and between the solar panels. I support this aspiration, but this element of the proposal would need more detail regarding method of establishment; species composition and seed source to demonstrate its feasibility and genuine ecological benefit.

Details would also need to be agreed for planting specifications for existing and new hedgerows. Details of planting to maximise ecological benefit could be shown as part of details for soft landscape proposals if appropriate. I note the proposed fencing and would be concerned if this were to a specification that would result in the exclusion of mammals from the site, or have potential to trap animals within it. There are records of brown hare, badger and deer in close proximity to the site and provision must be made within the fencing specification to ensure free movement of animals across and into / from the site from all boundaries.

ARCHAEOLOGY - No objections subject to conditions being applied requiring details of all excavations to be agreed by the Local Planning Authority and requiring a programme of a watching brief during ground works.

Aerial imagery revealed the presence of a circular soil-mark within the site, that appears to reflect buried archaeological remains, and could reflect the location of a previously unrecorded prehistoric monument, perhaps a barrow or a small henge. The study area is considered to offer a moderate to high potential for the survival of significant buried archaeological deposits and structures, and specifically, the newly discovered soil-mark feature located in the southern enclosure.

The proposed photovoltaic arrays are to be mounted on steel frames held in place by driven posts/pegs. These posts, along with any connecting electricity cable trenches, could pose a threat to below ground archaeological deposits and features in the area. However, given that the submitted drawings do not include any large scale landscaping or other ground works, these impacts could be mitigated by way of planning conditions.

RIGHTS OF WAY OFFICER - No comments

RELEVANT PLANNING HISTORY:

12/04345/FUL - Erection of Solar PV Farm and associated works to Parcel 2462 and Parcel 0153, Chelwood Road, Marksbury, Bath, - Refused. Appeal Dismissed.

POLICIES/LEGISLATION

Adopted Local Plan:

- ET.7 Use of agricultural land 49
- ET.8 Farm diversification
- ES.1 Renewable energy proposals 84
- GB.2 Visual amenities of the Green Belt 154
- NE.1 Landscape character
- NE.4 - Trees and Woodland Conservation
- NE.5 Forest of Avon
- NE.9 - Locally Important Wildlife sites
- NE.10 - Nationally Protected Species
- NE.12 Natural features: retention, new provision and management
- NE.16 Protection of best and most versatile agricultural land
- BH.2 Listed buildings and their settings
- T.1 Overarching access policy
- T.24 General development control and access policy

Core Strategy

- CP3 Renewable Energy
- CP5 Flood Risk Management
- CP6 Environmental Quality
- CP7 Green Infrastructure
- CP8 Green Belt

- National Planning Policy Framework
- National Policy Statement for Renewable Energy Infrastructure
- Overarching National Policy Statement for Energy Infrastructure

National Planning Policy Framework
National Planning Practice Guidance
UK Solar PV Strategy Part 1: Roadmap to a Brighter Future - October 2013 - DECC
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249277/UK_Solar_PV_Strategy_Part_1_Roadmap_to_a_Brighter_Future_08.10.pdf

OFFICER ASSESSMENT

A. POLICY BACKGROUND TO RENEWABLE ENERGY PROPOSALS

The current drive to increase the use of renewable energy sources is rooted in the recognition that the burning of fossil fuels is a major contributor to the emission of greenhouse gases, the primary cause of global climate change, with electricity generation accounting for about 37% of all UK CO₂ emissions (Climate Change Committee, 2008).

In response to the threat from climate change the following European legislation has been brought in

Renewables Directive - 2001 - this set a target for 10% of total UK electricity consumption to be sourced from renewables by 2010. (In fact the proportion of electricity sourced from renewable sources in 2010 was 7.4%, meaning this target was missed - 2011 Digest of United Kingdom Energy Statistics (DECC, 2011b) (table 7B)

March 2007 - The European Union (EU) committed to a binding target of 20% of EU energy consumption to come from renewable sources by 2020. EU leaders also agreed to cut carbon dioxide emissions by 20% from 1990 levels by the year 2020.

In order to achieve its commitments, the Government has promoted renewable energy within its policy framework, the key enacted legislation to date comprising the Climate Change Act 2008, and the Energy Act 2008. The Climate Change Act includes legally binding targets to reduce greenhouse gas emissions by at least 80% by 2050, and by at least 26% by 2020, against a 1990 baseline. The Energy Act introduced the Renewables Obligation, which is a legal obligation on all UK electricity supply companies to source a rising percentage of electricity from renewable sources each year, or face a financial penalty. Through the Renewable Energy Strategy, the UK has committed to sourcing 15% of its total energy (across the sectors of transport, electricity and heat) from renewable sources by 2020.

These drivers have influenced planning policy at a national level. The National Planning Policy Framework (hereafter the NPPF), and the accompanying documents, the "National Policy Statement for Renewable Energy Infrastructure" and the "Overarching National Policy Statement for Energy Infrastructure", are strongly supportive of the need for renewable energy and stress the need to dramatically increase the amount of renewable generation capacity.

The National Planning Policy framework stresses that the planning system should do everything it can to support sustainable economic growth, operating to encourage rather than act as an impediment to economic growth (paragraph 19). In parallel with this is the key role given to planning in helping to secure radical reductions in greenhouse gas, minimising vulnerability and providing resilience to the impacts of climate change, and

supporting the delivery of renewable and low carbon energy and associated infrastructure (Paragraph 93).

The NPPF advises subsequently,

"To help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources. They should have a positive strategy to promote renewable energy, design their policies to maximise renewable and low carbon energy development while ensuring that adverse impacts are addressed satisfactorily, including cumulative landscape and visual impacts; and consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure the development of such sources" (paragraph 97).

The NPPF stresses that applicants should not be required to demonstrate the overall need for renewable or low carbon energy. Local Planning Authorities should recognise that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions; and approve applications if its impacts are (or can be made) acceptable (paragraph 98.).

The Solar PV Roadmap, published by the Department for Climate Change in 2013 sets out as one of its four principles that support for solar PV should ensure proposals are appropriately sited, give proper weight to environmental considerations such as landscape and visual impact, heritage and local amenity, and provide opportunities for local communities to influence decisions that affect them and gain some form of community benefit.

Solar farm developers, builders or tenants who are members of the Solar Trade Association commit to the following best practice guidance (the 10 commitments):

1. We will focus on non-agricultural land or land which is of lower agricultural quality.
2. We will be sensitive to nationally and locally protected landscapes and nature conservation areas, and we welcome opportunities to enhance the ecological value of the land.
3. We will minimise visual impact where possible and maintain appropriate screening throughout the lifetime of the project managed through a Land Management and/or Ecology plan.
4. We will engage with the community in advance of submitting a planning application.
5. We will encourage land diversification by proposing continued agricultural use or incorporating biodiversity measures within our projects.
6. We will do as much buying and employing locally as possible.
7. We will act considerately during construction, and demonstrate 'solar stewardship' of the land for the lifetime of the project.
8. We will seek the support of the local community and listen to their views and suggestions.
9. We commit to using the solar farm as an educational opportunity, where appropriate.
10. The end of the project life we will return the land to its former use.

At a local level saved Local Plan policy ES.1 advises that renewable energy proposals will be assessed in terms of the contribution that will be made to the regional target for

renewable energy; any wider environmental, social and economic benefits and the extent to which the design and siting of the development minimises any adverse impacts.

The draft Core Strategy is also strongly supportive of the principle of renewable energy. Draft Core Strategy policy CP3 sets challenging local targets to increase the level of renewable energy generation in the district, including generating 110 MWe of renewable electricity in the district by 2026. The policy advises further:

"Proposals for low carbon and renewable energy infrastructure, including large-scale freestanding installations, will be assessed under the national policies and against the following:

1. potential social and economic benefits including local job creation opportunities
2. contribution to significant community benefits
3. the need for secure and reliable energy generation capacity
4. environmental impact (see Policy CP6)."

The assessment of the application is set out to address these criteria and the guidance in the NPPF and the accompanying suite of documents relating to renewable energy proposals, plus considerations of Green Belt impacts.

B. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THEIR VISUAL IMPACT?

The application site consists of rural, agricultural land located roughly equidistant between the villages of Marksbury, Chelwood and Hunstrete. The landscape is not designated but is nevertheless attractive.

The applicant has prepared a Landscape and Visual Impact Assessment assessing the impact of the development in these terms. Following the refusal of the previous application, the proposals have been significantly revised, omitting the larger, more open field to the north of the A368, which has a public right of way passing through its centre. The development of this field would have had a significant visual impact on views from the A368, on wider views and also on the setting and amenity value of the public right of way.

The current application proposes to only develop the smaller southern field, which is much less open in wider landscape views and is less visible from the adjoining public highway. Analysis of the photomontages set out within the Landscape and Visual Impact Assessment reveals that the most visually prominent elements of the scheme are the sub-station building and other equipment cabins which were originally proposed to be located in the eastern corner of the site adjacent to the main road. This siting emphasised their visual impact and the buildings were prominent in photomontages 1 and 2b, and intrusive in immediate views from the main road (photomontage 13).

To lessen the visual impact of these structures, amended plans have been submitted relocating these buildings further away from the main road, halfway along the southern boundary hedgerow where existing 3 - 4 metre high trees will provide screening. To further lessen the visual impact of the development the amended plans also include new hedgerow planting within the existing boundary hedges along the north-eastern and south-eastern boundaries. Collectively these changes, and the removal of the larger more prominent field from the scheme significantly lessen the visual impact of the development

compared to reduced scheme. The end result will be that the proposed solar farm would be likely to be apparent (though not prominent) in immediate views from the A368 whilst passing the site, but would not be prominent in views from the wider landscape.

The current reduced proposals would have no material impact on the setting of the public footpath.

C. ARE THE PROPOSALS ACCEPTABLE IN HIGHWAY SAFETY TERMS?

As expressed in the comments from the Council's Highways department, there are concerns about the access points to the field, as visibility is poor and traffic speeds are high. The risk would predominantly be during the construction phase itself, which would be limited in duration and officers consider that these safety concerns can be resolved by a well-developed construction management plan, e.g. the use of a banksman and traffic lights during construction.

Following completion, trip generation will be very low, typically 1 visit by a few men in a small van every few months, and exceptionally, visits by larger vehicles should a component fail. This level of maintenance traffic is similar to the frequency with which a farmer might access his fields in a tractor. Therefore whilst access improvements could be achieved, given the low level of trip generation once the development is complete, these would seem excessive; and such improvements would be at the cost of removing further hedgerows and exacerbating the landscape impact of the development.

D. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THEIR IMPACT ON ECOLOGY?

As reflected in the ecology comments above, the Council recognise the site to be of no particular ecological value. It is possible that the development, (which proposes to replace the arable fields with calcareous grassland incorporating wildflower planting) could have a positive impact on the ecological value and diversity of the site, however at present insufficient details are available to confirm this. It is also recognised that the proposed hedge planting and hedgerow reinforcement would improve the habitat connections in the vicinity of the development.

The Council's ecologist has raised concerns about the potential of the proposed security fencing associated with the development to exclude mammals from the site (or trap them within it). The applicants have acknowledged that large mammals such as deer would be excluded from the area within the security fence, but that they could skirt the site, between the security fence and the outer boundary hedges. Officers do not consider that these concerns would be sufficient to justify the refusal of the application, and remaining details could be resolved through condition. The proposals are considered to be acceptable in terms of their ecological impact.

E. ARE VERY SPECIAL CIRCUMSTANCES DEMONSTRATED TO ALLOW THE DEVELOPMENT TO GO IN THE GREEN BELT?

The application site lies within the Green Belt. Core Strategy policy CP8 largely mirrors national policy within the NPPF that identifies the fundamental aim of Green Belt policy being to prevent urban sprawl by keeping land permanently open and that the most important attributes of Green Belts are their openness and permanence

The draft Core Strategy Policy identifies 6 purposes of including land in the Green Belt in BANES:

- 1 To check the unrestricted sprawl of Bath and Bristol.
- 2 To prevent the merging of Bristol, Keynsham, Saltford and Bath.
- 3 To assist in safeguarding the countryside from encroachment.
- 4 To preserve the setting and special character of Bath.
- 5 To assist in urban regeneration of Bath and Bristol by encouraging the recycling of derelict and other urban land.
- 6 To preserve the individual character, identity and setting of Keynsham and the villages and hamlets within the Green Belt.

Policy GB.2 of the Adopted Local Plan advises that permission will not be granted for development within or visible from the Green Belt which would be visually detrimental to the Green Belt by reason of its siting, design or materials used for its construction.

National and local policy establishes a presumption against inappropriate development in the green belt which by definition is anything that is harmful to the green belt. The NPPF advises (paragraph 91) that "when located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development and that in such cases developers will need to demonstrate very special circumstances... Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources."

It is clear, therefore, that the development (consisting of the installation of 3-metre high man-made structures over an area of 5 hectares) does comprise inappropriate development because it would harm the open character of the land.

When "inappropriate" development is proposed in the Green Belt, it is for the applicant to show why permission should be granted because of very special circumstances.

The NPPF advises (paragraph 88) that substantial weight should be attached to the harm to the Green Belt when considering any planning application. 'Very special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

Within the Design and Access Statement, the applicant has set out what they consider to be the very special circumstances as follows:

THE CONTRIBUTION THAT WILL BE MADE TO LOCAL AND NATIONAL RENEWABLE ENERGY AND CARBON REDUCTION TARGETS

The proposal will meet 2% of BANES Council's target for renewable electricity generation, enough to power approximately 625 houses.

The Proposals would make a positive contribution to meeting the Council's renewable energy targets. Whilst the progress towards meeting the targets offered by this specific development is relatively low, national planning guidance is explicit that even small-scale projects provide a valuable contribution to cutting greenhouse gas emissions. Furthermore whilst a renewable energy development of 2.3 MW in output is relatively modest compared to many commercial scale schemes, it would still represent a 390% increase in consented renewable energy capacity in the district from the current situation. (Consented and operational schemes, schemes in construction and awaiting construction, RESTATS website.)

Government guidance recognises that if targets are to be met, there is an urgent need to increase the delivery of renewable energy infrastructure, both locally and nationally. Taking into account the very low level of renewable energy infrastructure in BANES at present (in absolute terms and against the Core Strategy targets) this benefit is afforded significant weight as a material consideration in the determination of the application.

RAISING THE QUALITY OF LIFE IN RURAL AREAS, FOR EXAMPLE THROUGH DIVERSIFICATION OF AGRICULTURAL LAND AND GENERATING AN ALTERNATIVE INCOME FOR FARMERS. OTHER SOCIAL AND ECONOMIC BENEFITS INCLUDE LOCAL JOB CREATION OPPORTUNITIES

The applicant comments that the development would create an alternative and additional income stream for the landowner farmer, as the Site will continue to be grazed. There would also be local job opportunities associated with the construction and maintenance phases.

The development would clearly deliver benefits in terms of economic development, both in terms of the income generated for the farmer, and job creation from the maintenance and management of the solar farm.

Additionally as set out elsewhere, subject to contract, planning permission and a successful fund raise, the solar farm would be community-owned, developed and run by Bath and West Community Energy (BWCE). BWCE is an energy co-operative set up to develop, finance and manage community-owned renewable energy projects.

BWCE operates across Bath and the surrounding area and to date has developed 11 solar PV projects on schools and community buildings totalling just over 400kW, a 250kW ground mounted system linked to a business park and are on site with a 1MW ground mounted solar PV system in partnership with Wiltshire Wildlife Trust.

THE TEMPORARY NATURE OF A RENEWABLE ENERGY PROJECT AND THE ABILITY TO RESTORE THE LAND TO ITS ORIGINAL CONDITION AT THE END OF THE PROJECT'S LIFE.

The application comments that the proposals are temporary with a proposed permitted lifetime of 25 years. After this period the Site will be restored to its original condition unless the permission is extended or a new permission is granted. The panels will be recycled and it is anticipated the scrap value of the support racking systems is sufficient to pay for

the removal of the solar farm. The panels can contain glass, aluminium and semi-conductor material which all have a value when recycled.

A temporary 25-year permission is proposed, with a condition to require the reinstatement of the land at the end of this period.

THE ROLE OF THE PROJECT IN THE LOCAL COMMUNITY, FOR EXAMPLE AS AN EDUCATIONAL TOOL, WHEN SITUATED IN A PUBLIC PLACE AND/OR PART OWNED BY THE WIDER COMMUNITY.

The Proposals will be developed in conjunction with Bath and West Community Energy (BWCE), a community owned energy enterprise, 95% owned by local investors, which delivers renewable energy (and other) services. Surplus profits will be channelled to a Community Fund, which issues grants for local community environment projects. BWCE aims to put 2% of the capital expenditure of its installations into the community fund each year. In terms of this proposal, this would comprise £45,000.

2. THAT ALTERNATIVE OPTIONS HAVE BEEN INVESTIGATED AND REJECTED FOR VALID REASONS, INCLUDING ALTERNATIVE SITES - ARE THERE ALTERNATIVE SITES OUTSIDE THE GREEN BELT AVAILABLE TO THE DEVELOPER? IF NOT, WHAT ARE THE OPTIONS ON THE LAND AVAILABLE? WHY IS THE CHOSEN SITE MOST APPROPRIATE? CAN THE ENERGY BE USED AT SOURCE RATHER THAN BEING EXPORTED TO THE GRID?

Applicants comments - The Green Belt covers 70% of the Council area and unfortunately no suitable sites were found outside the Green Belt area. Over 40 sites were considered within and outside the Green Belt, with detailed discussions being held with 17 separate land owners. The site search process in this area was based on a viable site size and a viable connection to the national grid network. 33kV lines are required, and grid connection is not possible in the west (towards the Mendip Hills AONB) due to large 132kV pylons, connection to which is not viable. There were subsequently successful landowner approaches, where sites were dropped due to cultural heritage impacts, impacts on PROWs and/or archaeology issues. The applicants submitted mapping showing the constraints mapped, including north facing slopes, steep topography, PROWs, cultural heritage features, settlements and houses as well as other sensitive receptors such as recreational routes and roads, which excluded substantial areas of their primary search area, resulting in the site at Marksbury, in the Green Belt, being pursued as there were no available and suitable sites in the primary search area based on the above criteria.

Officer comment

It is correct that approximately 70% of the district is designated as Green Belt and the Council recognises that, if its targets for renewable energy generation are to be met, it may be necessary to accept renewable energy generation in such locations, if it cannot be accommodated outside of the Green Belt.

The information submitted demonstrates the number of constraints that for genuine reasons limit the availability of sites both within and outside the green belt. Particular constraints that limit the number of developable sites in the district are the distance from

the national grid, steep topography and proportion of north facing slopes. It appears that due to these constraints, no sites were available outside of the Green Belt.

TECHNOLOGY AND SIZE OF SYSTEM - WHAT RENEWABLE RESOURCES ARE AVAILABLE ON THE SITE? ARE THERE ALTERNATIVE, VIABLE TECHNOLOGIES THAT WOULD HAVE A REDUCED IMPACT ON THE OPENNESS AND CHARACTER OF THE GREENBELT AT THE SAME TIME AS GENERATING THE DESIRED LEVEL OF RENEWABLE ENERGY?

Applicants comments - The only other viable option that would generate a similar amount of renewable energy to allow BANES to go some way to meeting their renewable electricity target would be a wind farm or a biomass plant, which would give rise to substantially greater landscape impacts. The proposed pv panels will only be 3m high ensuring a far reduced visual impact compared to these alternatives.

Officer comment

Officers accept that the proposed solar farm would have a geographically more limited visual impact than a wind farm or biomass power plant, however this consideration in isolation is not considered to be sufficient to comprise Very Special Circumstances.

3. THAT THE IMPACT ON THE OPENNESS AND CHARACTER OF THE GREEN BELT HAS BEEN CONSIDERED AND MITIGATED.

The proposals have been significantly modified since the refusal of the previous application by reinforcing boundary treatments and by omitting the larger and more prominent field, which due to its topography and position would have been impossible to effectively screen.

The development would clearly still have a significant impact on the openness of the Green Belt, but as far as is possible the visual impacts of the development have been mitigated, through lessening the size of the site, additional planting and through revising the placement of associated buildings.

CONCLUSIONS

The following comments can be made about the value and quality of this part of the Green Belt, against the purposes of including land within the Green Belt set out in the Core Strategy

In this case it is considered that this part of the Green Belt is not crucial to preventing the unrestricted growth of Bath and Bristol or preventing these settlements from merging, and neither does it perform a vital role in preserving the setting and special character of Bath. Allowing the development would not frustrate urban regeneration as this form of development requires large, unimpeded, invariably rural sites. However, this part of the Green Belt does perform an important role in safeguarding the countryside from encroachment, as the application site and surrounding area is open land of a clearly rural character and its role as Green Belt is uncompromised by encroaching development, the site being set apart from nearby urban areas and contributing to a wider landscape which does have scenic value. This part of the Green Belt does perform an important function by

preserving the individual character, identity and setting of the villages and hamlets within the Green Belt, in this case the villages of Hunstrete, Marksbury and Chelwood. These settlements have a recognisably rural setting which contributes to their character, and the development would have a significant adverse impact on this setting.

The proposed development would clearly remove the openness of the application site and would encroach into the Green Belt. The installation of man-made infrastructure (including the panels themselves, equipment cabins and other infrastructure), and the enclosure of the fields within security fences would change the character of the field, essentially removing its openness, and introducing clutter that would have an urbanising effect.

However due to the reduced size of the site now proposed, the topography, existing landscape screening and additional landscaping the visual impact and intrusion would be limited, and the applicants have gone as far as they have been able to mitigate these impacts. Consequently, the development would probably be apparent, but not prominent, as one bypasses the site along the A368, but would be unlikely to be prominent in wider views. The site would have no material impact on the amenity value of the public footpaths that bypasses the site to the north and south.

The majority of Bath and North East Somerset is designated as Green Belt, and the applicants have submitted evidence to demonstrate the constraints that limit the developable areas, both inside and outside of the Green Belt. Substantial weight is given to the benefits the development would deliver in terms of the generation of renewable energy, to the limiting constraints to developing large scale solar energy generation and also to the community benefits delivered by the development. Overall, officers consider that very special circumstances have been demonstrated, and that the harm to the Green Belt and landscape would be clearly outweighed by these benefits.

Whilst officers are minded to approve the application, the proposed solar farm by virtue of its nature and size, would nevertheless have a significant impact on the openness of the Green Belt. As a consequence, prior to issuing a decision to approve the application, it needs to be referred to the Secretary of State for a possible call-in.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

A. that the application be referred to the Secretary of State to give him the opportunity to consider whether to exercise his call-in powers in accordance with the Town and Country Planning (Consultation) (England) Direction 2009, and

B. Subject to the Secretary of State not calling in the application, authorise the Group Manager, Development Management to PERMIT the application, subject to the following conditions:-

1 This permission shall expire within 25 years from the date when electricity is first exported from the solar farm to the electricity grid (the 'First Export Date'). Written notification of the First Export Date shall be given to the local planning authority no later than 14 days after this event

Reason: A temporary consent is sought and to avoid the permanent loss of agricultural land, to protect the character of the countryside and below ground archaeology and to protect the Green Belt from unnecessary development.

2 Within 6 months of the point where the Solar Farm permanently ceases to produce electricity, or the expiration of this permission, whichever is the sooner, the solar panels together with any supporting apparatus, mountings, cabling, foundations, inverter stations, fencing, CCTV cameras and other associated equipment shall be removed from the land, and the land restored to agricultural use or to a condition to be agreed in writing by the local planning authority.

Prior to the decommissioning of the site a method statement shall be submitted to and approved in writing by the Local Planning Authority. This shall set out the approach to be taken to remove the array support poles, cable runs and other below ground structures whilst minimising harm to below ground archaeology. The decommissioning of the site shall take place in accordance with the decommissioning method statement.

Reason: To avoid the permanent loss of agricultural land, to protect the character of the countryside and below ground archaeology and to protect the Green Belt from unnecessary development.

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 measures, temporary signage. Thereafter, the development shall not be constructed other than in full accordance with that approved plan.

Reason: To ensure the safe operation of the highway.

4 Prior to the commencement of the development, an operational statement shall be submitted to and approved in writing by the Local Planning Authority setting out the site management and access arrangements during the lifetime of the development. The operational statement shall include, but not be limited to:

- a. Highway safety procedures during routine, 1-day maintenance access visits by light vehicles,
- b. Construction Management plan (including Traffic Management measures, contractor parking, signage and highway safety measures) for exceptional plant installation or replacement visits by Heavy Goods Vehicles or multi-day maintenance works.

Thereafter, the development shall not be operated other than in full accordance with the approved details.

Reason: To ensure that adequate traffic management and safety measures are undertaken during subsequent maintenance works, appropriate to the nature and length of the works, in the interests of the safe operation of the highway.

5 No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features encountered, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.

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

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

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

7 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) dated 07/09/2012 by H2OK and the following mitigation measures detailed within the FRA:

a. Limiting the surface water run-off generated by all return periods up to and including the 1 in 100 year critical storm so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

REASON: To prevent any increased risk of surface water flooding associated with installation of the solar farm development.

8 The development hereby permitted shall not be commenced until such time as a scheme to clarify the intended future ownership and maintenance for all drainage works serving the site has been submitted to, and approved in writing by, the Local Planning Authority (LPA). The scheme shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme or within any other period as may subsequently be agreed, in writing, by the LPA.

REASON: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site.

9 No development shall take place until full details of a Wildlife Management and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) Details of planting specifications for existing and new native species hedgerows
- (ii) Details of methodology, species composition and seed source for the creation and management of species rich calcareous grassland
- (iii) Specifications for fencing that allows free movement of mammals into, across and from the site from all boundaries
- (iv) Details of any necessary precautionary measures and methods of working

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

Reason: for the protection of wildlife and wildlife habitats

10 There shall be no external or security lighting shall be installed within the application site.

Reason: To protect the character and appearance of the open countryside and for the prevention of harm to bat and other wildlife activity

11 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.

12 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.

13 Prior to its installation, full details of the following shall be submitted to and agreed in writing by the Local Planning Authority:

- The perimeter security fencing including proposed finish.
- the location of security cameras around the site.

The development shall be undertaken in accordance with the agreed details.

Reason: To protect the character and appearance of the open countryside and minimise the visual impact of the development.

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

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

1 ADVICE NOTE:

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

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

3 The applicant should be advised to contact the Highway Maintenance Team on 01225 394337 prior to commencement of works with regard to implementation of the approved Construction management Plan.

4 There must be no interruption to the existing surface water and/or land drainage arrangements of the surrounding land as a result of the operations on the site. Provisions must be made to ensure that all existing drainage systems continue to operate effectively.

This decision relates to drawing nos

- Red Line Plan
- Drawing TGC/PV009/01 COMM UNICATIONS BUILDING
- Drawing TGC/PV004 CCTV
- Drawing TGC/PV0010/01 A1 PROPOSED SWITCHGEAR HOUSING BUILDING
- Drawing PV003 A1 INVERTER CABIN
- Drawing PV 1.00 C3 EXISTING SITE DESIGN
- Drawing GCS0015-1-04 PROPOSED ELEVATIONS OF INDOOR 33KV SUBSTATION
- PROPOSED SITE DESIGN - REVISION D2, DATED 3.3.14
- Drawing C2 SLICE VIEWS
- Drawing 20-09-PV ZONE OF THEORETICAL VISIBILITY 1:80,000 AND 1:35,000
- Drawing PHOTOMONTAGES (RESUBMISSION VERSION)
- Drawing 2V RACKING SYSTEM
- PROPOSED SECURITY/DEER FENCE TYPICAL GENERAL ARRANGEMENT

- Drawing STANDARD DOUBLE GATE DETAILS
- Drawing AMENDED LANDSCAPING PLAN D3 - LANDSCAPING CROSS SECTION AND DETAIL - DATED 27.3.14
- Drawing AMENDED LANDSCAPING PLAN D3 - EXISTING AND PROPOSED LANDSCAPING - DATED 19.3.14
- ARCHAEOLOGICAL DESK BASED ASSESSMENT
- AGRICULTURAL LAND CLASSIFICATION REPORT
- COMMUNITY CONSULTATION REPORT
- EXTENDED PHASE 1 HABITAT SURVEY
- FLOOD RISK ASSESSMENT
- GLINT AND GLARE ASSESSMENT
- LANDSCAPE AND VISUAL IMPACT ASSESSMENT
- PLANNING, DESIGN AND ACCESS STATEMENT INCLUDING GREEN BELT JUSTIFICATION
- LETTER OF AGREEMENT BETWEEN BATH AND WEST COMMUNITY ENERGY AND TGC RENEWABLES DATED 25TH MARCH 2014
- Bath & West Community Energy & the Marksbury Solar Farm
- GIS MAPPING OF CONSTRAINTS AND SITE FINDING WITHIN DISTRICT
- NON GIS MAPPING - CONSTRAINTS AND AVAILABLE SITES.

Item No: 02
Application No: 13/04607/FUL
Site Location: Somerset Inn Bath Road Paulton Bristol Bath And North East Somerset



Ward: Paulton **Parish:** Paulton **LB Grade:** N/A
Ward Members: Councillor J A Bull Councillor Liz Hardman
Application Type: Full Application
Proposal: Conversion from a Public House (Use Class A4) to form a single dwelling (Use Class C3) and associated works.
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Coal - Referral Area, Forest of Avon, Housing Development Boundary,
Applicant: Poulton Ltd
Expiry Date: 20th December 2013
Case Officer: Daniel Stone

REPORT

SITE CONTEXT

The application site consists of a vacant public house on the eastern edge of Paulton on Bath Road. The site lies beyond the adopted Housing Development Boundary. To the rear of the public house lies a large paddock, which was the subject of an application to erect 22 dwellings. This outline application, reference 13/04606/OUT, was refused on 23rd January 2014 and is now the subject of an appeal.

To the east and west the site is bounded by dwellings; to the south the site backs onto the open countryside. The applicant reports that the premises ceased trading in 2011.

PROPOSALS

Consent is sought for the conversion of the public house into a dwelling. No external alterations are proposed to the building, however a private garden and 2 parking spaces would be formed to the rear of the public house, enclosed within a new stone or brick wall.

Whilst there is an outstanding appeal for 22 dwellings at the rear of the site, the proposed change of use could be implemented independently of this development. The site plan shows the proposed dwelling being accessed via a revised junction onto Bath Road, on the assumption that the appeal will be allowed. The site plan also shows an existing single storey storage building at the south-eastern corner of the car park being removed.

RELEVANT PLANNING HISTORY:

- o 13/04610/OUT - Erection of up to 14 dwellings and associated works - withdrawn
- o 13/04606/OUT- Erection of up to 22 dwellings and associated works - Refused 23.01.14

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSULTATION

Consultation letters were sent out to 50 adjoining properties, a press notice was displayed and Parish Council were consulted. To date 28 letters of objections have been received, and 1 letter of support.

The majority of the correspondence raised issues in connection with the application 13/04606/OUT (for 22 dwellings), however the following issues were raised in specific connection with the Change of use application:

Object to loss of pub. The pub forms a social hub for the local people. Too many of our pubs are going and as local people we need to support community resources. A business plan to save the pub was submitted but rejected.

At the time when the present developers purchased the site there was at least one viable bid in from a local resident who wanted to continue its existence as a pub/restaurant, but

was outbid by the developer. Under the Localism Act 2011, Ch3 S2, it is an "asset of community value" of which it would be illegal to dispose under the proposed terms. Not enough effort has been made to find a landlord for this public house.

The coal mining report concludes there is a mine shaft on the site. It's understood that the property stands directly on the mine shaft which is capped off at basement level.

The Somerset Inn is an historic building, and part of Paulton's heritage as a mining community.

Detailed objections were received from Mr Yoxall and Mr Macey, both of whom sought to purchase the pub as a going concern.

PAULTON PARISH COUNCIL - Object on the grounds of the need to clarify whether the Somerset Inn public house could be viable and if it has been marketed as a public house without success. Local knowledge would seem to conflict with the developers report. We request that Bath and North East Somerset investigate this matter

HIGHWAYS DEVELOPMENT CONTROL - No objection

The proposed form of access, as a new access road, would be excessive for a single dwelling, and is therefore only required if permission is secured for further development to the rear of the site. The submitted plan also does not show, in detail, what changes are proposed, in respect of visibility splays, gradients etc, and the full detail should be included as part of the application.

GVA (INDEPENDENT CONSULTANTS RETAINED BY THE COUNCIL TO ADVISE ON THE COMMERCIAL VIABILITY OF THE PUB AND TO APPRAISE THE VIABILITY REPORT) - No objection.

The detail of their analysis is set out in the body of the report below.

COAL AUTHORITY - comments awaited

ARCHAEOLOGIST - No objection. No conditions are required.

ECOLOGY - NO OBJECTIONS subject to conditions.

No bat roosts were found in the affected buildings; recommendations are made for precautionary measures for the protection of bats and for this to be secured via a method statement to be agreed with the LPA. Bat activity was recorded around the site was dominated by common and soprano pipistrelle bats; a single greater horseshoe bat was recorded during the dawn survey, foraging in the car park on its way through the site.

POLICIES/LEGISLATION

Policies/Legislation:

Adopted Local Plan:

CF.7 - Loss of public houses

D.2 - General Design and Public realm considerations

HG.4 - Residential Development in the urban areas and R.1 settlements
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
NE.10 & NE11 - Nationally & Locally Important species and habitats
SC.1 - Settlement classification
T.1 - Overarching access policy
T.24 - General development control and access policy

Core Strategy

DW1 - District-wide spatial Strategy
SV1 Somer Valley Spatial Strategy
RA1 Development in the Villages meeting the listed criteria
RA2 Development in Villages outside the Green Belt not meeting Policy RA1 criteria
CP6 - Environmental Quality

National Planning Policy Guidance
National Planning Policy Framework

OFFICER ASSESSMENT

Officer Assessment:

There is no doubt that the property could relatively easily be converted into a quality dwelling which would offer a high quality residential environment for future occupiers. Local Plan policy

HG.12 allows the conversion of non-residential buildings to dwellings provided that it is compatible with the character of adjacent established uses, does not harm the amenity of adjoining residents.

The proposed conversion of the public house to a dwelling likewise raises no concerns in terms of highways safety, as whilst the access is substandard, trip generation from a single dwelling would be substantially lower than the established use of the building as a public house. The proposed site plan shows the proposed dwelling being accessed via a revised junction onto Bath Road, on the assumption that the appeal to the rear of the site will be allowed. If the appeal were to be dismissed however, the proposed dwelling could safely be accessed using the existing access. Therefore a condition should be attached requiring plans to be submitted of the proposed access and car park area prior to the commencement of development, so as to avoid the extensive access works, proposed as part of the 22-dwelling scheme, having to be carried out if they are unnecessary.

The remaining issue relates to the loss of the public house as a community use, which is safeguarded by saved Local Plan policy CF.7 which states:

Planning permission will not be granted for the redevelopment or change of use of a public house which would result in the loss of premises which provide, or could provide, a needed community facility in that locality, unless:

i) the operation of a public house serving the local community is not viable and the premises have been effectively marketed as a public house without success; or

ii) the development or change of use would result in the provision of alternative facilities of equivalent or greater benefit to the local community.

The applicants submitted a viability assessment with their application, which summarised the efforts taken to market the public house for sale as a going concern and summarised the applicants view of the commercial viability of it as a going concern.

Pub viability is a specialist area and therefore a firm of chartered surveyors, GVA has been appointed to provide independent expert commentary to the Council. The individual appointed has significant experience of estate management and valuation in the public house and leisure sector and has worked in this area since 2001. The viability arguments can be separated out into the efforts taken to market the property and the financial viability of the property, based on its size, condition, location etcetera.

Below is a summary of the applicants' arguments, followed by a summary of GVA's advice to the Council.

MARKETING EFFORT

Applicants Case

The applicants report that the property was first marketed for sale in January 2011 nationally and locally with multiple agents and was marketed for a period of 32 months. The application includes further details of the efforts taken to market the property. The asking price was reduced as follows:

- January 2011 - £475,000
- May 2012 - £395,000
- October 212 - £325,000
- February 2013 - £295,000
- April 2013 - £275,000

The applicants report that no known proceedable offers were received for the use of the property as a pub, with the vast majority of interest being for change of use or residential development.

Independent Advice to the Council

GVA advise that on the basis of the details submitted, it is clear the property was extensively marketed over a long period. Officers consider that the efforts taken to market the property were adequate.

FINANCIAL VIABILITY OF THE SOMERSET INN AS A PUBLIC HOUSE

Applicants Case

The applicants stress the general increase in pub closures since the credit crunch, with at the peak in 2008, 36 pubs closing per year, and also since 2009 the trend of pub companies disposing of pubs at the bottom end of their estates, with Admiral Taverns, who appear to have owned the site until 2013 disposing of 477 sites in 2011. They also

comment on the continuing fall in on-licensed wet sales and on the increasing reliance on food sales.

The applicants comment that the Somerset Inn traded predominantly on the basis of drinks sales from local residents and that the volume of wet sales at the Somerset Inn had fallen since 2005. They set out the following key factors which limit the viability of the pub:

Small size of pub - total trading area = 43 square metres

Current kitchen is domestic and small in size, with significant investment required in order to upgrade it to a commercial kitchen

The building is in poor condition and is damp. Full refurbishment would be required including an element of repair, requiring capital investment of at least £100,000

The three other pubs in the village, The Red Lion, Lamb and Winterfield Inn are better located than the Somerset Inn and able to provide a wider range of facilities. In addition, there are three "members" clubs in the village.

No disabled toilets

On the basis of an assumed turnover of £75,000 p.a. the applicants estimate the value of the pub in its current condition at £150,000, and have assumed that a would-be purchaser would need to borrow the full sum (plus repair costs of £100,000) and would support a £25,000 wage for the owner / operator.

Their view is that after allowance for finance costs the business is loss making, and the return on the investment required does not reflect the risk.

Independent Advice to the Council

GVA's assessment largely confirmed the applicant's assessment of viability and their description of the wider economic climate and the effect on the pub market. GVA comment that the national pub companies such as Punch Taverns, Enterprise Inns and Admiral Taverns have been disposing of the lower quality pubs in their estates. This has saturated the market to a degree, suppressing prices and providing potential purchasers with a wide selection of stock from which to buy. This has undoubtedly affected the marketability of the subject property.

Size of Property / Potential as Gastro-pub

GVA comment that the front of house is too small to station enough tables and chairs to cater for a food establishment and the back of house, with the lack of kitchen space, will not accommodate any substantial volume of food orders and would be ideally suited to only serve as a domestic kitchen. Therefore, it can really only trade as a traditional "wet led" community pub.

They advise that, assuming the measurements are correct, (43 sq. m) they are not aware of any regional or national pub or restaurant operators who have requirements this small. The hypothetical purchaser is therefore likely to be a private individual, who inevitably will need to raise finance to purchase and invest in the property.

Potential Profitability

GVA undertook their own assessment of the profitability of the property, taking into account an allowance for necessary capital expenditure in order to complete some necessary repairs, redecoration and to acquire trade fixtures, fittings and equipment. Their assessment broadly reaches the same conclusions set out in the Fleurets report, namely:

Lack of finance for small community pubs, with no recent trading history.

Return on investment not sufficient/achievable.

Lack of demand from Pub Companies and Regional Brewers for this kind of unit.

There are 3 other competing pubs in the village. This in itself is likely to limit interest in the subject property.

Market saturation of bottom end pubs resulting in lower number of potential bidders.

Very limited facilities at the subject property.

GVA undertook their own numerical assessment of viability, assuming a more optimistic assessment of the trading potential of the site than assumed by the applicants. They comment that even adjusting/improving the level of sales and the level of profit, after allowance for reasonable costs and finance, the business would still be loss making. Even if it is assumed that a hypothetical purchaser will provide a larger deposit in order to reduce the finance costs, they will undoubtedly need/want to receive a larger remuneration to account for the investment of their own capital.

Taking into account the applicants assessment and their own calculations, GVA have come to the firm conclusion that the Somerset Inn does not have the potential to be a viable business.

THIRD PARTY OBJECTORS

The Council have received detailed objections from two residents who sought unsuccessfully to purchase the pub as a going concern, which was then sold to the applicant for development. The Council's advisers have commented specifically on the issues raised as follows:

"A number of comments from objectors have been made regarding their views on the financial viability of the pub. In summary they are of the view that the pub could be successful in the hands of local operators and not controlled by a Pub Company. A couple of objectors suggest that they have been involved in the running of the pub in previous years and based on this experience, they believe it could be viable. Another objector stated that he tried unsuccessfully to buy the property when it was first brought to the market.

In my opinion, there is much more to understanding how to successfully run a pub, and whilst not wishing to patronise those making the objections, it is not sufficient to say that the pub could/would be a success in the hands of local operators without being able to qualify this. There is some comment that the property could be extended and other buildings be utilised in order to develop the trade. These are clearly unrealistic assumptions and cannot be given any credibility.

CJ Macy suggests that he offered to buy the pub when it was first offered for sale, but it was then sold 2 years later at the same price he had offered. In my experience, with the benefit of hindsight it is very easy to be suspicious about a matter such as this. However, in reality, it is likely that the vendors' expectations at the time of CJ Macy's offer were different to that of his offer (the level of which is unclear). The fact that it sold 2 years later at the level of his original offer in what was a declining market suggests that the vendors are likely to have considered the later offer to be better, as market conditions had declined.

The objectors make the point as if the vendors deliberately refused to sell the property to this person. However, what we are not told is how much was offered and what the funding position/credibility of this person was. Therefore, the vendor is entitled to decline to accept an offer on it.

I have given specific consideration to the comments raised by Nick James in his letter of the 4 December 2013. Mr James states that he has extensive experience in a variety of businesses and currently acts for a number of independent freehouses across BNES in his capacity as an Accountant.

In particular, I have reviewed his forecast. His opinion of potential turnover is very similar to that in my assessment above. However, his gross profit conversion rate of circa 49.5% is much lower than I would expect to see. The potential sales at the Somerset Inn are going to be mostly "wet" sales; the kitchen is too small to generate substantial food sales. I regularly review trade accounts of lots of free of tie pubs and carry out analysis of retail pricing and cost of sales in order to establish gross profit margin and would certainly expect to see a higher conversion level.

Conversely, the allowance for overheads represents 18.5% of sales, which is well below industry standards. I have allowed costs that represent 35% of sales to cover operating expenses before cost of finance etc is accounted for. Operational costs for public houses generally range between 33% and 40% of net sales, depending on the style/nature of the business. A high quality pub restaurant will be labour intensive and have costs at the upper end of this range. A single bar community pub will be at the lower end. If these ratios are applied to Mr James's forecasts, it is clear that the business is not profitable, even before costs of finance are accounted for. Therefore, in my opinion, his argument on viability is clearly flawed.

Mr James queries the allowance made for the refurbishment. I would accept that it is subjective, but the property needs substantial repairs as well as redecoration. Pub Companies have a vested interest in seeing pubs in their estate trade successfully. Despite some of the press comments over recent times, pub companies invest significant sums of money into their estates each year to address both repairs and as capital investment to try and improve the performance of the particular pub. So it is not correct to assume that if the pub was owned by a local operator, it would suddenly become profitable.

It is unlikely that any purchaser would have been able to borrow any substantial funds in order to buy the property. Therefore, a large cash deposit would be required. In my experience, there would be very limited appetite to buy a very small pub on the very fringe of the village in which to invest. If there was someone prepared to do this, there is just too

little return to make any money from it, after operating costs are accounted for, including a manager's wage."

CONCLUSIONS

Whilst there are public objections to the loss of the pub, and concerns raised that the pub could be re-opened profitably, the Council have taken independent expert advice on these matters.

The independent consultant advising the Council is firmly of the view that the Somerset Inn does not have the potential to be a viable business.

The most significant factors in coming to this conclusion relate to the small size of the pub and lack of a commercial kitchen, which mean that the premises would have limited potential for food sales to improve profitability levels, and the condition of the property which would require substantial repairs and redecoration. They also comment on the location of the pub on the edge of the village and the competition from the 3 other pubs in the village.

Officers conclude on the evidence available that the public house is not viable and has been extensively marketed without success, and therefore the proposed change of use is in accordance with Local Plan policy CF.3. Taking into account the otherwise acceptable nature of the proposed residential use, which would fit easily within the building and the surrounding residential uses, the application should be approved.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

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

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

2 Prior to the commencement of development, full details of the following shall be submitted to and approved in writing by the Local Planning Authority:

a. modifications to the layout of the existing car park area and any associated works to the access onto the Bath Road,

b. the layout of the rear and side gardens including full details and material samples of any means of enclosure to garden areas.

The development shall then be carried out in full accordance with the details agreed prior to the occupation of the building as a dwelling. Any boundary walls shall be constructed in accordance with the details agreed prior to the occupation of the converted public house as a dwelling.

Reason: In the interests of preserving the rural character of the lane and maximising the amenity of the future occupier of the converted public house.

3 Prior to the demolition of the ancillary storage building in the south-east corner of the public house car park and prior to any repairs being undertaken to the roof of the Somerset Inn details of a Method Statement for Precautionary measures for the protection of bats and nesting birds, as referred to in the approved bat survey report, to include: timing of works to avoid harm to wildlife; details of a named and suitably qualified licensed bat worker that shall carry out the watching brief; findings of any update inspections or surveys as applicable; shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the Method Statement as approved in writing by the Local Planning Authority.

Reason: To ensure that protected species are not harmed or disturbed during the carrying out of the works.

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.

1 ADVICE NOTE:

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

2 Explanatory note to condition 2

The application proposes substantial works to the junction and an access road passing through the car park to the paddock to the rear of the site, which is the subject of a pending planning appeal (reference 13/04606/OUT) for a residential development of 22 dwellings. Whilst these works are considered acceptable in principle in highway terms and would be necessary should the appeal be allowed, should the appeal be dismissed these works will not be necessary or proportionate to the needs of the converted property.

3 PLAN LISTS:

This decision relates to drawing nos

Drawing 127 P04 PROPOSED ELEVATIONS
Drawing 127 P05 PROPOSED ELEVATIONS
Drawing 127 P02 Rev A PROPOSED FLOOR PLANS
SITE LOCATION PLAN
VIABILITY REPORT
BAT SURVEY AND BUILDING INSPECTION REPORT
ECOLOGICAL APPRAISAL REPORT

HERITAGE STATEMENT
PHASE 1 GEOENVIRONMENTAL ASSESSMENT

4 Decision Taking Statement

The Council has worked proactively and positively with the applicants by determining the application as submitted.

Item No: 03
Application No: 13/05256/FUL
Site Location: Fosse Way School Longfellow Road Westfield Radstock Bath And North East Somerset



Ward: Westfield **Parish:** Westfield **LB Grade:** N/A
Ward Members: Councillor R Appleyard Councillor Robin Moss
Application Type: Full Application
Proposal: Provision of new building to accommodate Post 16 teaching area
Constraints: Agric Land Class 3b,4,5, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,
Applicant: Fosse Way School
Expiry Date: 14th February 2014
Case Officer: Tessa Hampden

REPORT

This application has been referred to the Development Control Committee due to the request by the local Ward Member and the objections of Westfield Parish Council. These comments are summarised within the Representation Section of this report.

Site description and proposal

The application relates to Fosse Way School located adjacent to Westfield Primary School, accessed from Longfellow Road in Westfield. The site is within a primarily residential area, bound by a number of residential streets including Tanner Close, Wesley Avenue and Longfellow Road.

The school is a special school academy for children and young people with a very broad range of abilities, aged 3-19 years old. At present Fosse Way can accommodate up to 175 pupils who make up 20 classes. The school has 32 teaching staff and 46 Learning Support Assistants (in a mixture of part time roles) as well as additional support staff in the office and those involved with site management. The school day has an official opening time of 8.55am to 3.00pm with Fosse Way House, a week day residential area situated within the school buildings, providing over night accommodation for up to 11 pupils at a time.

The school benefits from a staff/visitors car park at the entrance of the school that has the capacity for 6 vehicles and 2 disabled bays, and another car park at the back that has the capacity for 24 vehicles, as well as 2 loading and unloading bays, and 2 spaces for the school minibuses.

The application seeks planning permission for the provision of new building to accommodate a post 16 teaching area. The submission confirms that the building will not result in an increase in the number of pupils attending the school. The development will provide teaching areas of appropriate size and design to meet the curriculum requirements of pupils aged 16-19 with special needs. It has been confirmed that the development will not lead to an increase in the number of staff on site, nor in the number of hours that the staff work.

Relevant planning history

DC - 01/02718/REG03 - PERMIT - 14 February 2002 - Replacement swimming pool and classrooms following demolition of existing

DC - 04/02334/REG03 - PERMIT - 23 September 2004 - New classroom/reception/admin building and refurbishment of existing classrooms.

DC - 05/01143/REG03 - PERMIT - 12 May 2005 - Temporary two-classroom building

DC - 05/01878/REG03 - PERMIT - 2 August 2005 - Provision of entrance canopy

DC - 05/02732/REG03 - PERMIT - 20 October 2005 - Erection of ball court enclosure within existing playing field

DC - 06/00496/FUL - PERMIT - 15 June 2006 - Erection of storage container

DC - 07/00258/REG03 - WD - 10 December 2007 - Development to form secondary block, refurbishment and alterations to existing school.

DC - 07/03568/REG03 - PERMIT - 25 January 2008 - Erection of a single storey extension to form eight classrooms and ancillary offices with landscaping and formation of car parking

DC - 08/04777/REG03 - PERMIT - 13 March 2009 - Erection of a new glazed link

DC - 09/00322/REG03 - PERMIT - 30 April 2009 - Relocate existing garage and store to staff car park, with provision of new parking area for minibus, and existing timber shed and masonry store to schools hard play area with provision of additional tarmac hard play area with surrounding fence; relocate existing tool shed with new horticulture area consisting of 3no. new planting beds and associated tarmac path

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Environmental Protection - No objection subject to conditions/informatives

Highway Drainage - no comments

Arboricultural Officer - no objection subject to conditions

Sports England - Sport England objects to the proposal because is not considered to accord with any of the exceptions in Sport England's playing fields policy

Cllr Moss - request that this application is heard at committee as the school has now outgrown this site

Westfield Parish Council - object to the application. The comments can be summarised as follows:

Whilst supporting the aims and aspirations of the school, the Committee strongly objected to the application because it does not make provision for parking and exacerbates an already intolerable parking problem

-When the last planning application was approved in 2008 only minimum parking was required, this balance needs to be redressed and further parking provision made to accommodate the new teaching area

-Whilst the application states that no new staff will be required, increased teaching will at the very minimum require existing staff to work longer hours, thus impacting on cars parked on the local road

-Consideration should be given to the fact that, if approved, the new building will block access for future parking on school grounds

38 objection comments have been received. Further to this 1 petition against the development has been received with 13 signatures. The comments can be summarised as follows:

-highway safety and impact upon pedestrian safety

-increased traffic

- congestion
- impact upon emergency services
- lack of parking on site and resultant parking on nearby streets - multiple associated issues
- parking caused by non school related activities
- substandard access to site
- conflicting information with submission
- lack of need due to potential for new school in Shepton Mallett
- onsite cafe facility
- impact upon safety of children using nearby nursery/school users
- loss of trees
- lack of attempt to solve existing issues
- questions in relation to the increase in the number of staff and the hours worked by part time staff

POLICIES/LEGISLATION

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

- D.2 General Design and public realm considerations
- D.4: Townscape considerations
- CF.2: Provision of new or replacement community facilities
- SR.1A: Protection of playing fields and recreational open space
- ES.5: Foul and surface water drainage
- ES.12: Noise and vibration
- NE.4: Trees and woodland conservation
- NE.10:Nationally important species and habitats
- NE.11:Locally important species and habitats
- T.1: Overarching access policy
- T.3: Promotion of walking and use of public transport
- T.20: Loss and provision of off-street parking and servicing
- T.24: General development control and access policy
- T.25: Transport assessments and travel plans
- T.26: On-site parking and servicing provision

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

National guidance in the National Planning Policy Framework (NPPF) is also a material consideration. The following sections are of particular relevance:

OFFICER ASSESSMENT

Principle of development

Policy CF2 of the Local Plan clarifies that new community facilities or extensions to existing facilities which meet the current and future needs of the local community will be considered sympathetically provided they are in locations easily accessible by a range of transport and are within or immediately adjacent to settlements.

The site is located within the settlement boundary surrounded by residential areas and close to public transport provisions. It is recognised that a large number of pupils due to their individual needs, need to travel to the site by private car and are unable to take advantage of public transport provisions close to the site. However, this is available for those who are able to use this, including the staff and associated users of the site.

The proposal will also meet the current and future needs of the local and wider community and will provide improved facilities for 16-19 year olds who are now required to stay in full time education. As such the proposal for an improvement of the existing facility by creating improved facilities in line with national requirements, complies with policy CF2 of the Local Plan.

The post 16 centre will be built on a parcel of land that can be considered as a recreational open space which is protected through policy SR1A of the Local Plan. This resists the loss of the space for this use unless the development complies with one or more of the listed exceptions. Paragraph 74 of the National Planning Policy Framework (NPPF) further highlights the need to protect existing playing fields and open spaces. However, paragraph 72 of the NPPF also states that Local Planning Authorities should give great weight to the need to create, expand or alter schools.

Sport England have been consulted on this proposal and have raised an objection as the proposed development fails to meet their exception criteria. In particular, it has not been successfully demonstrated that the proposed development affects only land incapable of forming, or forming part of, a playing pitch, and does not result in the loss of, or inability to make use of any playing pitch (including the maintenance of adequate safety margins), a reduction in the size of the playing area of any playing pitch or the loss of any other sporting/ancillary facility on the site."

However, the benefits of the provision of this improved teaching facility are recognised and the merits of this scheme need to be balanced against the loss of this section of open recreational space. The submission explains that the parcel of land to which the application relates is not used for any formal sporting activity, and due to the nature of the pupils at Fosse Way School, the proposed post 16 centre is not considered to impinge on any current or future sporting activities in the school. Additional information has been submitted from the Head Teacher of the school, outlining the existing facilities on the site. These include a football pitch which accommodates either a large football pitch or two mini 5 a side pitches, indoor swimming pool, indoor gym, multi-use games area (used predominantly for 5 a side football and basketball), a hard standing area used by cycles and pedals, 4 playgrounds, and a sensory area. A plan has also been submitted which illustrates how additional playing field space could be provided in the future with the removal of a number of trees on the edge of a wooded area.

Further justification has also been provided by the applicant in relation to the necessity for the new building. A site visit and discussions with the school have highlighted the poor facilities that presently exist for the older pupils. The current classrooms are small in size and do not offer a high standard of accommodation. It is also cited that Mainstream schools with a 16-19 provision would have separate buildings/spaces to meet the needs of older students. This building will provide an equal opportunity for students at Fosse Way School to experience the same environment as if they were in a mainstream school. It has also been explained that due to the particular needs of the younger pupils, they can find it difficult to be in close proximity to the older pupils, and in this regard a separate building is advantageous.

Overall therefore, given the demonstrable need for this development, the loss of this parcel of land, although linked to the main playing field, is considered to be outweighed by the benefits of the proposal. Sufficient land is retained to meet the recreational needs of the users of the site and is not considered to significantly compromise the use of the overall site for existing or future sporting or recreational activities.

There is therefore no objection to this development in principle.

Character and appearance

The building is of an appropriate scale, design and siting, that will ensure that the development appears appropriate within the context of the site and a school. The modern design of the building complements the existing development on the site and although visible from outside of the site, will not appear overly dominant from wider views. The overall height of the building will ensure that the development fits comfortably within the site. The overall scale of the development is commensurate to the size of the site and the use of the building, and is not considered to result in the over development of the site.

Overall therefore, the proposed development is not considered to result in any undue harm to the visual amenities of the area.

Arboricultural Issues

During the application process, revised plans were submitted to mitigate concerns raised by the Arboricultural Officer. The revised drawing overcomes these concerns with regards to the trees identified as T1 and T2. There are therefore no objections on these grounds subject to the inclusion of conditions on any permission.

Highway safety and sustainability

It is recognised that there are on-going concerns with regards to travel issues at the School and the issue of highway safety has been raised in respect of previous developments on the school site. The current problems relating in particular to excessive parking demands and access issues have been well documented within the third party comments. A number of site visits have been undertaken to understand the issues raised within the representations.

It is clear that the local area is subject to extreme parking demand generated by users of the school. The area is particularly busy during school drop off/pick-up times, to the extent that there appears to be no kerbside capacity at these times. The Area Traffic Area Engineer has concerns over congestion and safety, especially for young pedestrians. It is recognised that there is also a Primary School and Nursery within close proximity to this site. It is noted that due to the nature of the school, pupils do not necessarily come from localised catchments area. As stated above, due to the particular needs of many of the pupils, they are not able to use more sustainable forms of travel and rely on private vehicles, including taxis and mini buses when travelling to and from the site.

This application is not necessarily the place to resolve the existing identified problems, but it is critical to ensure that any development does not exacerbate the highlighted issues. It is therefore important to understand how the new unit will be used and the impact upon pupil and staff numbers. Following discussions with the agent/applicant, additional information has been submitted with regards to expected pupil numbers. The agent has cited that the development will not result in an increase in student or staff numbers but will relieve current overcrowding and also enable the school to fulfil their obligation to provide post-16 education. The agent has also confirmed that the development will not result in the existing part time staff increasing their working hours and therefore increasing the demand for parking for longer periods of time. It is not therefore considered that there will be any increase in vehicles coming to and leaving the site or that there will be an increase in offsite parking.

Given the above, it is not considered that a 'severe' adverse impact could not be demonstrated as is required by the National Planning Policy Framework. It is however considered that a condition should be added to any planning permission to ensure that if the pupil numbers increase the above level, then additional parking is provided on site.

Residential amenity

The proposed building is of an appropriate scale and set a sufficient distance away from the neighbouring occupiers as to ensure that there will be no significant issues in terms of overbearing impact, loss of light or any other harm. The building is within the existing school grounds and is not considered to result in significant increase in noise or disturbance in this area. It is noted that the existing development currently causes a degree of noise and disturbance to the neighbouring residential occupiers due to vehicular movement surrounding the site relating to dropping off and picking up pupils. However, as explained above, the new facilities will not result in the increase in pupils and as such will not exacerbate this problem.

Overall it is not considered that the proposed development will result in any significant harm to the residential amenity of the neighbouring occupiers.

Conclusion

The provision of the additional facility is considered to be a major benefit of the scheme and this is afforded great weight in accordance with the NPPF. Whilst it is recognised that there is an existing problem in relation to highway issues, given that there will be no

increase in public or staff levels, the development is not considered to result in a 'severe' adverse impact as required by the NPPF to justify a refusal of this planning application.

No other significant issues have arisen as a result of this planning application and whilst the comments of the third parties are noted, this application is recommended for approval. However, due to the comments of Sport England, in accordance with The Town and Country Planning (Consultation) (England) Direction 2009, and the DCLG letter of 10 March 2011, the application should be referred to the National Planning Casework Unit (NPCU) if Members are minded to grant planning permission for this application.

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 take place until an arboricultural method statement with tree protection plan identifying measures to protect the trees to be retained, has been submitted to and approved in writing by the Local Planning Authority and details within the approved document implemented as appropriate. The statement shall include proposed tree protection measures during site preparation (including clearance and level changes), during construction and landscaping operations. The statement should also include the control of potentially harmful operations such as the position of service runs and soakaways, storage, handling and mixing of materials on site, burning, location of site office and movement of people and machinery.

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

3 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.

4 The school shall not increase pupil attendance over and above its capacity of 175 students without planning permission being granted for increased parking and access provision, and improved Travel Planning.

Reason: In the interest of highway safety and local amenity

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

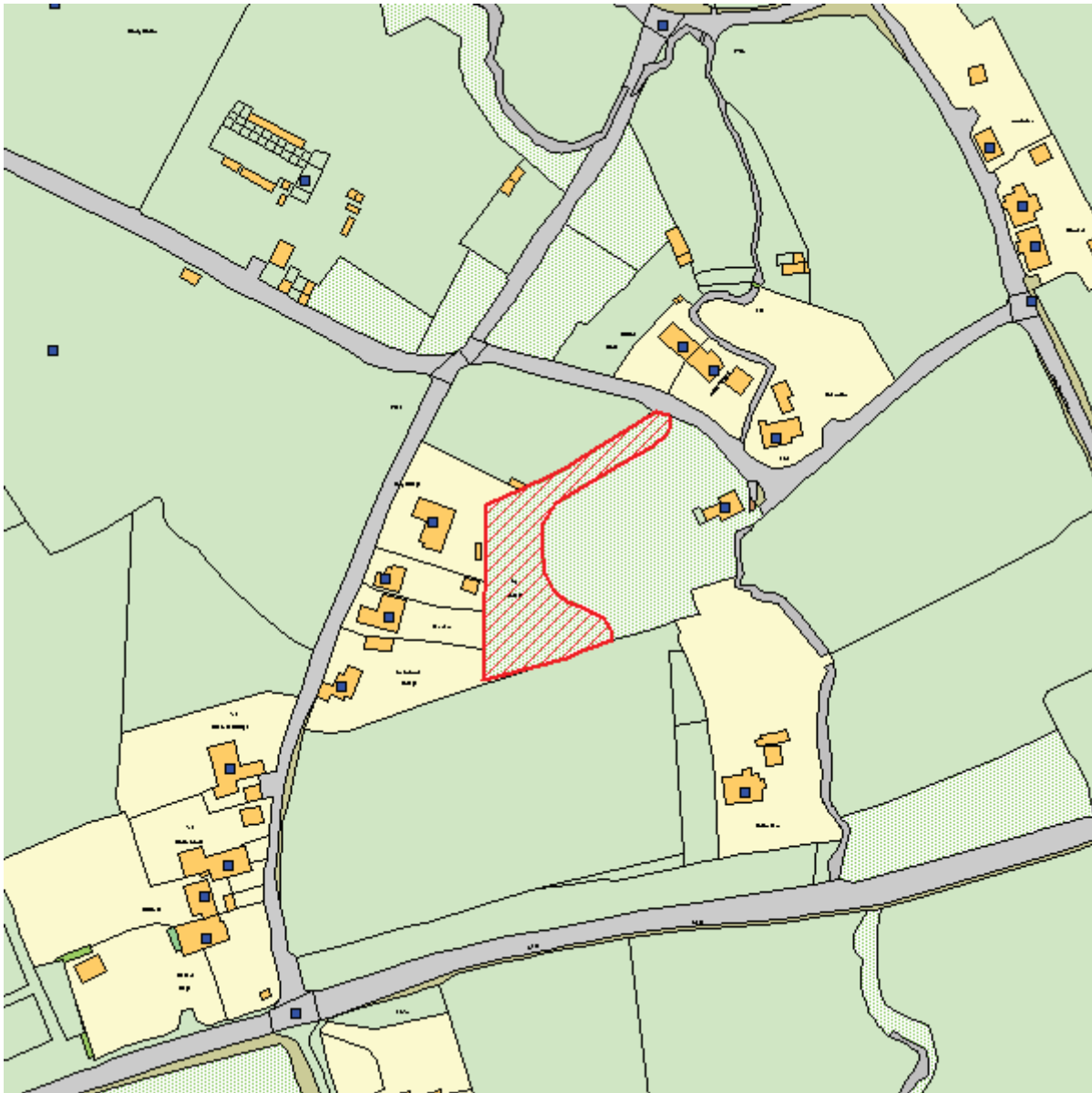
Reason: To define the terms and extent of the permission.

PLANS LIST: MMD-320144-E-DR-XX-SK-0001, P-SITE-03, P-SITE-04, S - 10P2, date stamped 4th December 2013 and E 03, E 04, P 0 12, P-SITE-06, P-SITE-07, P-SITE-12, S-SITE-02, P SITE 01, P SITE 05 date stamped 20th December 2013

Decision taking statement

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

Item No: 04
Application No: 14/00875/OUT
Site Location: Sherbourne Cottage Redland Lane Bishop Sutton Bristol Bath And North East Somerset



Ward: Chew Valley South **Parish:** Stowey Sutton **LB Grade:** N/A
Ward Members: Councillor V L Pritchard
Application Type: Outline Application
Proposal: Proposed dwelling on land to the rear of Sherbourne Cottage
Constraints: Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt, Water Source Areas,
Applicant: Mr Barrie Lake
Expiry Date: 21st April 2014
Case Officer: Rebecca Roberts

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

The application has been referred to the Committee due to the request of Cllr Pritchard and Cllr Kew

DESCRIPTION OF SITE AND APPLICATION

The application site is located to the east of Bishop Sutton Village outside of the Housing Development Boundary. The site forms part of the garden associated with Copping Hill Cottage to the rear of Sherbourne Cottage. The site is within the designated Bath/Bristol Green Belt and Forest of Avon.

The site was originally a parcel of agricultural land but overtime became an extended part of the curtilage of Copping Hill Cottage, planting of trees along the boundary and within the site occurred which enhanced the rural character of the site. There is evidence of an access track from Stowey Bottom through the site into the neighbouring field, however this has become redundant.

The land forms part of a wide expanse of countryside which intertwines between the group of buildings within Stowey Bottom and forms an intrinsic part of the rural character of this locality.

Sherbourne Cottage forms part of a small linear group of buildings on one side of Redland Road as Copping Hill Cottage is the only building on the other side of the land (Stowey Bottom) adjacent to the ford but is one of a small number of buildings which do not follow a building line and are randomly spaced which adds to the rural open character of this locality.

The application seeks outline permission with all matters reserved for the erection of a detached dwelling and double garage to be situated within the curtilage of Copping Hill Cottage close to the rear boundary of Sherbourne Cottage. An indicative plan has been submitted which has the buildings located more closely to the rear of Fernbank and Ivy Cottage and shows a separate access track off Stowey Bottom to the north west of Copping Hill Cottage. The land will be subdivided and some of the existing trees will be felled to accommodate the development, however it is noted that the trees are not protected by a Tree Preservation Order or the designation of a conservation area.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

STOWEY SUTTON PARISH COUNCIL - Object as in the Green Belt

HIGHWAYS - Object. Outside the development boundary and unsustainable as it is largely car-dependant. This site is however 1km from the centre of the village, and there are no continuous footways or street-lighting along this length of the A 368. So while in terms of distance the site is not an excessive walking distance, the route is not safe or secure and would therefore not encourage walking or cycling.

CLLR PRITCHARD - Policy allows for limited infilling in the Green Belt

CLLR KEW - Supports Cllr Pritchard's request

OTHER REPRESENTATIONS - 4x support and 3x objections summarised as:

They need to downsize and we strongly believe this development should be permitted for all the reasons they have given.
In green belt would deteriorate rural character

POLICIES/LEGISLATION

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

D.2 - General Design and public realm considerations

D.4 - Townscape considerations

HG.4 - Residential development in the urban areas and R.1 settlements

HG.6 - Residential development in the R.3 settlements

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

ET.9 - Re-use of rural buildings

GB.1 - Control of development in the Green Belt

GB.2 - Visual amenities of the Green Belt

T.1 - Overarching access policy

T.24 - General development control and access policy

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. As it is not yet part of the statutory Development Plan the Council attaches limited weight to those policies to which there remains unresolved objections. More significant weight is attached to those which the Inspector did not highlight possible unsoundness in ID.28 and ID.30 in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. The following Policies are relevant:

CP8 Green Belt (replaces GB.1)

RA1 - Development in the villages meeting the listed criteria (replaces HG.4)

D.2, D.4, HG.6, HG.10, GB.2, NE.10 and T.24 of the local plan are proposed as saved policies within the submission core strategy.

NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

The NPPF has been considered in light of this application but does not raise any issues that conflict with the aforementioned local policies. Chapter 9 - Protecting Green Belt Land proposes little changes to the local plan.

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT:

Inappropriate development in the Green Belt is harmful by definition. The NPPF and Local Plan Policy GB.1 give examples of development which is considered to be not inappropriate. The proposal essentially proposes the erection of a new dwelling in the Green Belt. At point i, d) of GB.1 it states that infilling in accordance with policy HG.6 in the villages defined by policy SC.1 as R3 villages is not an inappropriate form of development.

Policy HG.6 relates to sites within the housing development boundary and therefore does not apply in this case.

The proposal must also be assessed in the context of Policy HG.10 as it is tantamount to a new dwelling in the Green Belt without very special circumstances.

The proposal is outside of the housing development boundary and therefore falls outside of the parameters of policy HG.4 and HG.6 and as such does not fall within the considerations of this policy. HG.10 relates to the development of dwellings outside the housing development boundary, the policy states that new dwellings will not be permitted unless they are for agricultural or forestry workers and can demonstrate an essential need; the proposed dwelling is not associated with an agricultural enterprise or forestry and therefore is contrary to policy HG.10.

The site is garden land and as such is not designated as a 'brown field' site, and development is not encouraged as stated within the National Planning Policy Framework (NPPF) whereby residential gardens are excluded from the definition of previously developed land. Furthermore the NPPF suggests Local Authorities should set out policies to resist inappropriate development of residential gardens.

GREEN BELT:

The erection of a new dwelling, which is not essential for a rural worker, and does not constitute infilling in villages, or limited affordable housing, does not fall within any of these definitions and, as such, is considered to be inappropriate development in the Green Belt.

The introduction of the built form and the associated development would also result in a loss of openness on the site to the detriment of the Green Belt. Furthermore, the proposed dwelling would result in harm to the Green Belt purpose of preventing encroachment into the countryside.

The development is therefore considered to be inappropriate development in the Green Belt. Personal reasons have been put forward to justify the need for the dwelling in the Green Belt. These relate to the need for applicants to downsize and be close to family to assist in childcare. However, this is not considered to represent very special circumstances which outweigh the harm identified by reasons of inappropriateness. It should be noted that personal circumstances seldom outweigh identified harm.

CHARACTER AND APPEARANCE:

Although this application is outline, with all matters reserved, an indicative layout has been submitted. The site is relatively well screened, but a dwelling on this plot will still be visible from outside of the site. The dwellings in this locality are set on the roadside in a linear layout. The plot sizes become larger and less frequent along the road as it meanders into Stowey Bottom.

The erection of the single dwelling and garage, would involve the subdivision of an existing plot, and a dwelling built to the south west of the existing dwelling (Copping Hill Cottage), away from the road and existing building grain would be out of context with the built environment in this locality. This encroachment into the countryside would have a detrimental impact upon the rural character of the area.

Overall therefore, it is considered that the erection of a dwelling on this plot and the associated development would represent an encroachment into the countryside and would have a resultant harmful impact upon the rural character of the area.

RESIDENTIAL AMENITY:

The access to the proposed dwelling will be via a new access off Stowey Bottom to the north west of Copping Hill Cottage. This can cause issues with regards to noise and disturbance from vehicular movements. However, the access is set away from neighbouring dwellings and as such the development is not considered to result in a significant level of harm.

There is concern that due to the siting of the dwelling and garage there is potential for harm in terms of loss of privacy by a greater sense of overlooking and increased sense of enclosure to the occupiers of Fernbank and Ivy Cottage. However as it is an outline application with all matters reserved, no elevations have been submitted to demonstrate the height of the building or the position of windows therefore a reason for refusal cannot be substantiated at this stage. The applicant has advised that he is willing to alter the siting/orientation of the dwelling.

HIGHWAY SAFETY:

The site is considered to be relatively close to local services and facilities approx.1km. However the site is considered unsustainable as there is not a safe route to these services/facilities without the need to use a car. Access to the village would be via the A368 or Bonhill Lane and Ham Lane, which are without separate pedestrian facilities and lighting, so while in terms of distance the site is not an excessive walking distance, the route is not safe or secure and would therefore not encourage walking or cycling. The development is therefore considered to be in an unsustainable location as it would be reliant on car travel.

CONCLUSION:

It is recognised that the council cannot currently demonstrate a 5 year land supply and the proposal will also provide a new home which will contribute towards meeting the housing shortfall. However, the benefit of providing one new dwelling is given limited weight compared to the longer term harm of the development by reason of the inappropriateness in the Green Belt and the siting of this development in an unsustainable location. The application is therefore recommended for refusal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed development, outside of the Housing Development Boundary and in the Green Belt 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 to warrant overturning established policy. The proposal is therefore contrary to Policies GB.1, HG.4, HG.6 and HG.10 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and guidance in the National Planning Policy Framework.

2 The proposal, with access to the village that is not of an appropriate standard for pedestrian use is located remote from services, employment opportunities and alternative travel modes and is contrary to the key aims of Policy T.1 of the Bath & North East Somerset Local Plan (including minerals and waste policies) Adopted October 2007 and

the National Planning Policy Framework, which seek to facilitate the use of sustainable modes of transport and to locate development in sustainable locations.

PLANS LIST: This decision relates to drawing no's LAKE.EXS.001, LAKE.PRS.003 B, LAKE.PRS.003 C and the site location plan date stamped 24th February 2014.

DECISION TAKING STATEMENT

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

Item No: 05
Application No: 14/00591/FUL
Site Location: Land Between Access Road And Canal Sham Castle Lane Bathwick Bath



Ward: Bathwick **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Nicholas Coombes Councillor David Martin
Application Type: Full Application
Proposal: Erection of 1no. detached dwelling (revised resubmission).
Constraints: Agric Land Class 1,2,3a, Article 4, British Waterways Minor and Householders, Conservation Area, Forest of Avon, HotSpring Protection, Sites of Nature Conservation Imp (SN), World Heritage Site,
Applicant: Mr R Mohr
Expiry Date: 4th April 2014

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

The application is being referred to the committee at the request of Councillor David Martin who has objected to the application for the following reasons;

there is significant harm to the amenity of neighbouring properties due to overlooking (policy D2)

there is an adverse impact on the character of the public realm (policy D2);

there is an adverse impact on the conservation area (policy BH6)

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.

Relevant History

DC - 12/00039/FUL - RF - 2 March 2012 - Erection of 2no. detached dwellings

DC - 12/03180/FUL - PERMIT - 25 September 2012 - Erection of 1no. detached dwelling (revised resubmission).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Ecology: Following the receipt of further information, no objection is raised subject to the relevant conditions.

Highways: The access and parking arrangements are essentially the same as previously approved, but now includes an additional parking space on the driveway, in a parallel form to the access road, for visitor parking.

The garage does not have a full length driveway in front, on which to park a car whilst garage doors are opened, and therefore remotely operated doors should be installed, so as not to interfere with the use of the private access drive by other residents.

Highways drainage: No objection is raised but details of the proposed drainage should be required by condition.

Building control: No comment

Arboricultural officer: The proposal does not result in any additional arboricultural comments when compared with the previous application.

Canal and rivers trust: No comment

Councillor David Martin: Object;

there will be significant harm to the amenity of neighbouring properties due to overlooking (policy D2)

there will be an adverse impact on the character of the public realm (policy D2);

there will be an adverse impact on the conservation area (policy BH6)

Representations: 7 representations have been received objecting to the application for the following reasons;

An outbuilding has already been constructed on site and the site does not yet benefit from permitted development rights.

The reconstructed boundary wall is lower than its previous height.

The proposed dwelling will sit closer to the boundary wall and the balcony will be visible above the boundary wall.

The levels on the proposed scheme are not correct.

The drawings are not consistent.

The living room will increase by approximately 50%.

The development is set closer to the boundary wall increasing the potential to overlook properties on the opposite side of the canal.

The balcony and dwelling will overlook the properties of on the opposite side of the canal bank.

The gable ends increase the dominance of the proposal and the revised design increases its impact and overlooking of nearby properties.

The balcony is now an attached free standing balcony. It has been brought forward closer to the boundary wall increasing its visibility from the tow path. It will result in increased overlooking of properties on the opposite side of the canal.

The increased prominence of the design will overlook properties on the other side of the canal.

The proposed development will detract from the appearance of the canal. It will harm the surrounding Conservation Area.

The development will overlook the nearby properties of Brook Cottage on the southern side of the site.

POLICIES/LEGISLATION

D.2: General design and public realm considerations

D.4: Townscape considerations

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

BH.6: Development within or affecting Conservation Areas

HG.4: Residential development in urban areas and R.1 settlements

NE.9: Locally important wildlife sites

NE.11: Locally important species and habitats

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

SUBMISSION CORE STRATEGY, MAY 2011

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

Permission was granted in 2012 for the provision of a dwelling at the above site. This application seeks permission for a revised design of the proposed dwelling. Work has commenced on site on the permitted dwelling.

The main changes from the permitted design includes alteration to the roof form to include gable ends. The provision of a free standing rather than inset balcony and the re siting of the dwelling closer to the boundary wall.

When permission was granted for the original application the application site was derelict. The boundary wall with the canal was in a state of disrepair. The boundary wall has since been re built but to a lower height than it was originally. The applicant has stated that they will restore the height of the wall to its original state.

OFFICER ASSESSMENT

The application relates to the erection of one four bedroom dwelling with associated parking. The existing site is located within a private access road. The existing site forms a triangular plot of land bordered by Sham Castle Lane to the east. It sits above the banks of the Kennet and Avon canal to the west. There were some walls within the site suggesting there has been some structure on site in the past. The historic maps show that one dwelling has occupied the site in the past, but this is prior to the construction of the four bungalows which now occupy the access road.

Principle

The application site is located within the city of Bath. Therefore the principle of residential development is allowed under policy HG.4 of the local plan.

Furthermore permission already exists on site for the construction of a dwelling and work has commenced on site. This application seeks to alter the design of the permitted development. Therefore the principle of residential development has been established on site.

Appearance

The proposed dwelling would be located on a previously un occupied plot of land. The existing road is characterised by four single storey dwellings constructed from reconstituted bath stone. The proposed dwelling would be viewed as being a single storey dwelling from the road and will drop to a two storey building to the rear of the plot as it is a split level dwelling. The dwelling has been redesigned from the permitted development whereby the roof has been altered. The central section of the building includes a pitched roof with gable ends. The south section of the property has been reoriented to include a gable end to the front and rear of the property. It is intended to construct the dwelling from Bath Stone with Ashlar to the upper floor and rubble stone to the lower floor. The roof will be covered in natural slate.

The east side of canal path where the development is proposed was originally heavily vegetated. A substantial level of vegetation has been removed by the canal and rivers

trust and development is now more easily visible from the canal path than when the previous application was considered. The retaining wall of the site is clearly visible from the canal path. The west side is more developed largely with residential dwellings. The canal path runs beneath the application site and therefore the proposed development would not be easily visible from the canal path. However the proposed development would be clearly visible to the properties on the western side of the canal bank.

The existing boundary wall has been repaired since permission was granted and the wall appears to have been reduced in height from when permission was originally granted. The applicant has agreed to reinstate the wall to its original height which would partially screen the view of the proposed house from the canal. Whilst the revised design represents some changes from the originally permitted design the proposed dwelling will largely retain the original proposed built form and it not considered to be far removed from the original permitted design. In this respect the proposed dwelling would preserve the character of the surrounding Conservation Area.

Highways

The highways officer has not raised an objection to the application. The proposed development will result in the same parking and access arrangements as the previous application. The driveway is not of adequate length to accommodate a parked car therefore the highways officer has requested that remote operating doors should be installed.

Ecology

Following the receipt of further information the Ecology officer has raised no objection to the application. It has been requested that a condition is attached to ensure that the development is carried out in accordance with the submitted Badger mitigation.

Amenity

Concern was raised over the size of the proposed balcony and the rear elevation. The balcony was originally proposed to run across the full rear width of the proposed dwelling. This has been reduced in size so that the balcony will be situated on the south west corner of the rear elevation similar to the position of the previously permitted design.

Concern has been raised that the development has been brought closer to the boundary wall and therefore would result in increased overlooking of the dwellings on the opposite side of the canal bank. The previous application was a maximum of 7.6m, from the boundary and a minimum of 0.6m. On measuring the revised drawings the balcony will be approximately 5.9m from the boundary wall with the north west corner would be adjacent to the boundary wall. On balance the re positioning of the propose dwelling would still mean that the windows would be over 30m from the houses at Sydney Wharf. Therefore the re siting of the dwelling is not considered to warrant refusal of the application.

Concern has been raised that windows on the south elevation will overlook the nearby dwellings of Rivelin and Brook Cottage. When permission was granted for the previous application no windows were proposed on the south elevation. The windows on the lower

ground floor will be located below road level and as such as not considered to overlook these properties.

The applicant has submitted a section to show that the windows on the ground floor of the south elevation facing Rivelin and Brook Cottage will be approximately 11m from the boundary with Rivelin and Brook Cottage, and at least 20m from any habitable windows. Furthermore as the proposed dwelling is at least 20m from these properties it is not considered to be overbearing to the neighbouring occupiers. Therefore this is not considered to justify refusal of the application based on harm to neighbour amenity.

Other Matters

When the previous application was considered there was a question over whether the existing boundary wall was listed and this has been referred to in the representations. The records show that whilst the section of wall is close to Cleveland house is listed the section at the application site is not. This is further evidenced by the fact that a section of wall between the listed part and the application site has been rebuilt using reconstituted stone.

Concern has been raised within the representations that an outbuilding has been erected on site which is not included in the plans. The applicant has included the outbuilding in the revised plans.

Concern has been raised that the levels of the proposed development are not accurate. The applicant has submitted a levels plan to show the levels of the existing site.

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

Reason: To retain adequate off-street parking provision.

4 The garage door shall be of a remotely operated type, details of which shall 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 amenity and highway safety.

5 The development hereby permitted shall be carried out only in accordance with the approved report entitled Survey of Badger Setts and Badger Activity by Country Contracts dated May 2012 and statement entitled Mitigation for Badgers by Country Contracts dated 7 February 2014. Including the provision of an artificial badger sett and the provision of robust fence to inhibit disturbance to badgers.

Reason: For the protection of badgers and their setts.

6 No development shall commence until details of the discharge of the surface water have been submitted to and approved 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 highway safety.

7 Prior to occupation of the permitted dwelling hereby approved, details of the height and appearance of the boundary wall on the west boundary shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved.

Reason: In the interests of the appearance of the surrounding Conservation Area.

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

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

PLANS LIST:

- 1 Location plan
- Roof plan 1655 2.6F
- Site plan 1655 2.7F
- Lower ground floor plan 1655 2.0F
- Upper ground floor plan 1655 2.1F
- Section A-A- 1655 2.8.1F
- Section B-B 1655 2.8.2F
- Proposed elevations 1655 2.9F

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

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Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	
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: 13/05366/FUL
Location: 87 Shakespeare Avenue, Bear Flat, Bath.
Proposal: Loft conversion with rear flat roof dormer.
Decision: REFUSE
Decision Date: 28 February 2014
Decision Level: Delegated
Appeal Lodged: 3 April 2014

App. Ref: 13/05464/FUL
Location: Barnlow, 10A Shophouse Road, Twerton, Bath.
Proposal: Erection of first floor extension.
Decision: REFUSE
Decision Date: 6 March 2014
Decision Level: Delegated
Appeal Lodged: 4 April 2014

App. Ref: 13/04880/OUT
Location: Parcel 6211, Boxbury Hill, Paulton, Bristol.
Proposal: Outline planning application for a residential development of up to 124 dwellings and associated infrastructure.
Decision: REFUSE
Decision Date: 18 February 2014
Decision Level: Delegated
Appeal Lodged: 15 April 2014

App. Ref: 13/01857/FUL
Location: Church Farm, Church Hill, High Littleton, Bristol.
Proposal: Removal of section of boundary wall to create vehicular and pedestrian access.
Decision: REFUSE
Decision Date: 1 October 2013
Decision Level: Delegated
Appeal Lodged: 16 April 2014

App. Ref: 13/01858/LBA
Location: Church Farm, Church Hill, High Littleton, Bristol.
Proposal: Alterations including removal of section of wall to facilitate new vehicular and pedestrian access.
Decision: REFUSE
Decision Date: 1 October 2013
Decision Level: Delegated
Appeal Lodged: 16 April 2014

App. Ref: 14/00613/FUL
Location: Holmlea, Main Street, Farrington Gurney.
Proposal: Alterations to existing dwellinghouse including erection of two storey extensions to the east and west sides.
Decision: REFUSE
Decision Date: 4 April 2014
Decision Level: Delegated
Appeal Lodged: 22 April 2014

App. Ref: 13/02122/FUL
Location: 65 St. Ladoc Road, Keynsham.
Proposal: Erection of detached bungalow and associated parking.
Decision: REFUSE
Decision Date: 22 November 2013
Decision Level: Delegated
Appeal Lodged: 24 April 2014

APPEALS DECIDED

App. Ref: 12/05621/FUL
Location: Lower Tunley Farm, Stoneage Lane, Tunley, Bath.
Proposal: Retention of general purpose agricultural storage building.
Decision: REFUSE
Decision Date: 11 March 2013
Decision Level: Delegated
Appeal Lodged: 5 June 2013

Appeal Decision: Dismissed on 25 March 2014.

Link to Inspector's Decision:

<http://idox.bathnes.gov.uk/WAM/doc/Appeal%20Decision-811893.pdf?extension=.pdf&id=811893&location=VOLUME3&contentType=application/pdf&pageCount=1&appid=1001>

App. Ref: 13/01989/OUT
Location: Homelands, Camerton Hill, Camerton, Bath.
Proposal: Outline planning application for the erection of 1 no. dwelling
Decision: REFUSE
Decision Date: 4 July 2013
Decision Level: Delegated
Appeal Lodged: 30 October 2013

Appeal Decision: Dismissed 25 March 2014.

Link to Inspector's Decision:

<http://idox.bathnes.gov.uk/WAM/doc/Appeal%20Decision-805997.pdf?extension=.pdf&id=805997&location=VOLUME3&contentType=application/pdf&pageCount=1&appid=1001>

App. Ref: 13/04369/FUL
Location: Meadway, Mill Road, Radstock.
Proposal: Erection of a swimming pool/gymnasium following demolition of garaging/storage
Decision: REFUSE
Decision Date: 3 February 2014
Decision Level: Delegated
Appeal Lodged: 10 March 2014

Appeal Decision: Allowed on 14 April 2014.

Link to Inspector's Decision:

<http://idox.bathnes.gov.uk/WAM/doc/Appeal%20Decision-808939.pdf?extension=.pdf&id=808939&location=VOLUME3&contentType=application/pdf&pageCount=1&appid=1001>

App. Ref: 13/02435/FUL
Location: St Peter's Park, Cobblers Way, Westfield, Radstock.
Proposal: Erection of 7 no. dwellings with associated works.
Decision: REFUSE
Decision Date: 4 October 2013
Decision Level: Chair Referral
Appeal Lodged: 9 January 2014

Appeal Decision: Allowed on 17 April 2014.

Link to Inspector's Decision:

<http://idox.bathnes.gov.uk/WAM/doc/Appeal%20Decision-811501.pdf?extension=.pdf&id=811501&location=VOLUME3&contentType=application/pdf&pageCount=1&appid=1001>

App. Ref: 13/04186/FUL
Location: 2 Ellsbridge Close, Keynsham, Bristol.
Proposal: Erection of two storey side extension and new double garage (Resubmission).
Decision: REFUSE
Decision Date: 22 November 2013
Decision Level: Chair Referral
Appeal Lodged: 5 March 2014

Appeal Decision: Dismissed on 22 April 2014.

Link to Inspector's Decision:

<http://idox.bathnes.gov.uk/WAM/doc/Appeal%20Decision-812049.pdf?extension=.pdf&id=812049&location=VOLUME3&contentType=application/pdf&pageCount=1&appid=1001>

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