

Democratic Services

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Date: 31 March 2015

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To: All Members of the Development Control Committee

Councillors:- Patrick Anketell-Jones, Rob Appleyard, Neil Butters, Gerry Curran, Ian Gilchrist, Les Kew, Dave Laming, Malcolm Lees, Bryan Organ, Vic Pritchard, Manda Rigby, Martin Veal and David Veale

Permanent Substitutes:- Councillors: Sally Davis, Sarah Bevan, Nigel Roberts, Jeremy Sparks and Brian Webber

Chief Executive and other appropriate officers
Press and Public

Dear Member

Development Control Committee: Wednesday, 8th April, 2015

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 8th April, 2015 at 2.00 pm** in the **Brunswick Room - Guildhall, Bath**

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 7th April in the Meeting Room, Lewis House, Bath.

The rooms will be available for the meetings of political groups. Coffee etc. will be provided in the Group Rooms before the meeting.

The agenda is set out overleaf.

Yours sincerely



David Taylor
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

1. **Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact David Taylor who is available by telephoning Bath 01225 - 394414 or by calling at the Guildhall Bath (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 - Reception: Civic Centre - Keynsham, Guildhall - Bath, The Hollies - Midsomer Norton. Bath Central and Midsomer Norton public libraries.

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

4. **Recording at Meetings:-**

The Openness of Local Government Bodies Regulations 2014 now allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Some of our meetings are webcast. At the start of the meeting, the Chair will confirm if all or part of the meeting is to be filmed. If you would prefer not to be filmed for the webcast, please make yourself known to the camera operators.

To comply with the Data Protection Act 1998, we require the consent of parents or guardians before filming children or young people. For more information, please speak to the camera operator

The Council will broadcast the images and sound live via the internet www.bathnes.gov.uk/webcast An archived recording of the proceedings will also be available for viewing after the meeting. The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

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

7. 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, 8th April, 2015
at 2.00 pm 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 7

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 on 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: 11TH MARCH 2015 (PAGES 9 - 36)

To approve as a correct record the Minutes of the previous meeting held on Wednesday 11th March 2015

9. SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (PAGES 37 - 50)

10. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (PAGES 51 - 84)

11. ENFORCEMENT UPDATE - LAND AT FORMER FULLERS EARTHWORKS, FOSSEWAY, COMBE HAY (PAGES 85 - 180)

To consider recommendations that it is not expedient to take enforcement action relating to (i) hard standings and remaining boundary fencing; (ii) any hard standings covered by the 2nd Bite Enforcement Notice; (iii) the skip hire business; and (iv) the existing concrete batching plant operation

12. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (PAGES 181 - 184)

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.

DRAFT MINUTES PENDING CONFIRMATION AT THE NEXT MEETING

BATH AND NORTH EAST SOMERSET

MINUTES OF DEVELOPMENT CONTROL COMMITTEE

Wednesday, 11th March, 2015

Present:- Councillor Gerry Curran in the Chair

Councillors Patrick Anketell-Jones, Rob Appleyard, Neil Butters, Sally Davis (In place of Vic Pritchard), Ian Gilchrist, Les Kew, Dave Laming, Malcolm Lees, Bryan Organ, Manda Rigby, Martin Veal and David Veale

Also in attendance: Councillors Charles Gerrish and Brian Simmons

116 EMERGENCY EVACUATION PROCEDURE

The Senior Democratic Services Officer read out the procedure

117 ELECTION OF VICE CHAIR (IF DESIRED)

A Vice Chair was not required

118 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

There was an apology from Councillor Vic Pritchard whose substitute was Councillor Sally Davis

119 DECLARATIONS OF INTEREST

There was a disclosable pecuniary interest declared by Councillor Martin Veal regarding the planning application on land opposite 199 Bailbrook Lane, Batheaston (Item 3, Report 9) and he would therefore withdraw from the meeting for consideration of this matter.

120 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

There was none

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

The Senior Democratic Services Officer informed the meeting that various people had registered to speak on planning applications and that they would be able to do so when reaching their respective items in Report 9

122 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

Councillor Ian Gilchrist raised an issue regarding the discharge of conditions on the planning permission recently issued for development at Beechen Cliff School, Bath.

He requested that an item be included on the next Agenda so that the Case Officer could attend and give an explanation of his interpretation of the conditions.

A Member considered that it was not appropriate for the matter to be dealt with in this manner. The Chair agreed and stated that notice had not been given of this matter being raised. He would, however, speak to appropriate Officers to resolve the matter.

123 MINUTES: 11TH FEBRUARY 2015

The Team Manager – Development Management stated that the listed building application at The Colonnades, Grand Parade, Bath (Minute 112) would need to be referred to the Secretary of State for a decision with a recommendation to refuse consent.

Councillor Neil Butters referred to the application at The Wharf, Greensbrook, Clutton (Minute 112) and the issue of the former railway weighbridge and stone built office which was to be demolished. He stated that he had requested that due consideration be given to relocation of these heritage assets. The Team Manager stated that this would be taken into account.

The Minutes of the previous meeting held on Wednesday 11th February 2015 were approved as a correct record and were signed by the Chair.

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

The Committee considered

- A report by the Group Manager – Development Management on various applications for planning permission etc.
- An Update Report by the Group Manager on Item Nos. 1,2 and 9, a copy of which is attached as *Appendix 1* to these Minutes
- Oral statements by members of the public etc. on Item Nos. 1-10, the Speakers List being attached as *Appendix 2* to these Minutes

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

Item 1 Former Cadbury site, Cross Street, Keynsham – Full planning permission for partial demolition, change of use and extension of Building B to a 135 unit care home use (C2), partial demolition and extension and use of Block C for employment use (B1) alongside the erection of 30 dwellings (open market and affordable) at the site of a previously approved care home, including the use of existing basements for car parking (Buildings B&C), associated surface level parking, access roads, landscaping and associated infrastructure. Works altering planning approval 13/01780/EOUT as approved on 19th February 2014 – The Case Officer reported on this application and his recommendation to (A) authorise the Planning and Environmental Law Manager to secure a Deed of Variation to the existing S106 Agreement to secure various provisions relating to (i) affordable housing, (ii) employment space, (iii) education,

and (iv) occupiers of the care flats in Block B; and (B) upon completion of the Agreement, authorise the Group Manager to grant permission subject to conditions. He referred to the Update Report which had amended the original recommendation.

The applicant made a statement in favour of the proposed development which was followed by statements by the Ward Councillors Charles Gerrish and Brian Simmons.

Councillor Bryan Organ was pleased that Freeman Retirement Planning was involved in the scheme. Negotiations were progressing on provision of a doctors' surgery. He felt that this was a good scheme and therefore moved the Officer recommendation which was seconded by Councillor Les Kew.

Members debated the motion. Councillor Dave Laming expressed some concerns about the scheme. There was no Transport Strategy and there was no firm commitment on provision of a doctors' surgery. Councillor Manda Rigby stated that, although welcoming the statement of intent, there was a sustainability issue. There was no contribution to any medical provision and no commitment to build a surgery. She considered that some wording should be added regarding an appropriate S106 contribution to provide sustainable medical facilities on site for the occupiers of the development. The Chair stated that there was no obligation to provide a doctors' surgery – the existing 8 GP's in the area could use the funding to move onto the site. The Case Officer responded to these issues by saying that 1k sq m was included in the scheme for provision of medical facilities and that the funding was available for provision of a doctors' surgery, not necessarily one particular surgery. If a doctors' surgery was to be included in the existing scheme, a new application would be required.

Members continued to debate the matter and asked questions to which the Case Officer responded. There was discussion regarding whether the doctors' surgery would be included or only could be included. The Officer replied that space had been made available on the site but a planning application would be required to do so.

The motion by Councillor Bryan Organ and seconded by Councillor Les Kew was then put to the vote and was carried, 12 voting in favour and 0 against with 1 abstention.

Item 2 The Poplars to be demolished, Bath Road, Farmborough – Erection of 12 one and two storey dwellings (including 4 affordable housing) and construction of vehicular and pedestrian access following demolition of existing bungalow – The Case Officer reported on this application and her recommendation to (A) authorise the Planning and Environmental Law Manager to enter into a S106 Agreement to secure various provisions relating to (i) highways, (ii) education, (iii) parks and open spaces, and (iv) affordable housing; and (B) subject to the prior completion of the above Agreement, authorise the Group Manager to grant permission subject to conditions (or such other conditions as may be appropriate). She informed the meeting that the reference in the paragraph in the report describing the site and application needed to be amended by deleting "outline" (as this was a full application) and the last sentence of the paragraph. The recommended Condition 4 would also need to be reworded. A further 4 objections had been received but these raised no new issues.

Councillor Sally Davis, Ward Member on the Committee, stated that this was a controversial application. The proposed dwellings had been moved closer to the boundaries of neighbouring residents. The design of the dwellings did nothing to reflect the rural setting of the village. She felt that the Place Making Plan had not been considered and the Core Strategy had not been adhered to. She therefore moved that the recommendation be overturned and that permission be refused. The motion was seconded by Councillor Les Kew who considered that the design and materials were not appropriate for this location.

Members debated the motion and asked questions to which the Case Officer responded as appropriate. Most of the Members raised concerns about the development including the design, materials, layout and the location of affordable housing. It was generally felt that this development was not suitable to its location in Farmborough. The Team Manager – Development Management clarified the reasons for refusal as being that the proposed design and layout of the development would have a significantly detrimental impact on the character of the village and the amenities of local residents contrary to approved planning policies and the NPPF. The mover and seconder agreed. Councillor Rob Appleyard considered that the development failed to meet Code 3 of the Standard Construction Requirement.

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

Item 3 Land opposite 199 Bailbrook Lane, Batheaston, Bath – Erection of 2 detached dwellings with retained open space – The Case Officer reported on this application and her recommendation to grant permission subject to conditions.

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

Councillor Dave Laming, Ward Member on the Committee, was totally against this development and quoted the Appeal Inspector's decision letter that there should be no development on this land. Members discussed the proposed development and asked questions to which Officers responded as appropriate. The Case Officer confirmed that the access did not encroach on the neighbour's land. Some Members saw that there were some benefits with the development which sought to reduce the impact on its surroundings. Other Members referred to the site being smaller for these 2 houses (as opposed to the 4 houses on the larger site which was lost on Appeal) and that the meadow should be protected from any further development.

Councillor Malcolm Lees referred to the Inspector's report on the earlier appeal which stated that no development was acceptable. The views from the south had not been considered. He therefore moved that the recommendation be overturned and that permission be refused. The motion was seconded by Councillor Dave Laming.

The Team Manager – Development Management advised that the Inspector's decision was not set in stone and, although it was a material consideration, could be revisited. Councillor Dave Laming stated that his reason for moving refusal was based on the Inspector's decision that there be no development on the land and that the development did not respect the historic grain of the area. The Chair made reference to the access which had an industrial feel. The Case Officer stated that there would be some loss of wall for the opening but most of the character would be retained with the existing wall - the materials in the opening could be changed. The Team Manager stated that the recommended Condition 3 regarding protection of the

meadow could be better enforced by becoming a S106 Agreement and he was aware that the applicants would have no objection to this.

The motion to refuse permission was put to the vote which was lost, 3 voting in favour and 8 against with 1 abstention.

Councillor Les Kew therefore moved the Officer recommendation to grant permission with conditions but including a S106 Agreement to protect the meadow. This was seconded by Councillor Bryan Organ. The motion was put to the vote and was carried, 7 voting in favour and 2 against with 3 abstentions.

(Notes: (1) After this decision, there was a short adjournment for a natural break; and (2) Councillor Martin Veal was absent for consideration of this Item in view of his interest declared earlier in the meeting).

Item 4 No 2 Hermitage Road, Lansdown, Bath – Erection of 1 five bedroom dwelling following demolition of existing bungalow – The Case Officer reported on this application and her recommendation to grant permission subject to conditions. She referred to some minor errors in the report and that a further 2 conditions were recommended relating to the side windows and restricting the use of the flat roof.

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

The Ward Member on the Committee, Councillor Patrick Anketell-Jones, stated that there was a lot of opposition to the proposed development which would affect openness of the site and peoples' light – the proposed car dock would also have an impact. He therefore moved that consideration be deferred for a Site Visit which was seconded by Councillor Rob Appleyard.

The motion was put to the vote and was carried, 11 voting in favour and 2 against.

Item 5 Sawyers Mill, Hunstrete, Marksbury – Erection of 2 five bed dwellings and detached garages following demolition of existing commercial buildings and subdivision of land – The Case Officer reported on this application and her recommendation to grant permission subject to conditions.

The Ward Councillor on the Committee, Councillor Sally Davis, considered that there were no problems with this scheme which was supported by the Parish Council. Councillor Les Kew stated that the scheme conformed to planning policies and was a brownfield site. The development would provide 2 well designed houses. He therefore moved the Officer recommendation which was seconded by Councillor Bryan Organ.

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

(Note: Councillor Malcolm Lees was not present for consideration of this application).

Item 6 Cheriton Cottage, Springfield, Peasedown – Removal of Condition 2 of application Ref 13/04071/FUL to use garage parking space as ancillary accommodation (Erection of a dwelling and double garage in garden of

Cheriton Cottage) (Revised submission) – The Case Officer reported on this application and her recommendation to grant permission subject to conditions.

The speaker acting for the applicants spoke in favour of the proposed development.

Councillor Les Kew considered the proposed scheme to be acceptable and moved the Officer recommendation which was seconded by Councillor Dave Laming.

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

Item 7 The Lodge, 1 London Road West, Lower Swainswick, Bath – Erection of extension following removal of existing lean-to – The Case Officer reported on this application and her recommendation to refuse permission. She reported the views of the Conservation Officer.

The applicants' Agent made a statement in favour of the proposed development.

Councillor Dave Laming, the Ward Member on the Committee, considered that the existing house was small and didn't meet modern day standards for a family. The extension would provide some balance to the existing house. He therefore moved that the recommendation be overturned and that permission be granted which was seconded by Councillor Martin Veal.

Members debated the motion. Most Members agreed that the extension would be subservient to the existing house and would not be excessively large as regards its curtilage. The Team Manager – Development Management requested that the motion be amended to Delegate Officers to grant permission with appropriate conditions including a sample panel of stonework to be provided on site and also samples of the timber and roof materials being submitted. Councillor Les Kew requested that it be a slate roof. The mover and seconder agreed to these amendments.

The amended motion was put to the vote and was carried, 12 voting in favour and 0 against with 1 abstention.

Councillor Les Kew requested that the decision be issued without delay.

Item 8 Greenacres, Wick Lane, Stanton Wick – Conversion of recreational building to dwelling (Renewal of application 04/01778/FUL) – The Case Officer reported on this application and her recommendation to refuse permission.

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

Councillor Les Kew considered that the proposal was not inappropriate development and would not harm the setting of the Green Belt. It would involve minor works to an existing building. He therefore moved that the recommendation be overturned and that permission be granted. The motion was seconded by Councillor Dave Laming.

The Team Manager – Development Management advised that the motion would need to be amended to Delegate to Officers to grant permission for appropriate conditions. This was accepted by the mover and seconder.

The motion was put to the vote and was carried, 12 voting in favour and 0 against with 1 abstention.

Item 9 Sunnyside, Whistley Lane, West Harptree – Proposed new vehicular access – The Case Officer reported on this application and her recommendation to grant permission subject to conditions. The Update Report referred to an error in the main report which should have read “the access itself is not considered to cause harm to the character or appearance ... etc.”

The applicant made a statement in support of his proposed development which was followed by a statement by the Ward Councillor Tim Warren.

Councillor Les Kew made reference to the Parish Council’s objections and the Site Visit which he found useful in consideration of this application. He considered that the existing access was not an accident blackspot and that this proposal would destroy the character of the village with the removal of the existing hedge. He therefore moved that the recommendation be overturned and that permission be refused which was seconded by Councillor Dave Laming.

Members debated the motion. The Team Manager – Development Management clarified that the reasons for refusal would be that the development would affect the character and appearance of the AONB and setting of the Conservation Area and cause significant harm to the rural character of the area. Councillor Manda Rigby requested that the reasons also include the impact on ecology as regards mitigation measures which was agreed by the mover and seconder.

The motion was put to the vote and was carried, 11 voting in favour and 0 against with 2 abstentions.

Item 10 Densley View, Bath Road, Tunley – Erection of a first floor rear extension and loft conversion (Resubmission of 14/3470/FUL) – The Case Officer reported on this application and her recommendation to refuse permission.

The applicant made a statement in support of his application.

Councillor David Veale, Ward Member on the Committee, felt that more space would be required for a modern family home than provided by the existing accommodation. He stated that extensions had been undertaken on other neighbouring properties. He queried the percentage increase in size to which the Case Officer responded. Councillor Les Kew considered that there would be a big planning gain from this development which would provide decent sized living accommodation. The Parish Council had no objections to the application. In his opinion, the scheme would not cause harm to the area or to residential amenity. He therefore moved that the recommendation be overturned and that Officers be authorised to grant permission subject to appropriate conditions. The motion was seconded by Councillor Dave Laming.

Members debated the motion and asked questions to which the Team Manager – Development Management responded as appropriate. There was some discussion regarding the facing materials on the rear elevations and it was agreed that this

should be in render. The Team Manager stated that a revised drawing would be required to correct an inaccuracy on the submitted drawings.

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

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

After some comments by Members on some of the appeals, the report was noted.

126 CHANGE OF DATE OF MAY MEETING

The Committee noted the change of date of the May meeting from Wednesday 6th May to Wednesday 29th April due to the Elections being held on Thursday 7th May

The meeting ended at 5.45pm

Chair(person)

Date Confirmed and Signed

Prepared by Democratic Services

BATH AND NORTH EAST SOMERSET COUNCIL

Development Control Committee

Date

OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN AGENDA

ITEM

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
01	14/05811/EFUL	Former Cadbury Factory Cross Street, Keynsham

Further Consultation Response

Since the publication of the Committee Report a consultation response has been received from the GP Partner at St Augustine's Surgery who states: "I just wanted to let you know we as a Practice are broadly in support of Freeman's plans for the former Cadbury's buildings. They have offered us an area in one of the buildings, which I believe will require a change in planning permission for block C, from B1 to D1 in the future."

Officer Comment

Members are advised that the issue of accommodating a medical facility on the site is addressed in the main committee report. Should an application be received for change of use this will need to be considered on its merits at that time.

Environmental Statement

Habitat surveys of the site, including the former factory buildings A B and C, were undertaken in April 2012 as part of the EIA for the wider Somerdale development. This included the presence and potential for bat roosts. The surveys did not indicate any summer bat roosts were likely to be present within the factory buildings and therefore no impacts to bat roosts were anticipated by the demolition or change of use of these buildings at that time. Notwithstanding the findings of the surveys the ES recommended that an update survey work be undertaken prior to any demolition work to confirm the current presence / absence of any bat roosts. This is secured through the approved Construction Environmental Management Plan and associated Ecological Mitigation and Enhancement Strategy.

At the time of determination of the planning application for the wider Somerdale site it was considered that the development offered good scope to provide mitigation for the loss of identified roosts (within trees to the north of the factory buildings) with trees and woodland along the river margins and within the south-east corner of the site being retained and continuing to offer

potential roosting opportunities for bats. Overall it was considered that the temporary loss of any roosting locations would not permanently affect the viability or conservation status of bats and therefore the magnitude of effect would be low and the likely effect would be of minor adverse significance. Whilst the risk of bats having moved into the factory buildings is considered to be low, should any bat roosting sites be confirmed through further survey work then an appropriate package of mitigation will need to be developed and a European Protected Species (EPS) licence from Natural England will be required to permit the works.

The applicants are aware of the requirement to undertake further surveys however should Committee resolve to grant planning permission for the proposed development it is recommended that an Informative is added to highlight this.

Planning Obligations

Recommendation A should include reference to a planning obligation to define the extra care flats within Building B as Class C2 by reference to the age/condition of the person, the care package and access to communal facilities.

Conditions

Minor amendments are proposed to Conditions to reflect the fact that details have been submitted or conditions discharged in respect of the proposed development of the site proposed as a care home under the 2014 planning permission for the site. Should Committee resolve to grant planning permission for the proposed development Officers seek delegated authority to make these minor amendments.

Plans List

4492 PL02, PL04, PL05, PL06, PL07, PL08, PL09, PL10, PL11, PL12, PL13, PL14, PL 15, PL16, PL17 REV.A, PL18 REV.A, PL19 REV.A, PL20 REV.A, PL21, PL22, PL23 REV.A, PL24, PL25, PL26 Rev.A, PL 27, PL28, PL29, PL30, PL31, PL32, PL33, PL34; 20930 – 02 REV.A, 03 REV.A, 10; APP1 1, PA22 2, PA34 1, PA34 2, PA44 2, PE41 1 PT36 2, PT361, SA31 2

Item No.	Application No.	Address
02	14/02426/FUL	The Poplars To Be Demolished Bath Road Farmborough Bath

Details of location and proposal and Relevant History:

The Poplars To Be Demolished, Bath Road, Farmborough, Bath,

CONSULTATIONS AND REPRESENTATIONS:

Affordable Housing: With the clarification received 26th February 2015, Housing Enabling and Development Team have no objection to the proposal. Our approval is subject to this being reflected in the new S106. .

Recommendation:

As per the officer report.

Plans List:

This decision relates to drawing nos TP.LS.004 REV.F, 667:S:10, 667:S:11, 667:1:000, 667:S:001, 667:2:101, 667:2:001, 667:2:002, 667:2:003, 667:2:004, 667:2:005, 667:2:006, 667:2:007, 667:2:008, 667:2:009, 667:2:010, 667:2:011, 667:2:012, 667:2:013, 667:2:020, 667:2:021, 667:2:022, 667:2:023, 667:2:030, 667:2:031, 667:2:032, 667:2:033, 667:2:111 (only with regard to bat mitigation), 13894 – SCK002 Rev D, 3894-SKC003 Rev B, 13894-SKC004 Rev C, 2101.

Item No.	Application No.	Address
09	14/03989/FUL	Sunnyside Whistley Lane West Harptree Bristol BS40 6HD

Correction to report

Since the publishing of the main agenda, a typographical error has been noted within the report for this item. The sentence within the last paragraph of “Character and appearance” on page 84 that currently reads:

“The access itself is considered to cause harm to the character or appearance of the immediate area, nor the adjacent Conservation Area.”

Should be amended to read:

“The access itself is **not** considered to cause harm to the character or appearance of the immediate area, nor the adjacent Conservation Area.”

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

**MEMBERS OF THE PUBLIC WHO MADE A STATEMENT AT THE
MEETING OF THE DEVELOPMENT CONTROL COMMITTEE HELD ON
WEDNESDAY 11TH MARCH 2015**

SITE/REPORT NAME/REPRESENTING FOR/AGAINST

PLANS LIST – REPORT 9		
Former Cadbury site, Cross Street, Keynsham (Item 1, Pages 54-68)	Luke Freeman, Freeman Retirement Living (Applicants)	For
The Poplars to be demolished, Bath Road, Farmborough (Item 2, Pages 69-86)	Jean Rogers, Farmborough Parish Council	Against
	Richard Davis	Against
	Robert Gillespie, Impact Planning Services (Applicants' Agents)	For
Land opposite 199 Bailbrook Lane, Batheaston, Bath (Item 3, Pages 87-98)	Charlotte Watkins	Against
	Chris Dance, LPC (Applicants' Agents)	For
2 Hermitage Road, Lansdown, Bath (Item 4, Pages 99-109)	Tiffany Brunskill <u>AND</u> Annie Meharg	Against – To share 3 minutes
	Tom Rocke, Rocke Associates (Applicants' Agents)	For
Sawyers Mill, Hunstrete, Marksbury (Item 5, Pages 109-117)	John White (Applicant's Agent)	For
Cheriton Cottage, Springfield, Peasedown (Item 6, Pages 117-121)	Charlotte Watkins (acting for the applicants)	For
The Lodge, 1 London Road West, Lower Swainswick, Bath (Item 7, Pages 122-126)	Tony Phillips, Thurdleigh Planning (Applicant's Agents)	For
Green Acres, Wick Lane, Stanton Wick (Item 8, Pages 127-130)	John Hooke (Applicant's Agent)	For
Sunnyside, Whistley Lane, West Harptree (Item 9, Pages 131-136)	Christopher Bath (Applicant)	For

Densley View, Bath Road, Tunley (Item 10, Pages 137-141)	Jay Symes (Applicant)	For

BATH AND NORTH EAST SOMERSET COUNCIL
DEVELOPMENT CONTROL COMMITTEE

11th March 2015

DECISIONS

Item No:	01		
Application No:	14/05811/EFUL		
Site Location:	Former Cadbury Factory, Cross Street, Keynsham,		
Ward: Keynsham North	Parish: Keynsham Town Council	LB Grade: N/A	
Application Type:	Full Application with an EIA attached		
Proposal:	Full planning permission for the partial demolition, change of use and extension of Building B to a 135 unit care home use (C2, the partial demolition, extension and use of Block C for employment use (B1) alongside the erection of 30 dwellings (open market and affordable) at the site of a previously approved care home including the use of existing basements for car parking (Buildings B and C), associated surface level parking, access roads, landscaping and associated infrastructure. Works altering planning approval 13/01780/EOUT as approved on 19th February 2014.		
Constraints:	Agric Land Class 3b,4,5, Coal - Standing Advice Area, Forest of Avon, General Development Site, SSSI - Impact Risk Zones,		
Applicant:	Freeman Retirement Living And Taylor Wimpey UK Limited		
Expiry Date:	21st April 2015		
Case Officer:	Gwilym Jones		

DECISION

Delegate to PERMIT subject to an agreement under Section 106 of the Town and Country Planning Act 1990. Conditions to be amended

Item No:	02	
Application No:	14/02426/FUL	
Site Location:	The Poplars To Be Demolished, Bath Road, Farmborough, Bath	
Ward: Farmborough	Parish: Farmborough	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of 12no. one and two storey dwellings (including 4no. affordable housing) and construction of vehicular and pedestrian access following demolition of existing bungalow.	
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary, Tree Preservation Order,	
Applicant:	Bath & Southwest Developments Limited	
Expiry Date:	31st March 2015	
Case Officer:	Rachel Tadman	

DECISION REFUSE

1 The proposed development, by reason of its unsatisfactory layout, design, size and prominent location, would have a significant detrimental impact on the rural character and appearance of this part of Farmborough and furthermore would have an adverse impact on the residential amenity of both existing neighbouring occupiers and the future occupiers of the development. This is contrary to saved Policies D2 and D4 of the Bath and North East Local Plan, including minerals and waste policies, adopted October 2007, Policy CP6 and RA2 of the Bath & North East Somerset Core Strategy (July 2014) and Paragraph 56 of the National Planning Policy Framework.

PLANS LIST:

This decision relates to drawing nos:

667:S:10, 667:S:11

667:1:000, 667:S:001, 667:2:101, 667:2:001, 667:2:002, 667:2:003, 667:2:004, 667:2:005, 667:2:006, 667:2:007, 667:2:008, 667:2:009, 667:2:010, 667:2:011, 667:2:012, 667:2:013, 667:2:020, 667:2:021, 667:2:022, 667:2:023, 667:2:030, 667:2:031, 667:2:032, 667:2:033, 667:2:111 (only with regard to bat mitigation)

667:SK:00, 667:SK:01, 667:SK:02, 667:SK:03, 667:SK:04, 667:SK:05, 667:SK:06, 667:SK:07, 667:SK:08, 667:SK:09, 667:SK:10, 667:SK:11,

TP.LS.004 REV.F

13894- SKC001 Rev C, 13894-SCK002 Rev D, 13894-SCK003 Rev B, 13894-SCK004 Rev C, 13894-SCK005 Rev B, 2101.

13894-C030 C, 13894-C005B, 13894-C006 B, 13894-C010 A, 13894-C019 A

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. Whilst the Case Officer recommended approval, Members of the Development Control Committee took an adverse view and decided to refuse the application.

Item No:	03
Application No:	14/02756/FUL
Site Location:	Land Opposite 199 Bailbrook Lane, Bailbrook Lane, Lower Swainswick, Bath
Ward: Lambridge	Parish: N/A LB Grade: N/A

Application Type:	Full Application
Proposal:	Erection of two detached dwellings with retained open space
Constraints:	Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, Tree Preservation Order, World Heritage Site,
Applicant:	Charlcombe Homes Ltd
Expiry Date:	26th August 2014
Case Officer:	Tessa Hampden

DECISION Delegate to PERMIT subject to an agreement under Section 106 of the Town and Country Planning Act 1990.

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 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.

3 No development shall commence until a management plan for the land illustrated as 'Meadow' has been submitted to and approved in writing by the Local Planning Authority. The land shall be maintained in accordance with this in perpetuity.

Reason: To safeguard the appearance of the area.

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

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

5 No development shall commence until a management plan for the grass roofs has been submitted to and approved in writing. The development shall be maintained in accordance with this in perpetuity.

Reason: To safeguard the appearance of the area.

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

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

7 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no fences, gates, walls or other means of enclosure shall be erected or placed within the curtilage of any dwellinghouse forward of any wall of that dwellinghouse which fronts onto a highway without a further planning permission being granted.

Reason: In the interests of the visual amenity and character of the area.

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

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

9 No works or deliveries required to implement this development shall take place outside the hours of 0800 - 1800

Reason: To safeguard the amenity of nearby occupiers.

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

Reason: In the interests of amenity and highway safety.

11 The means of access up to the individual private drives and the pull-in area adjoining Bailbrook Lane shall be properly bound and compacted (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. The driveways hereby permitted shall not be occupied until their respective drive and common access have been bound and compacted in accordance with the approved details.

Reason: In the interests of highway safety

12 Before the dwellings hereby permitted are first occupied or brought into use the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access and points on the carriageway edge 25m from and on both sides of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 600mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety

13 The development hereby permitted shall not be occupied or the use hereby permitted commence until details of surface water drainage provision for the access drive (so as to mitigate adequately runoff of surface water on to the highway) have been submitted to and approved in writing by the Local Planning Authority and the approved drainage details fully implemented.

Reason: In the interests of highway safety

14 No development shall commence until details of the diversion of the watercourse culvert/pipe have been first submitted to and approved in writing by the Local Planning Authority and the approved diversion fully implemented.

Reason: to safeguard the natural watercourse and natural environment

15 No development shall take place until a Detailed Arboricultural Method Statement with revised Tree Protection Plan which can be scaled from has been submitted to and approved in writing by the Local Planning Authority and details within that implemented as appropriate. The final method statement shall incorporate supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion where any work will impinge on the root protection areas of any retained trees on or off site. The statement should also include the control of potentially harmful operations such as regrading, the storage, handling and mixing of materials on site, burning, location of site office, service run locations including soakaway locations and movement of people and machinery.

Reason: To ensure that trees to be retained on site and any off site trees are not adversely affected by the development proposals

16 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.

17 The development shall not be commenced until a foul and surface water drainage strategy is submitted and approved in writing by the local Planning Authority. The drainage

scheme shall be completed in accordance with the approved details prior to the occupation of the permitted dwellings

Reason: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property.

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

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

PLANS LIST:

Plans:

02 Feb 2015	SHEET 5 A	DESIGN CONSTRAINTS & CONCEPTS
02 Feb 2015	SHEET 6 B	BLOCK PLAN AS PROPOSED
02 Feb 2015	SHEET 7 A	SITE SECTIONS
02 Feb 2015	SHEET 8 B	PROPOSED SITE LAYOUT Public
02 Feb 2015	SHEET 10 A	HOUSE 1 ELEVATIONS
02 Feb 2015	SHEET 11 A	HOUSE 2 FLOOR PLANS
02 Feb 2015	SHEET 12 A	HOUSE 2 ELEVATIONS
02 Feb 2015	SHEET 4 A	CONTEXT & BACKGROUND
02 Feb 2015	SHEET 9 A	HOUSE 1 FLOOR PLANS
OS Extract	02 Feb 2015	LOCATION PLAN & DRAWING LIST
BackGround Papers	02 Feb 2015	DESIGN & ACCESS STATEMENT REV. A

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 planning permission was granted.

ADVICE NOTE:

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

Application No:	14/04081/FUL	
Site Location:	2 Hermitage Road, Lansdown, Bath, Bath And North East Somerset	
Ward: Lansdown	Parish: N/A	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of 1no five bedroom dwelling following demolition of existing bungalow.	
Constraints:	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,	
Applicant:	Nitor Investments Ltd	
Expiry Date:	19th November 2014	
Case Officer:	Tessa Hampden	

DECISION

Defer consideration to allow members to visit site to view surrounding context.

Item No:	05	
Application No:	15/00100/FUL	
Site Location:	Sawyers Mill , Hunstrete, Marksbury, Bristol	
Ward: Farmborough	Parish: Marksbury	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of 2no five bed dwellings and detached garages following demolition of existing commercial buildings and subdivision of land.	
Constraints:	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt, Sites of Nature Conservation Interest, SSSI - Impact Risk Zones,	
Applicant:	Mr Tim Warren	
Expiry Date:	10th March 2015	
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 No development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority.

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

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

3 Prior to the commencement of the development a drainage strategy, including details of surfaces water management, should be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the details so approved.

Reason: To ensure the adequate provision of drainage infrastructure

4 A Desk Study and Site Reconnaissance (walkover) survey shall be undertaken to develop a conceptual site model and preliminary risk assessment of the site. The Desk Study shall be submitted to and approved in writing by the Local Planning Authority. Should the Desk Study identify the likely presence of contamination on the site, whether or not it originates on the site, then full characterisation (site investigation) shall be undertaken in accordance with a methodology which shall previously have been agreed in writing by the Local Planning Authority. Where remediation is necessary, it shall be undertaken in accordance with a remediation scheme which is subject to the approval in writing of the Local Planning Authority and a remediation validation report submitted for the approval of the Local Planning Authority.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

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

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

6 The access shall be surfaced with a properly bound and compacted (not loose stone or gravel) material for a distance of 10m from Hunstrete Lane in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety

7 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

Existing site location and layout plan 001

Proposed site layout plan and roof plans 002

Existing site sections 003

Proposed site sections 004

Plot 1 - House plans and elevations 005

Plot 2 - House plans and elevations 006

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.

Item No:	06		
Application No:	14/04418/REM		
Site Location:	Cheriton Cottage, Springfield, Peasedown St. John, Bath		
Ward: Peasedown St John	Parish: Peasedown St John	LB	
Grade: N/A			
Application Type:	Removal of conditions		
Proposal:	Removal of condition 2 of application 13/04071/FUL to use garage parking space as ancillary accommodation. (Erection of a dwelling and double garage in garden of Cheriton Cottage (Revised resubmission))		
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary, SSSI - Impact Risk Zones,		
Applicant:	Mr & Mrs Reginald & Janice Gore		
Expiry Date:	5th February 2015		
Case Officer:	Victoria Griffin		

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 use of the garage shall be used as ancillary accommodation only to Cheriton Cottage and for no other use within the C3 use class. Reason: The site is not suitable for independent residential accommodation and to protect residential amenity

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

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

PLANS LIST:

This decision relates to the following plans / documents:

Drawing no's 01 - 04

Decision-making Statement:

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

Informatives:

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

It is recommended that information outlining how the former mining activities affect the proposed development, along with any mitigation measures required (for example the need for gas protection measures within the foundations), be submitted alongside any subsequent application for Building Regulations approval (if relevant). Your attention is drawn to The Coal Authority Policy in relation to new development and mine entries available at:

<https://www.gov.uk/government/publications/building-on-or-within-the-influencing-distance-of-mine-entries>

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

Property specific summary information on past, current and future coal mining activity can be obtained from: www.groundstability.com

If any of the coal mining features are unexpectedly encountered during development, this should be reported immediately to The Coal Authority on 0345 762 6848. Further information is available on The Coal Authority website at:

Item No:	07	
Application No:	14/05807/FUL	
Site Location:	The Lodge, 1 London Road West, Lower Swainswick, Bath	
Ward: Lambridge	Parish: N/A	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of extension following removal of existing lean-to.	
Constraints:	Agric Land Class 3b,4,5, Conservation Area, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,	
Applicant:	Mr P Tanner	
Expiry Date:	13th February 2015	
Case Officer:	Sasha Berezina	

DECISION PERMIT

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

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

2 Notwithstanding information contained within the submitted drawings, the roof of the extension hereby approved shall be finished in natural slate to match the existing building

reason: In interest of visual amenity and to protect the character and appearance of the conservation area.

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

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

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

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

PLANS LIST:

This decision relates to the following plans and documents:

OS Extract	19 Dec 2014	1003_P(0)01	SITE LOCATION PLAN
Drawing	19 Dec 2014	1003_P(0)02	EXISTING BLOCK PLAN
Drawing	19 Dec 2014	1003P(0)03	EXISTING FLOOR AND ROOF PLANS
Drawing	19 Dec 2014	1003_P(0)04	EXISTING ELEVATIONS
Drawing	19 Dec 2014	1003_P(0)05	PROPOSED BLOCK PLAN
Drawing	19 Dec 2014	1003P(0)06	PROPOSED FLOOR AND ROOF PLAN
Drawing	19 Dec 2014	1003_P(0)07	PROPOSED ELEVATIONS
Drawing	19 Dec 2014	1003_P(0)08	PROPOSED SECTIONS

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 took a positive view of a positive view of the submitted proposals and consent was granted.

Item No:	08		
Application No:	14/05342/FUL		
Site Location:	Green Acres, Wick Lane, Stanton Wick, Bristol		
Ward: Clutton	Parish: Stanton Drew	LB Grade: N/A	
Application Type:	Full Application		
Proposal:	Conversion of recreational building to dwelling (Renewal of application 04/01778/FUL).		
Constraints:	Airport Safeguarding Zones, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Forest of Avon, Greenbelt, SSSI - Impact Risk Zones,		
Applicant:	Mrs P A Bond		
Expiry Date:	2nd February 2015		
Case Officer:	Rae Mephram		

DECISION Delegate to 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:

Location plan, Proposed conversion (EGB/02) and Block and roof plan (EGB/03), all received 20th November 2014.

DECISION MAKING STATEMENT:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The planning committee took a positive view of the submitted proposals and consent was granted.

Item No:	09		
Application No:	14/03989/FUL		
Site Location:	Sunnyside, Whistley Lane, West Harptree, Bristol		
Ward: Mendip	Parish: West Harptree	LB Grade: N/A	
Application Type:	Full Application		
Proposal:	Proposed new vehicular access.		
Constraints:	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Conservation Area, Housing Development Boundary, SSSI - Impact Risk Zones, Water Source Areas,		
Applicant:	On Behalf Of The Executors Of J H BATH		
Expiry Date:	21st November 2014		
Case Officer:	Rae Mephram		

DECISION REFUSE

1 The proposal would cause significant harm to the rural character of the immediate area, would be detrimental to the character and appearance of the adjacent Conservation Area, and would adversely affect the natural beauty of the Area of Outstanding Natural Beauty, contrary to saved policies D.2, D.4, BH.6 and NE.2 of the Bath and North East Somerset Local Plan 2007.

2 Insufficient information has been submitted in regards to ecological mitigation, and have the potential to adversely affect protected species within the site, contrary to saved policies NE.10 and NE.11 of the Bath and North East Somerset Local Plan 2007.

PLANS LIST:

This decision relates to:

001 REV C - COMBINED EXISTING DRAWING AND SITE LOCATION PLAN

101 REV G - COMBINED PROPOSED DRAWING

102 REV B - CONSTRUCTION TRAFFIC MANAGEMENT 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 active encouragement for pre-application dialogue the applicant did not seek to enter into correspondence with the Local Planning Authority. The proposal was considered unacceptable for the reasons given and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application, and having regard to this the Local Planning Authority moved forward and issued its decision.

Item No:	10	
Application No:	14/05308/FUL	
Site Location:	Densley View, Bath Road, Tunley, Bath	
Ward: Bathavon West	Parish: Camerton	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of a first floor rear extension and loft conversion (Resubmission of 14/03470/FUL).	
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt, SSSI - Impact Risk Zones,	
Applicant:	Mr Symes	
Expiry Date:	14th January 2015	
Case Officer:	Rae Mephram	

DECISION Delegate to PERMIT with appropriate conditions on submission of drawings by applicant.

Bath & North East Somerset Council		
MEETING:	Development Control Committee	AGENDA ITEM NUMBER
MEETING DATE:	8th April 2015	
RESPONSIBLE OFFICER:	Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)	
TITLE:	APPLICATIONS FOR PLANNING PERMISSION – SITE VISIT AGENDA	
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.

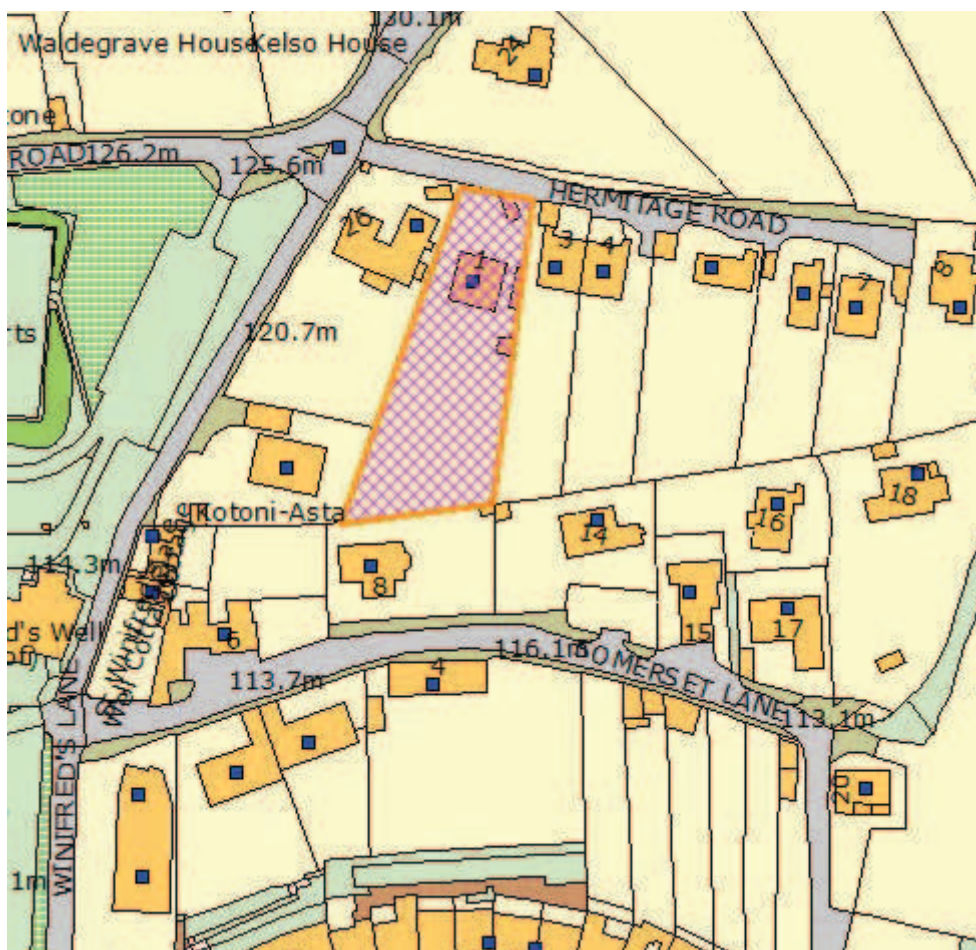
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting 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:
001	14/04081/FUL 19 November 2014	Nitor Investments Ltd 2 Hermitage Road, Lansdown, Bath, Bath And North East Somerset, BA1 5SN Erection of 1 no five bedroom dwelling following demolition of existing bungalow.	Lansdown	Tessa Hampden	PERMIT

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

Item No: 001
Application No: 14/04081/FUL
Site Location: 2 Hermitage Road Lansdown Bath Bath And North East Somerset
 BA1 5SN



Ward: Lansdown **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Patrick Anketell-Jones Councillor Anthony Clarke
Application Type: Full Application
Proposal: Erection of 1no five bedroom dwelling following demolition of existing bungalow.
Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,
Applicant: Nitor Investments Ltd
Expiry Date: 19th November 2014
Case Officer: Tessa Hampden

REPORT

REASON FOR REFERRING THIS APPLICATION TO COMMITTEE

Cllr Anketell-Jones requested that if the application were to be recommended for approval that the application should be referred to the Planning Committee due to the character and appearance of the development

Cllr Clarke requested that the application be referred to Planning Committee if refusal were recommended, due to the long standing problems relating to the site and the pre-application undertaken.

Consideration of the application was deferred at the last meeting of Committee to allow Members to visit the site and view it from adjoining properties.

SITE DESCRIPTION AND PROPOSAL

The application relates to a modest sized bungalow located off Hermitage Road in Bath, which is a single track road leading off Sion Road, in the Lansdown area of Bath. The site is set within the City of Bath Conservation Area and the wider World Heritage Site. The application seeks planning permission for the erection of a house following the demolition of the existing bungalow. There is a history of refusals of planning applications for a replacement dwelling on this site, as well as subsequent dismissed appeals. This application has been submitted in an attempt to overcome the previous reasons for refusal.

The previous application for a dwelling was refused for the following reasons:

1 The proposed development, due to the inappropriate scale, siting and design of the proposal is considered to have an unacceptable appearance and will result in a cramped form of development and the overdevelopment of the application site. There is considered to be a resultant detrimental impact upon the character and appearance of this part of the City of Bath Conservation Area. The development is therefore contrary to policies BH6, D2 and D4 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted October 2007.

2 Due to the inappropriate siting, design, scale and bulk of the proposed dwelling, the development is considered to result in a loss of light and have an overbearing impact upon the occupiers of 3 Hermitage Road, to the detriment of the residential amenity currently enjoyed. The development is therefore considered to be contrary to Policy D2 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted October 2007.

RELEVANT PLANNING HISTORY

DC - 10/05344/FUL - Withdrawn - 9 March 2011 - Erection of house following demolition of existing bungalow.

DC - 11/04382/FUL - Refused - 11 May 2012 - Erection of house following demolition of existing bungalow (Resubmission) - appeal dismissed

DC - 11/04625/CA - Consent - 11 May 2012 - Demolition of existing bungalow and erection of house

DC - 12/04551/FUL - Refused - 12 December 2012 - Erection of dwelling following demolition of existing bungalow - appeal dismissed

It should be noted that the Inspector dealing with this appeal also noted that the previous development would result in harm to the residential amenity of the occupiers of 26 Sion Road. The previous decisions are material considerations in the assessment of the current planning application and will be given significant weight.

DC - 12/04552/CA - Consent - 12 December 2012 - Demolition of existing bungalow

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highway Development - no objection subject to a condition

Contaminated land Officer - no comments

Environment Health - no objections subject to informative of any permission

Archaeological Officer - no objection subject to condition

Aboriginal Officer - no objection subject to condition

Cllr Anketell-Jones requested that if the application were to be recommended for approval that the application should be referred to the Planning Committee due to the character and appearance.

Cllr Clarke requested that the application be referred to Planning Committee if refusal were recommended, due to the long standing problems relating to the site and the pre-application undertaken.

There have been 11 letters of objection to the proposal and 3 letters of support. The key issues raised are considered below:

Objection

- The application should not have been allowed under Section 70A as a repeat application
- The proposals represent overdevelopment
- The square footage is much larger than other properties in the area
- The building is taller and wider than previously rejected by the Planning Inspectorate
- Concerns regarding appearance and impact of solar panels
- The flat roof could be used as a roof terrace
- Queries over accurate nature of sunlight diagrams
- The building would not preserve or enhance the Conservation Area
- Concerns regarding the appearance of the 'car dok' and the noise levels

- Impact on amenity of 26 Sion Road including overshadowing and loss of light
- Objections to rear extension and terrace
- Overlooking to Somerset Cottage and light pollution
- Impact on 3 Hermitage Road, loss of light and overbearing impact

Support

- The design fits in with the area and is sympathetic
- The proposed house has been designed to be 'green'

POLICIES/LEGISLATION

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Council's Development Plan now comprises:

- Core Strategy
- Saved Policies in the B&NES Local Plan (2007)*
- Joint Waste Core Strategy
- Core Strategy

B1 - Bath Spatial Strategy

B4 - The World Heritage Site and its Setting

CP6 - Environmental Quality

Saved policies from the Bath and North East Somerset Local Plan - 2007

BH6 - Conservation Areas

BH7 Demolition in Conservation Areas

BH12 Important archaeological remains

D2 - General Design and Public Realm Considerations

D4 - Townscape Considerations

NE4 Trees and woodland Conservation

NE5 Forest of Avon

NE10 Nationally important species and habitats

NE13A Bath Hot Springs

HG4 Residential development in the urban areas

T24 - Highway Development Control Criteria

The National Planning Policy Framework - published in March 2012

National Planning Practice Guidance

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area.

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT

The application site is located within the built up area of Bath where new residential development is considered to be acceptable providing it complies with the relevant Development Plan policies. A replacement dwelling can therefore be supported in principle.

CHARACTER AND APPEARANCE

There is no objection to the loss of the existing 1920's bungalow and this part of the development has previously been deemed to be acceptable. However, although the existing bungalow is not considered to be of particular architectural merit, its scale respects its plot and due to the topography of the land and the siting of the bungalow, it has a modest impact upon the street scene. Any future development also needs to be compatible with the surrounding development to ensure that the character and appearance of this part of the City of Bath Conservation Area is preserved.

It is noted that the proposed scale of the dwelling is significantly greater than the building to which it is to replace. However, this does not mean that the development is necessarily unacceptable. When assessing the replacement dwelling from the main street scene at Hermitage Road, the dwelling is considered to respect the overall building forms of the surrounding development. The eaves and ridge height of the proposed dwelling have been designed to sit in line with that of 3 Hermitage Road, which aids in ensuring that the building does not appear out of scale in its context. It is noted that the proposed building is set above that of 26 Sion Road which also adjoins the site. However, in visual terms the application site relates a greater amount to the dwellings in Hermitage Road, and therefore can be seen to reflect the prevailing character of the area in terms of buildings heights. It is recognised that the height of the dwelling proposed is greater than the previously refused applications. However, it was the cumulative impact of the height, design, siting and bulk of the previous submissions which led to the conclusion that the proposal was unacceptable. The increase in height alone, does not necessarily lead to the conclusion that the scheme would be harmful to the overall character and appearance of the area.

From the rear, the proposed dwelling is again clearly of a much greater scale than that of the existing bungalow. However, the proposed development takes advantage of the topography of the site, building the lower ground floor into the slope. The rear elevation is broken up by the staggered nature of the design, with the single storey element to the rear aiding in visually breaking up the bulk of the rear elevation. The dormer to the rear roof slope is of an appropriate size to ensure that this appears as dormer rather than having the appearance of an additional story. Again, the dwelling will be seen in context with the properties in Hermitage Road, and will not appear out of context in the immediate or wider area. On balance therefore, this view is considered to be acceptable.

A significant concern with the previous application related to the excessive elongated side elevations, and the flat roof running through the scheme, which cumulatively contributed to the conclusion that the proposal had an unacceptable bulk in its setting. This has been revised within the current proposal, with the side elevations now reflecting those of nearby properties, appearing proportionate to the front and rear elevations of the dwelling. The

roof form has also been altered to a more traditional and less contrived hipped form. It is noted that this increases the overall height of the proposal, but as stated above, this is not alone considered inappropriate. As stated above, it was the contribution of a number of factors that resulted in the conclusion that the development was not previously deemed acceptable, rather than a single factor such as height or width. The overall scale of the dwelling in this submission is considered to be appropriate and the concern with regards to the overall bulk raised within the previous submissions has been overcome in this latest design.

Third parties have correctly identified that the Inspector recognised that the openness of the site would be harmed by the previous proposal. The Inspector noted that the existing bungalow, set back from the road and with its lower height creates a sense of openness in this part of Hermitage Road. It has been highlighted by the third parties that when compared to the refused applications, the increase in height and siting further towards the road of the current submission, the openness of the site would be harmed more than the previously refused proposals.

It is accepted that the openness of the site will be reduced as result of this development, but this is not considered to result in significant harm to the character and appearance of this part of the Conservation Area. Clearly any replacement dwelling of a greater scale than the existing, has the potential to result in a loss of openness, but this does not mean that the development is not acceptable in this built up area of the city. The site is already occupied by a building and as such the site is not completely free from development. The significant length of the previous scheme resulted in a loss of openness and the bulk of the roof added to this harm, limiting views though the site. These have both been altered within the current scheme, reducing the overall bulk of development. Although the openness of the site will be reduced as part of this development, it is not considered that the loss of openness would be now at a level to justify a reason for refusal. For clarity, the loss of openness is not considered to result in overall harm to the character and appearance of the Conservation Area.

It is now considered that the proposed dwelling would be accommodated on the site without appearing cramped. The overall footprint is not considered to represent the overdevelopment of the site and adequate space will be retained around the dwelling to ensure that it sits comfortably within its plot

The overall design is considered to be acceptable, and the material used will ensure that the local vernacular of the local area is respected. The submission proposes acceptable materials which will ensure that the development integrates successfully with the surrounding area. Concern has been raised with regards to the appearance of the solar panels on the rear single storey element of the dwelling. The agent has confirmed that these will not project above the ridge of the roof and will appear as illustrated on the plans. For clarity, a condition can be added to any planning permission requesting sections on this detail. It is not considered that they will result in an unacceptable finish to this part of the building.

There is a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. Here it is considered that overall, the proposed siting, scale, and design of the proposed dwelling is considered to be

acceptable and will ensure that the character and appearance of this part of the City of Bath Conservation Area is preserved. Further, there will be no harm to the setting of the wider World Heritage Site.

As identified above, the development is not considered to result in harm to a designated heritage asset. Therefore, for clarification as the scheme is not considered to result in 'less than substantial harm' to a designated heritage asset, the requirement of paragraph 134 of the NPPF, to balance the harm against the benefits of the development, is not necessary as this harm is not considered to exist.

RESIDENTIAL AMENITY

The increase in overall scale of the built form on this site has the potential to harm to residential amenity of the neighbouring occupiers, particularly in terms of loss of light and the impact upon the outlook of these neighbouring occupiers. The previous scheme was considered to be unacceptable on these grounds, but again, this resulted from a combination of the inappropriate scale, height, siting and design. The application has attempted to overcome these concerns primarily by reducing the bulk of the dwelling. The agent has also undertaken a number of assessments to demonstrate that the harm to the neighbouring occupiers would not be significant. Modelling has been carried out from windows at 26 Sion Road, and from the veranda area at 3 Hermitage Road.

With regards to 3 Hermitage Road, the main part of the building has now been sited in line with this dwelling. The single storey element will be built into the slope so that it is set below the existing screening. This will ensure that the impact upon the veranda and rear garden is minimal. 3 Hermitage Road benefits from two windows and their entrance on the west elevation which will face onto the proposed dwelling. It is acknowledged that this outlook will change and the light entering these spaces will be reduced. However, the window at first floor serves a hallway area, and whilst it is recognised that this serves an important area for the occupiers of this dwelling, the loss of light to this area would not justify a reason for refusal on its own right. Further, the loss of light, outlook from the entrance porch, and dormer window to the roof, is not considered to be harmed to a significant degree.

The agent has again within the submission provided a technical assessment of the impact upon the residential amenity of the occupiers of no 26 Sion Road. This looks at both the impact upon the kitchen area and the first floor study/bedroom. This has previously raised concern, but it is now considered that the reduced bulk, and more appropriately scaled side elevations, reduces the harm previously identified. The submission demonstrates that whilst the outlook from the upper side dormer window will alter, the outlook from this window will not be unacceptable and there will still be a degree of openness from this outlook. The amount of light to the kitchen window will also reduce as a result of this proposal, although it should be noted that this is already affected by the existing boundary treatment. The reduction in length of the proposal is considered to reduce this harm and as such, whilst it is accepted that there will be an impact, it is not considered that any harm to this property would be at a level to substantiate a refusal of this planning application.

Concern has been raised with regards to the loss of privacy for the neighbouring occupiers. However, the development is not considered to result in any significant

overlooking issues. The distance from the proposed dwelling to the properties to the rear of the site is at acceptable distance which will ensure that any overlooking issues are minimal.

Further information has been submitted by the agent with regards to the cardok and this has confirmed that this will produce minimal noise and as such it is not considered that this will cause any undue noise and disturbance to the neighbouring occupiers.

The comments of the third parties and those of the Inspector dealing with the previous application have been considered. However, with the revised scheme, and the additional information put forward, whilst it is noted that the proposed dwelling will result in some harm to the residential amenity of the neighbouring occupiers, it is not considered that this would be at a level to justify a refusal of this planning application. On balance therefore, on these grounds, the development is considered to be acceptable.

HIGHWAY SAFETY

Hermitage Road, is a narrow unadopted cul de sac with a 20mph speed limit. The visibility splays will remain as existing and are considered to be acceptable. A five bedroom dwelling will generally require three parking spaces to meet the needs of the development. The application proposes two conventional parking spaces which achieve a 6.0m manoeuvring area to the rear which is essential on this narrow lane. The third parking space is provided below the conventional spaces and is operated by a car lift which will also be acceptable given the constraints of the location. The parking bays will need to be surfaced in a bound material to prevent loose material being trafficked onto Hermitage Road and the further highway network at Sion Road. The details and implementation of this can be secured through of a condition on any planning application.

ARBORICULTURAL ISSUES

A mature Atlas Cedar tree is located within the rear garden on the existing property. The submissions include a comprehensive arboricultural report which includes an arboricultural method statement (AMS) and tree protection plan to protect this tree. This has been assessed by the Council's Arboricultural officer who is satisfied that subject to full compliance with the AMS, the tree will not be harmed. Further clarification may be required, for example if alterations are proposed during the design of soakaways etc. and supervision may be necessary during works. However, this can be secured through the attachment of a condition.

ARCHAEOLOGY

The application site lies in close proximity to a Roman burial found in 1808 during construction of houses in Hermitage Road and within the Sion Hill Roman cemetery area. It is therefore recommended that a watching brief condition is attached to any planning consent.

ECOLOGY

Satisfactory bat surveys have been completed for this proposal and no roosts have been identified in the building to be demolished. An updated survey is recommended if the building is not demolished prior to the next active bat season.

CONCLUSION

It is recognised that this site has a relatively protracted history in terms of planning applications and appeals, and this and the third party comments have been duly considered as part of this planning application. However, it is now considered that the scheme put forward is acceptable, and the scale, siting and design of the dwelling are appropriate in this context. The planning application is therefore recommended for approval subject to a number of planning conditions.

RECOMMENDATION

PERMIT

CONDITIONS

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

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

2 The parking areas shall be properly bound and compacted (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of highway safety

3 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.

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

4 Infiltration test results and soakaway design calculations to BRE Digest 365 standard should be submitted to and approved by the Local Planning Authority prior to construction. The development shall thereafter be carried out in accordance with these approved details.

Reason: In the interests of flood risk management.

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.

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 or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement unless agreed in writing by the local planning authority. A signed certificate of compliance shall be provided by the appointed arboriculturalist to the local planning authority on completion.

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

7 No development shall take place until a Detailed Arboricultural Method Statement with Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority and details within the approved document implemented as appropriate. The final method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion with particular regard to position and erection of protective fencing; demolition of the existing dwelling; installation of ground protection, removal of existing concrete paths and excavations for services including soakaways. The documents should include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning and movement of people and machinery.

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

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

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

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

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

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

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

11 Prior to the installation of the solar panels, sectional details of these shall be submitted to the Local Planning Authority and approved in writing. The development shall thereafter be carried out in accordance with this approved details.

Reason: In the interests of the appearance of the development

13 The roof area of the development hereby approved shall not be used as a balcony, roof garden or similar amenity area.

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

14 The proposed windows on the west and east elevations of the development hereby approved, illustrated on the revised plans as being obscurely glazed, shall be non-opening and glazed with obscure glass and permanently retained as such.

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

15 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:

- Further bat surveys are recommended if the building is not demolished by May 2015

05 Sep 2014	P 02	EXISTING NORTH AND SOUTH ELEVATIONS
05 Sep 2014	P 03	EXISTING SITE SECTION AA
05 Sep 2014	P 04	EXISTING SITE SECTION BB
05 Sep 2014	P 05	SUPERSEDED - PROPOSED SITE PLAN
05 Sep 2014	P 06	PROPOSED LOWER GROUND AND GROUND FLOOR PLAN
05 Sep 2014	P 07	PROPOSED 1ST AND 2ND FLOOR PLANS
05 Sep 2014	P 08	PROPOSED NORTH ELEVATION
05 Sep 2014	P 09	SUPERSEDED - PROPOSED SOUTH ELEVATION
05 Sep 2014	P 10	SUPERSEDED - PROPOSED WEST ELEVATION
05 Sep 2014	P 11	SUPERSEDED - PROPOSED EAST ELEVATION
05 Sep 2014	P 12	SUPERSEDED - PROPOSED SITE SECTION AA
05 Sep 2014	P 13	PROPOSED SITE SECTION BB

05 Sep 2014 P 14 PROPOSED NORTH ELEVATION- RENDERED
05 Sep 2014 P 15 PROPOSED SITE PLAN- ANALYSIS
24 Sep 2014 140919-2HR-TPP-AM TREE PROTECTION PLAN
24 Sep 2014 WS51/01 LANDSCAPE LAYOUT 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. For the reasons given, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and planning permission was granted.

ADVICE NOTE:

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

The applicant should take all relevant precautions to minimise the potential for disturbance to neighbouring residents in terms of noise and dust during the construction phases of the development. This should include not working outside regular day time hours, the use of water suppression for any stone or brick cutting and advising neighbours in advance of any particularly noisy works. The granting of this planning permission does not indemnify against statutory nuisance action being taken should substantiated noise or dust complaints be received. For further information please contact the Environmental Protection Team at Bath and North East Somerset Council.

Bath & North East Somerset Council		
MEETING:	Development Control Committee	AGENDA ITEM NUMBER
MEETING DATE:	8th April 2015	
RESPONSIBLE OFFICER:	Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)	
TITLE:	APPLICATIONS FOR PLANNING PERMISSION	
WARDS:	ALL	
BACKGROUND PAPERS:		
AN OPEN PUBLIC ITEM		

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 - (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.

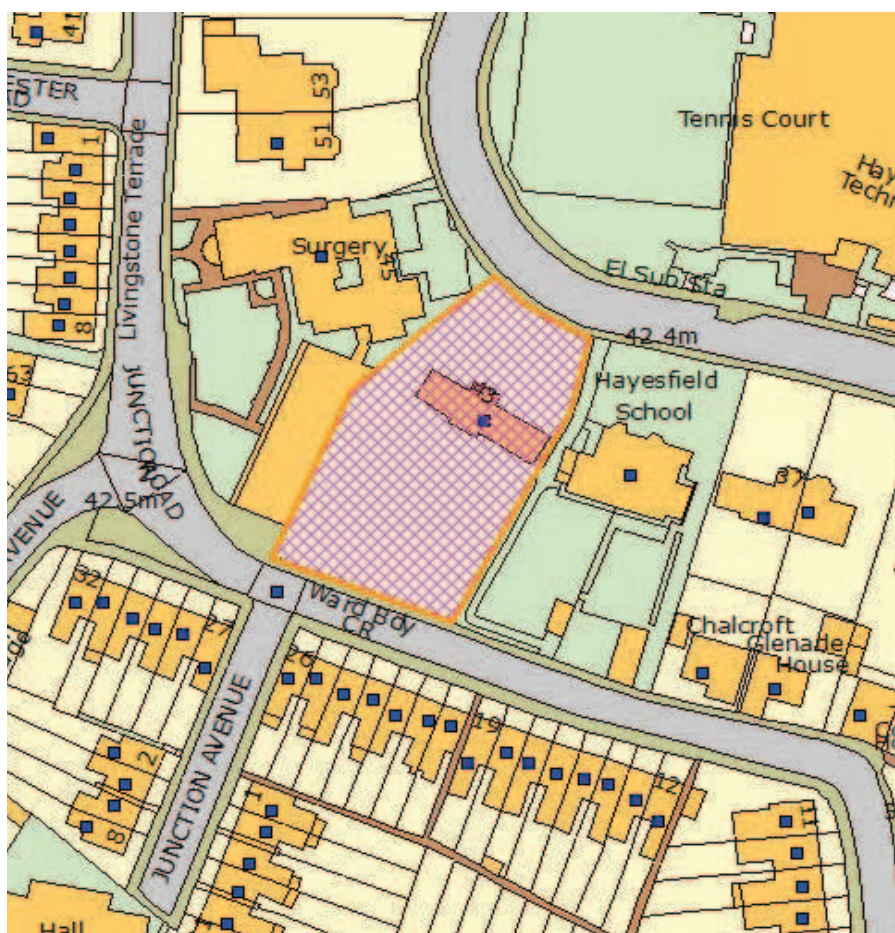
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting 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	14/04547/FUL 13 January 2015	Landmark Developments Limited 43 Upper Oldfield Park, Oldfield Park, Bath, Bath And North East Somerset, BA2 3LB Erection of 14no. residential apartments with parking and shared grounds (Revised Proposal) (Retrospective).	Widcombe	Rachel Tadman	PERMIT
02	14/04373/FUL 18 November 2014	Ms Megan Yakely 8 Lime Grove Gardens, Bathwick, Bath, Bath And North East Somerset, BA2 4HE Erection of a single storey extension providing kitchen and a new second floor dormer	Bathwick	Stuart Ashford	PERMIT

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

Item No: 01
Application No: 14/04547/FUL
Site Location: 43 Upper Oldfield Park Oldfield Park Bath Bath And North East Somerset BA2 3LB



Ward: Widcombe	Parish: N/A	LB Grade: N/A
Ward Members:	Councillor I A Gilchrist	Councillor Ben Stevens
Application Type:	Full Application	
Proposal:	Erection of 14no. residential apartments with parking and shared grounds (Revised Proposal) (Retrospective).	
Constraints:	Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hazards & Pipelines, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,	
Applicant:	Landmark Developments Limited	
Expiry Date:	13th January 2015	
Case Officer:	Rachel Tadman	

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application has been referred to Development Control Committee at the request of the Development Group Manager.

DESCRIPTION OF SITE AND APPLICATION:

The application site comprises some 0.2 hectares on the south side of Upper Oldfield Park, adjoining a GP surgery/medical centre to the west and Hayesfield School buildings to the north and east. The site has a historic residential use, being previously occupied by a two storey dwelling of inter-war age known as Oakford House, prior to the granting of planning permission for the redevelopment on the site in 2009.

Other than the directly adjoining medical and educational uses the site context is predominantly residential in nature. Upper Oldfield Park is characterised by large four/five storey detached or semi-detached Victorian/early 20th Century villas set in large plots, but with some infill development, which includes the application site and the GP surgery next to it. To the south and west of the site the area is characterised by smaller, two storey Victorian/Edwardian terraced dwellings.

The site is within the Bath Conservation Area and World Heritage Site. The boundary of the Conservation Area runs along Junction Road to the west of the site, directly adjacent to the GP surgery.

The application proposes the erection of 14 residential apartments with parking and shared grounds. The building, externally, is largely complete therefore this application is retrospective and is being considered under the provisions of Section 73a of the Town and Country Planning Act 1990.

The apartments are contained within a building of 5 storeys above a basement car park. The flats are all two beds units, three per floor on ground to third floor, and two units on the fourth floor.

Overall the building measures 18.6 m high from the top of the basement slab level to ridge height, that is to say the highest point of the roof, (19.5 m to the top of the roof lights), the top of the building sits at a height of 60.09 AOD.

In plan form the building would be 28.6 metres wide at lower ground, upper ground and first floor level, 18.9m wide at second and third floor and 18.2m at fourth floor level. The building would be 18.7 metres deep extending to 19.7 metres to include the bay windows on the front elevation.

The building includes a number of balconies and terraces, side terraces at first floor level, front balconies at third floor, front and rear balconies at fourth floor level.

The principal vehicle and pedestrian access to the site is proposed from Upper Oldfield Park. The existing access is to be used, albeit widened, and this will provide access to an undercroft parking area which will accommodate 15 parking spaces on the basis of one space per dwelling as well as level access to the lift. Within the front garden of the site is

a shared car space provided in partnership with the City Car Club where each apartment will benefit from two full memberships for life.

The site is proposed to be subject to a comprehensive landscape treatment, including replacement tree planting and ancillary structures.

BACKGROUND HISTORY:

REFUSED APPLICATIONS

1) The site has a long planning history with the first planning application ref: 06/02073/FUL being refused for the development of 14 flats on 2nd November 2006 (as resolved at Development Control Committee 'A' on 1st November). That scheme was of a modern, flat roof, type design. This application was refused for the following reason:

The proposal by reason of its scale, bulk, width and depth would represent an excessively prominent obtrusive and excessive form of development which would have an adverse effect on the setting and character of the site, would result in its overdevelopment and would fail to appropriately preserve or enhance the character or appearance of the Bath Conservation Area and World Heritage Site contrary to the provisions of policies VIS2, SS9, EN3, EN4 and HO6 of RPG10, policies 1, 6, 19 and 35 of the Joint Replacement Structure Plan, policies C1, C2, C4 and H13 of the adopted Bath Local Plan and policies BH.1, BH.6 and D4 of the revised deposit draft Bath and North East Somerset Local Plan, and the Bath City Wide Character Appraisal Supplementary Planning Document.

For clarity this building was approx. 31m wide reducing to 25m at second floor and above, 20m deep and 17.3m tall.

2) Planning application Ref: 07/00653/FUL was refused on the site for the erection of 13 no residential apartments with parking and shared grounds on 15 June 2007 (as resolved at Development Control Committee on 13 June 2007). This application was refused for the following reason:

The proposed development, by reason of its inappropriate design, incorporating a predominance of flat roofs, would be incongruous in this prominent location and out of character within its context. This would be harmful to the character and appearance of this part of the Conservation Area and World Heritage Site. This would be contrary to Policies C1, C2, C3, C4 and H13 of the Bath Local Plan and BH.1, BH.6, D.2 and D.4 of the Bath and North East Somerset (including waste and minerals policies) Local Plan as proposed to be modified.

For clarity this building was approx. 28.5m wide reducing to 18.2m, 18.8m deep and 16.3m tall.

3) Planning application ref: 10/00294/FUL was refused for the erection of 13 no residential apartments with parking and shared grounds on 11 June 2010, at delegated Officer level, for the following reason:

The proposed development, by reason of its inappropriate design, incorporating a predominance of flat roofs, would be incongruous in this prominent location and out of

character within its context. This would be harmful to the character and appearance of this part of the Conservation Area. This would be contrary to Policies BH.6, D.2 and D.4 of the adopted Bath and North East Somerset Local Plan (including minerals and waste policies) and advice contained within PPS 5.

For clarity this building was approx. 28.5m wide reducing to 18.5m, 18.8m deep and 16.3m tall

APPROVED APPLICATION

1) Planning permission was granted on 26 January 2009 for the erection of 14no. residential apartments (Ref: 07/02461/FUL).

For clarity the approved building measured 17.4 metres high at ridge height from the top of the basement slab level, the total height of the building was 58.93 AOD.

In plan form the building would be 28.4m wide at lower ground, upper ground and first floor level, 18m wide at second and third floor and 15m at fourth floor level.

The building would be 17.8 metres deep extending to 18.7 metres to include the bay windows on the front elevation.

COMMENCEMENT OF DEVELOPMENT

Application 07/02461/FUL was granted permission on the 26th January 2009 and therefore was due to expire on the 26th January 2012.

Planning permission 07/02461/FUL carried 23 conditions: 7 required compliance only (i.e. no formal consent required); 3 were pre-occupation conditions and therefore did not require attention before works commenced; 1 (condition 13) requires the submission of details (but no trigger or time limit was given for the condition); the remaining 12 conditions required formal consent of the Council before work could commence on site. Application 11/05409/COND discharging all 12 requisite conditions was approved on the 24th January 2012, two days before the permission expired. The Council is therefore satisfied that the requirements of the pre-commencement conditions had been met prior to the permission expiring.

Following a complaint received by the Enforcement Team stating that works had started on site, Officers inspected the site on 25th January 2012 (the day before the permission was due to expire) and noted that demolition of the side extensions of Oakford House was taking place by a company called TR Demolition; in addition, clearance of the vegetation around the site had taken place, protective fencing around trees was in place and a mobile site office had been erected on site. A photographic record was taken as evidence and Officers returned the following day and across the course of the next week to inspect the level of work being carried out. Based on the observations made on site Officers were satisfied that a material commencement of development had taken place before the 26th January 2012 in accordance with Section 56 of the Town and County Planning Act 1990 and Officers are therefore satisfied that the planning permission ref: 07/02461/FUL remains extant.

Notwithstanding the commencement of development, it became apparent once the development reached roof level that the building as currently erected on site had deviated from the original plans and is therefore unauthorised. For the reasons stated, Officers are content that the original permission (07/02461/FUL) is extant in perpetuity and therefore a genuine fall-back position on site for a building of a similar scale, mass and height exists. This application is being considered as a retrospective application under the provisions of Section 73A ("Planning permission for development already carried out"). Whilst the history to the site and the presence of an extant permission is a significant material consideration this application is being assessed on its own individual merits in line with prevailing policy rather than as a revision to the previously approved scheme. It is worth noting that whilst the prevailing policies have changed since the grant of permission in 2009 - with the adoption of the B&NES Core Strategy (2014) and the NPPF (2012) - the policies against which this application is assessed are not significantly different to those against which the 2009 permission was granted, indeed many of the policies against which the original permission was assessed still remain relevant.

ENFORCEMENT ACTION

As stated above, it became apparent to the Council in mid-2014, when the development reached roof level, that the building had not been built in accordance with the approved plans insofar as the building appeared taller and wider than approved, lacked the recessed balcony elements on the side elevations at roof level, and featured a more disjointed roofscape with additional fenestration.

An enforcement investigation was carried out culminating in the issuing of a Temporary Stop Notice (TSN) on 12th September 2014. The Notice ceased all works on site for a period of 28 days and allowed Officers the opportunity to fully assess the deviations from the approved plans in order to negotiate with the developer and consider the appropriate course of action.

Objections have been raised in respect of this application citing the reason for issuing the TSN where it stated "the development is considered detrimental to the visual amenities of the area and the residential amenities of surrounding residents". This objection is noted.

For clarification, at the time the Notice was issued, works were continuing despite the concerns raised by Officers with the developer; a decision therefore had to be taken whether to stop works in the interest of amenity. There was a genuine concern at the time that what was being built, if allowed to continue could be unacceptable however at the time the building was still covered in scaffolding and the exposed timber roof had not been covered therefore it was not possible to fully assess the extent of the works or the potential harm of those works. Government guidance as set out in the NPPG (2014) allows for the serving of a TSN to "prevent serious or irreversible harm to the environment in the surrounding area" where it is deemed expedient to do so.

A TSN is a discretionary tool the Council can use with immediate effect in order to exert control over a breach of planning, by its very nature there is not time to conduct a full scale consultation and the decision to issue the Notice is taken unilaterally. The decision in this instance was taken to issue the Notice in order to cease any further works taking place to allow Officers to determine the relative scale of harm without further works continuing; notwithstanding, once the facts had been established and negotiations had

taken place to secure amendments to the roof the decision was taken that it would not be expedient to follow up the TSN with a full Stop Notice and Enforcement Notice. It was considered, subject to various design amendments to the roof, that the applicant could exercise their rights under Section 73A in order to seek retrospective permission, allowing the Council the opportunity to conduct a full public consultation and seek the views of statutory consultees.

For clarification, during the course of the TSN, officers negotiated the removal of the two large projecting roof access dormers which were considered to accentuate the extent of the flat roof area at the top of the building; a reduction in the roof span and projection on the northern (Upper Oldfield Park) elevation setting the extent of the flat roofs above the fourth floor terraces back away from the front of the building; and, recessing the elevations of the fourth floor side projections back inside the line of the main side elevation walls in order to provide a greater degree of relief and thus create a visual step back in the roof line at fourth floor level. Without prejudice to due process, the amendments were deemed sufficient enough to allow officers to consider that the submission of a retrospective planning application was an acceptable course of action.

The issuing of the TSN in this case is a material consideration as it clearly indicates the strength of concern the Council had for the development at the time, that said, the TSN is not binding to any future decision of the Council. As stated, the roof of the building has been modified since the Notice was served removing and altering certain significant aspects of the roof form. Whilst the amendments did not address all of the concerns raised by the Council, essentially the scheme under consideration with this application is not the same scheme that the TSN was served against. As with the extant permission for the site, the TSN also forms part of the history to this site and is therefore a material consideration.

RETROSPECTIVE PLANNING APPLICATION

The Applicant has exercised their right to submit a full planning application under Section 73A of the Town and Country Planning Act 1990 to seek to regularise the unauthorised dwelling. This is the application now under consideration.

Objections have been raised stating that the Council should refuse this application on the basis of it being retrospective. For clarity the works carried out on site are not unlawful, they are unauthorised; planning legislation, under Section 73A of the Town and Country Planning Act, 1990, allows developers to seek retrospective permission for developments that do not have permission and the guidance makes it clear that Local Planning Authorities should consider such applications as they would any other planning application. Officers are mindful of the guidance set out in the NPPG and the provisions of S73A and this application will be determined in accordance with the prevailing policies and legislation on its own individual merits, due consideration has been given to the history of the site, including the enforcement action taken.

OTHER RELEVANT PLANNING HISTORY:

DC - 06/02075/CA - CON - 19 July 2006 - Demolition of 43 Upper Oldfield Park.

DC - 11/05409/COND - DISCHG - 24 January 2012 - Discharge of conditions 2,4,5,11,12,14,15,17,20,21,22,23 of application 07/02461/FUL (Erection of 14no. residential apartments with parking and shared grounds (Revised Application))

DC - 12/00387/CA - CON - 5 April 2012 - Demolition of existing dwelling on site.

DC - 14/04229/NMA - APP - 1 October 2014 - Non-Material Amendment to application 07/02461/FUL. (Erection of 14no. residential apartments with parking and shared grounds (Revised Application))

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highways Development Officer: No objections subject to S106 obligations in respect of car-club membership and parking space provision, and conditions.

Conservation: The significance of this site is recognised by its inclusion in the Conservation Area and greater World Heritage Site. There is a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding conservation area and I have fully considered this requirement in my present and past assessments, together with relevant Development Plan policy.

The current revised plans in respect of this application have not caused me to alter my previous advice on the overall design. The proposal introduces a further building to this part of the street scene which closely reflects and interprets the siting, form, scale, symmetry and front building line of the imposing pair of semi-detached C19 villas immediately to the east of the site (No's 35-41). Apart from the roof treatment (as discussed below), the overall form of building proposed will satisfactorily group with and reflect the appearance of these prominent structures in this part of the Conservation Area street scene. It will therefore in principle make a positive contribution to local character and distinctiveness, thereby preserving the character of this part of the conservation area.

I have revisited the site and its immediate surroundings, and have also viewed the building from medium and long range public vantage points in the World Heritage Site. This has confirmed that the overall form of the proposed development as seen in the medium and long distance views will not harm the setting of these heritage assets. Inevitably the colour of the natural stone will appear prominent in such views in the short term until such time as it has weathered to a more subdued tone akin to the surrounding properties.

However, the current set of design revisions also relate to the roof top treatment which previously caused me concern. I appreciate that some visually beneficial design changes have been made to items such as the solar panels and roof lights. Despite these improvements I remain concerned that the increase in area of the central flat roof and the cumulative impact of the roof-top features is ungainly and will harm the skyline appearance of the proposed development. This includes the edges of the solar panels, antennae and lead clad vent structures which will all be visible from street level, particularly from local views in Upper Oldfield Park and Junction Road.

Much of the fabric of the Conservation Area would remain unaltered by this aspect of the proposal, so the harmful impact on its significance is on the short distance views and is less than substantial. In such circumstances the National Planning Policy Framework

(paragraph 134) requires that the harm is to be weighed against the public benefits of the proposal.

English Heritage: Do not object but offer the following general observations:

The proposed scheme has effectively become slightly larger and higher as a result of a number of alterations that have had a cumulative impact. We previously indicated on different development proposals for this site, that there is a need to take account of the wider setting issues in this part of the city, particularly as they might affect the Outstanding Universal Values (OUV) of the World Heritage Site (WHS). This also applies to this application.

Whilst the previous (2009) scheme appeared to have a cleanly shaped roof line with little interruption other than from the chimney and lift shaft, this scheme appears to have more plant and other paraphernalia projecting out of the top of the roof. This is unfortunate as it creates a more alien roof form when seen in the context of its neighbours in more distant views of this part of the city. This in turn could impinge on the OUV of the WHS.

The photomontages do not appear to provide information to demonstrate what impact this change will have. More photomontages might help to overcome concerns relating to the potential harm from these changes. It is also noted that the windows on the recessed side wings do not appear to have repeated the approved schemes approach of using larger windows to echo the proportions of the windows on the main aspect of the building. This is a disappointing alteration as it makes the side wings look meaner and less harmonious with the principle front elevation.

We would urge you to address the above issues, and recommend that the application should be determined in accordance with national and local policy guidance, and on the basis of your specialist conservation advice.

No further comments on the revised plans have been received.

Waste Services: Not acceptable in its current form.

The proposed waste and recycling store cannot be serviced for collections from its current location within the plans. It is positioned within the further corner of the lower ground floor, the adjacent access point appears to be steps to the outside ground level.

The position of the bin storage area should be a maximum distance of 8m from the highway, ideally outside. Any slope the bins will need to be taken up must not exceed 1:12.

Affordable Housing: Not acceptable in its current form:

Policy CP9 of the adopted core strategy required 30% provision on large development schemes in the BA2.3 postcode area

This application is not policy compliant, due to the omission of the affordable housing contribution.

There is no evidence confirming the affordable housing contribution will accord with the Councils affordable housing design, layout & construction requirements as contained within the B&NES SPD 2009.

Education Services: A total contribution is requested of £20,873.26.

This is made up of £15,741.26 for Early Years provision, £5,132.00 for school places and Nil for Youth provision.

Parks: A total contribution is requested of £41,202.84.

This is made up of £36,388.80 formal green space provision, £4,032.00 natural green space provision and £782.04 allotment provision.

Bath Preservation Trust: Objects for the following reasons:

- The proposed development, by reason of its inappropriate size and design would be harmful to the character and appearance of this part of the Conservation Area and World Heritage Site.
- The built scheme is contrary to the Planning (Listed Buildings and Conservation Areas Act) 1990, Section 12 of the National Planning Policy Framework, Core Strategy policies B1, B4 & CP6 and Saved Local Plan policies, D4, BH2 & BH6.
- A previous scheme for a building of this size, width and depth, was deemed to have a detrimental effect on the townscape and character of the conservation area and refused. These same grounds for refusal therefore remain applicable.
- Retrospective permission gives entirely the wrong message that developers can build what they like in the city without any regard to the designations and planning policies that are in place to protect the heritage value of Bath.

We would therefore recommend that the application be refused in its current form and that the Council takes necessary action to remedy this breach of the planning control.

Local Representations: At the time of writing this report a total of 96 letters of representation have been received. 5 make general representations, 64 object to the scheme, 27 support it. Many of the representations raise the same or similar issues, all representations have been taken into consideration and the original responses are retained on file.

The following is a summary of the key points of objection received:

1. The building appears incongruous, is visually intrusive, too large, is of a poor design, represents overdevelopment and dominates the skyline
2. Out of character with the area and this part of the Bath Conservation Area and World Heritage Site
3. The roof scape is cluttered, ill considered and incongruous
4. Overshadowing of adjacent properties
5. Glare from the windows having an impact on residential amenity
6. Lack of affordable housing
7. It is bigger than the previous proposals for the site which were refused due to the detrimental impact on the Conservation Area and World Heritage Site.

A significant number of the concerns raised also relate to the fact that the development has not been built in accordance with the extant scheme and that, by the very fact that the scheme is retrospective, it should be refused. Concerns also include the planning history of the site, the serving of a Temporary Stop Notice and also whether or not the 2009 permission is extant.

The following is a summary of the key points of support received:

1. The building is not flat roofed and is lower than the school next door.
2. The building will enhance the area, is clever and an interesting design.
3. The difference in height makes no overall difference to the surrounding area.
4. These new homes add to the much needed transformation and regeneration in this area.
5. The building itself is reminiscent of the contextual style and sensitive to its neighbours yet enhances this local area of Bath.
6. Bath is in need of new housing
7. There is very little difference from the approved plans and is not significantly difference to the one given permission by the Council.

POLICIES/LEGISLATION

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Council's Development Plan now comprises:

- Bath & North East Somerset Core Strategy (July 2014)
- Saved Policies from the Bath & North East Somerset Local Plan (2007)
- Joint Waste Core Strategy

The following policies of the Core Strategy are relevant to the determination of this application:

- Policy DW1 - District Wide Spatial Strategy
- Policy SD1 - Sustainable Development
- Policy B1 - Bath Spatial Strategy
- Policy B4 - World Heritage Site and its setting
- Policy CP6 - Environmental Quality
- Policy CP9 - Affordable Housing
- Policy CP10 - Housing Mix
- Policy CP2 - Sustainable Construction
- Policy CP3 - Renewable Energy
- Policy CP6 - Environmental Quality
- Policy CP7 - Green Infrastructure
- Policy CP13 - Infrastructure Provision

The following saved policies of the Bath and North East Local Plan, including minerals and waste policies, adopted October 2007 are also relevant to the determination of this application.

- Policy SC.1: Settlement classification
- Policy SR.3: Provision of recreational facilities to meet the needs of new development
- CF.3 Contributions from new development to community facilities
- IMP.1 Planning Obligations
- Policy D.2: General design and public realm considerations
- Policy D.4: Townscape considerations
- Policy NE.4: Trees and woodlands
- Policy BH6: Development within the Conservation Area
- Policy T.24: General development control and access policy
- Policy T.26: On-site parking provision

SUPPLEMENTARY PLANNING GUIDANCE

- Planning Obligations SPD
- Sustainable Construction & Retrofitting SPD
- Bath & North East Somerset Council Green Space Strategy adopted March 2007
- Bath & North East Somerset Council Green Infrastructure Strategy adopted March 2013

LEGAL FRAMEWORK

Town and Country Planning Act, 1990 (as amended)

Development Management Procedure Order, 2010 (as amended)

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area.

NATIONAL PLANNING POLICY

Full consideration has been given to the National Planning Policy Framework including, but not limited to, Chapter 6 Delivering a wide choice of high quality homes, 7 Requiring good design, 8 Promoting healthy communities and 12 Conserving and enhance the historic environment.

Full consideration has also been given to the Government Guidance set out in the National Planning Practice Guidance (NPPG) 2014

OFFICER ASSESSMENT

PRINCIPLE OF THE DEVELOPMENT:

The proposed development is within the defined urban area of Bath where residential development is acceptable in principle and is in accordance with Policy B1 of the Core Strategy.

Furthermore the principle of a building of a similar scale, height and width in this location has also been established by the granting of planning permission in 2009 ref: 07/02461/FUL which Officers are satisfied is extant. This is a material consideration that has significant weight and is a strong fallback position. The policy position has not significantly changed since the grant of planning permission in 2009.

Notwithstanding the history of the site, the application now being considered has to be considered on its merits.

DESIGN, LAYOUT AND IMPACT ON THE BATH CONSERVATION AREA AND WORLD HERITAGE SITE:

The character of Upper Oldfield Park and this part of the Bath Conservation Area and World Heritage Site is relatively mixed with terraces of modest two storey dwellings on Junction Road to large Victorian villas on Upper Oldfield Park. This is also interspersed with more modern low level buildings such as the Doctor's surgery adjacent to the site and the contemporary Hayesfield School development opposite that uses a high proportion of flat roofs.

Within this context the overall design of the proposed building appears as a contemporary representation of the more historic villas that form part of the character of Upper Oldfield Park and particularly with regard to the adjacent building of Hayesfield School.

The Hayesfield School building to the east is the largest building in this part of the street scene and the overall width of the proposed building, when measured at first floor level, at 18.9m is only marginally wider than Hayesfield School which is 18m wide. Objections have been raised that this development fails to retain the gap between buildings and therefore detracts from the streetscene however this objection is incorrect. The gap between the development and Hayesfield School above ground floor level is actually larger than the adjoining gap between the school and no.37. At ground floor level the gap between the development and the Hayesfield School building is approximately 4.7m (compared to a c.4.6m gap between Hayesfield School and no.37 Upper Oldfield Park). Above ground floor, the gap between the development and Hayesfield School is approximately 11.9m compared to the above ground level gap of 7.5m between Hayesfield School and no.37.

Objections have been raised stating that the apartment block is taller than Hayesfield School and therefore not in keeping with the prevailing grain. For clarification, the ridge of the development is 60.09 AOD whereas the ridge of the adjacent Hayesfield School building is 60.49 AOD. The development as built is therefore 0.4m lower than the adjoining Hayesfield School building.

In terms of the overall height, size and bulk of the proposed development, the building is considered to relate well to its immediate context and compares favourably to the adjacent Hayesfield building and would not have a significant detrimental impact on the street scene. The building is highly visible and somewhat prominent in some medium range views of the site, particularly from the south, due to its location on a ridge within Upper Oldfield Park where the land slopes gently away to the south and more steeply to the north. However the fact that it is visible/prominent in these views does not necessarily make it incongruous or unacceptable and it is not considered to be so.

It has always been accepted that in terms of comparative scale the building relates poorly to the adjacent doctor's surgery to the west, as this building itself is out of context, which is especially noticeable when viewed from Junction Road. However the surgery is very clearly an anomaly producing a visual gap in what is otherwise a street of a fairly uniform

pattern and as such the relationship between the proposed development and the Doctor's is considered to be acceptable.

Turning to more detailed design matters, the building's main elevation is that of a double gabled front elevation with wider additions at lower ground and upper ground level culminating in an outdoor terrace at first floor level. The lower ground level, providing the parking for the development, is located partially below ground with a sloping driveway leading down and would not be overly visible in the street scene as it would be screen by planting and the front boundary wall.

Running up the building from first floor level, on each side, and set back from the main front elevation, is a side projection which culminates at fourth floor level with a slate hung flat roofed element. This particular element is also set back from the front and rear of the side projection to form a small balcony at the front and rear.

These side projections are again reflective of the character of the adjoining Victorian villas, albeit in a contemporary style, and the provision of the slate clad flat roof addition at fourth floor level is considered to add an interesting and not incongruous element that improves the architectural legibility of the building.

Turning to the roof of the building, a mixture of flat and pitched roofs are used in a mix of materials including natural slate and slate grey glass fibre. On the north eastern side are located a number of solar PV panels which, in the main, are laid flat against the flat roof element meaning they are hardly visible. The panels set against the pitched roof, however are visible from street level. The roof also includes a number of ventilation stacks and rooflights.

Whilst the overall design of the building is considered to be acceptable, the application, as originally submitted, showed a particularly cluttered roofscape which was dominated by solar PV panels and projections from ventilation stacks. This resulted in concerns being raised by both English Heritage and the Conservation Officer that the scheme would have a poor visual appearance from public viewpoints. As a result Officers have negotiated revisions to reconfigure the solar panels to lay the majority of them flat against the flat roofed element at fourth floor level which have considerably improved the visual appearance of the roofscape of the building from public viewpoints.

With regard to materials the building uses a high level of glazing, particularly on the rear corners where wrap around windows are provided. The main external walling material is natural Bath Ashlar stone, quarried in Limpley Stoke, and slate are used on the elevations of the fourth floor side projection. These materials are reflective of the character of the surrounding area and are considered to be acceptable.

Overall the size, design and massing of the proposed building is considered to be acceptable and would not have a harmful impact on the street scene. The overall height is also considered to relate well with respect to the context and the addition of a building of this design is deemed to add an appropriate addition in the streetscene to form a group of buildings of similar design and size in this part of the street.

The site is within the Bath Conservation Area and therefore there is a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special

attention to the preservation or enhancement of the character of the surrounding conservation area. Furthermore the location of the site within the World Heritage Site requires that the wider setting issues in this part of the city, particularly as they might affect the Outstanding Universal Values of the World Heritage Site are taken into consideration.

The proposed development has been subject to a significant number of objections by local residents stating that the building would appear incongruous, be visually intrusive, is too large, would dominate the skyline and is out of character with the area and this part of the Bath Conservation Area and World Heritage Site.

Whilst these concerns have been considered, the proposal is nevertheless considered by Officers, including the Conservation Officer, due to its overall design, and having specific regard to its context, to make a positive contribution to local character and distinctiveness, thereby preserving the character of this part of the Bath Conservation Area.

The design is considered, overall, to be of a high standard and the building is constructed out of high quality materials. As stated by the Conservation Officer, the proposed building is considered to closely reflect and interpret the siting, form, scale, symmetry and front building line of the imposing pair of semi-detached C19 villas of Hayesfield School to the east and the overall form of building proposed will satisfactorily group with and reflect the appearance of these prominent structures in this part of the Conservation Area street scene.

Notwithstanding, there are still some outstanding concerns regarding the roof treatment and, although the clutter to the roof has been significantly reduced, the appearance of the building at this level does remain unfortunate. The Conservation Officer remains concerned that the increase in area of the central flat roof and the cumulative impact of the roof-top features would harm the skyline appearance of the development. Notwithstanding, the Officer is also clear that, whilst there is a harmful impact from specific element of the development, this harm is limited to a specific part of the building and the impact of that harm is only in short distance views. When balanced against the overall impact of the development in the wider setting of the Conservation Area and World Heritage Site as a whole, the conclusion reached is that the harm (in its totality) is less than substantial. Having concluded that the harm is less than substantial, it then needs to be weighed against the public benefits of the proposal, including securing its optimum viable use, as required under para 134 of the NPPF.

In this instance the proposed development is considered to provide a public benefit by providing a total of 14 dwellings on a brownfield site that will add to the housing supply in the City of Bath thus contributing to the overall supply of housing in the district reducing the need to develop greenfield sites. Furthermore the development would introduce a building which, overall, is of a high quality, contemporary design that makes a positive contribution to local character and distinctiveness. Finally the development is considered to represent the optimum viable use of the site by maximising the available land to deliver an appropriate number of residential units.

In light of the above, when the harm to the Conservation Area and World Heritage Site is considered to be less than substantial, and is weighed against the public benefits cited, it

is concluded that the harm does not outweigh the public benefit of the scheme and therefore the refusal of the development on this point cannot be justified.

Whilst the proposal is within a Conservation Area, this does not preclude modern architecture or large buildings, subject to them being of a high standard of design. The UNESCO Mission Report of 2009 stated that high quality contemporary styles are desirable in Bath as it adds a new layer of quality to complement the existing excellence. It is considered that this proposal is in line with these recommendations.

Furthermore when a comparison is made against the original two storey inter war dwelling the overall design of the proposed building is considered to represent an enhancement to this part of the Bath Conservation Area and World Heritage Site through the introduction of a high quality building into the area. Finally for the reasons outlined above the proposal is also not considered to have a harmful impact on the Outstanding Universal Values of the World Heritage Site.

Whilst this application is judged on its own merits, as previously discussed the history of the site is a significant material consideration and cannot be ignored. It is worth highlighting that in comparison with the extant permission the design of the proposed building is largely unchanged apart from some minor changes to windows. The main area of amendment is to the side projections at fourth floor level and the roof design.

The side projections at fourth floor level have been made larger by reducing the size of the outdoor terraces that would have been provided at this level. Previously they projected 1.1m from the main side elevation and now they project 2.6m to meet the side elevation of the main side building.

With regard to the roof, this has been extended upwards by 0.6m from the extant ridge level in order to accommodate a plant room etc. at fifth floor level. This has further been supplemented with a number of ventilation stacks and rooflights. Solar panels have also been laid flat against the flat roofed elements of the building and laid against one side of the pitched roof.

Whilst the changes to the windows have raised concerns from English Heritage it is considered that, when comparing the two schemes, the extant scheme was better. However, whilst it is unfortunate that some of the windows have been amended, it is not considered that this change makes the design or appearance of the development unacceptable. A small amount of quality in its design has been lost but this is not considered to be significant when the building is viewed as a whole

Turning to the side projections at roof level, these were considered very carefully when the extant permission was granted and it was considered that they were acceptable. The projections have now been extended but Officers are of the view that they are at least equal to or even better in design terms than the extant permission, articulating the building and providing a detail of interest.

With regard to the size of the overall building it has been enlarged in total by 0.2m in width at lower ground, upper ground and first floor level, 0.9m in width at second and third floor and, by extending the side projections, reducing the areas of terracing, the width at fourth floor level has increased by 3.2m (albeit within the envelope of the building).

The proposed building would be 1m deeper in comparison with the extant permission.

With regard to the total height, the current building is c.1.2m taller than the extant scheme with the height of the gables only 0.45m higher than the extant gables.

As was stated in the Committee Report for the extant permission, the principle issue is not whether one building is bigger than another, but instead whether or not a proposed building of this scale fits in with the street scene and area in general. The height of the proposed building is considered to remain acceptable in terms of its relationship with its immediate neighbour and will allow for a, albeit small, step down which is characteristic of this part of the Conservation Area and World Heritage Site. In light of this its height, bulk and mass is considered to be acceptable and would sit in harmony with the surrounding buildings and streetscene.

The proposed development has also been subject to a significant level of objection in relation to concerns that the building has been increased in height compared with the previously refused schemes. To clarify this specific objection it can be confirmed that the previously permitted scheme was itself also higher than the refused scheme so it was always expected that a building, higher than that refused, would be constructed on this site.

IMPACT ON RESIDENTIAL AMENITY:

The directly adjoining properties to the north, east and west of the site are not in residential use, but instead are occupied by a medical centre and Hayesfield School. Whilst there are residential dwellings to the rear of the site, on Junction Road, there is approx. 40m distance elevation to elevation.

In light of this, with regard to the impact of the development on residential amenity, this proposal is not considered to have an unacceptable impact on the amenities of the neighbouring occupiers.

With specific regard to residential amenity, the previous proposals to redevelop this site, including the permission in 2009 and the refusal in 2007, also concluded that the proposals would not have an unacceptable detrimental impact on the residential amenity of neighbouring occupiers.

There is the potential for overlooking from the large roof terraces at first floor level, however the proposed planted beds along the shared side boundaries, in conjunction with a suitable landscaping scheme, would ensure that views out of the site are restricted by a planting screen.

It is acknowledged that there would be some overlooking from the balconies, although this would be at an oblique angle, and given that the neighbouring properties to the north, east and west are not in residential use this is considered acceptable.

The impact on the existing residential properties in Junction Road to the rear of the site has been considered and assessed in detail. The proposal includes two small rear balconies at fourth floor level along with habitable rooms located at the rear of the upper

floors of the proposed building and it is acknowledged that some overlooking would inevitably occur. The terraces at fourth floor level were proposed, within the extant scheme, to wrap around the projection at fourth floor level allowing future residents the ability to overlook neighbouring dwellings from a high level. The removal of a significant part of the terrace by expanding the side projections to increase the internal living accommodation is considered to reduce the incidence of overlooking to the benefit of residential amenity.

However, due to the significant distance of approx. 40m between the front elevations of junction Road and the rear elevation of the proposed development, it is concluded that there would not be a significant or unacceptable detrimental impact in terms of loss of privacy or amenity as a result of direct overlooking or overshadowing from the proposal.

A specific concern from a local resident has been that the development as built is causing a high level of glare from the sun being reflected off the windows. This objection is noted however as the issues of glare will only really occur at certain times of year in the winter months, due to the sun being low in the sky, and given the fact that almost every reflective surface on any building is capable of causing sporadic incidents of glare, it is not considered to be unduly detrimental to the extent of warranting a refusal of the application. The incidence of glare will change with time, seasons and weather conditions and will be further mitigated by planting along the boundary with Junction Road which could be negotiated to provide an appropriate but thicker screen to reduce the incidence of glare. Environmental Health have also confirmed that light glare from the sun reflecting is not a statutory nuisance.

In comparison with the extant permission, the number of windows and their proximity to neighbouring dwellings have not changed to such a degree as to have any further impact on residential amenity. The increase in size of the building is also not considered to have any further impact on amenity by reason of overbearing impact or overshadowing.

The terrace at first floor level is proposed to be 0.45m lower and the impact of this on the level of overlooking caused is marginal and would in any case still be adequately overcome by planting. The terrace at third floor is substantially unchanged.

Although a specific issue with regard to the glare of sunlight reflecting on the windows of the development has been raised, this impact is unchanged from the extant scheme. The glare would have been experienced with the extant scheme primarily because the location of the windows and the positioning of the rear elevation is relatively unchanged in comparison with the extant scheme.

Overall it is considered that impact of the development on the residential amenity of surrounding occupiers would be largely unchanged, reduced in specific areas and therefore would remain acceptable.

LANDSCAPING AND TREES:

The proposed development has no further impact on trees than the extant scheme and the necessary tree protection fencing is already in place. Therefore, subject to conditions

to retain the tree protection fencing during construction, it is considered that the impact on the tree within the adjacent Hayesfield Girls School site is acceptable.

With regard to landscaping of the site, the submitted plans show that the communal garden areas are to be laid out in a formal style and, whilst there is a limited amount of detail at this stage, this can be dealt with by condition.

It is therefore considered that the proposal will preserve this part of the Conservation Area, subject to appropriate conditions and the submission of a high quality landscaping scheme.

PLANNING OFFICER ASSESSMENT OF HIGHWAY ISSUES:

The provision for vehicular access and parking to serve the proposal is considered acceptable in the context of the site's location and accessibility by non-car modes. The access on to Upper Oldfield Park is also considered acceptable, the access onto Junction Road is intended for use only for service and maintenance, and, subject to a condition to control this, the proposal is considered acceptable in this regard.

The application includes the provision of membership of the local car share club for future residents on a lifetime basis at a ratio of two memberships per flat. Furthermore, space has been provided within the site for a parking space for the shared car. This is considered to be acceptable and will form an obligation within a S106 legal agreement.

The proposed development is therefore considered to be acceptable in terms of highway safety subject to an obligation in a S106 legal agreement and conditions.

SUSTAINABILITY AND RENEWABLE ENERGY:

The development is proposed to be constructed to Code for Sustainable Homes Level 4 and includes the following measures to achieve energy efficiency and sustainability including:

- Sustainable urban drainage systems to reduce water run off rates
- Sustainable building materials, in conjunction with solar passive gain, to reduce energy needs of the buildings
- Energy high performance windows
- Energy efficient lighting design
- Use of renewable technology including solar PV panels

The incorporation of sustainable construction features is considered to be in accordance with Core Strategy policy CP2 and the Sustainable Construction & Retrofitting SPD.

REFUSE COLLECTION:

A bin storage area is proposed at basement level with refuse collection taking place from Upper Oldfield Park, the same as the existing dwelling.

The Waste Services Section of the Council has raised concerns that the proposed bin storage area could not be serviced for collection and that its adjacent access point appears to use steps to the outside ground level.

Whilst these concerns have been considered, the specific location of the bins and the ease in which they can be moved to a kerbside location for collection, relates more to the operation of the building and is a matter to be overcome through the day to day management of the building.

PROVISION OF AFFORDABLE HOUSING AND DEVELOPER CONTRIBUTIONS:

The proposal is within the Bath area where, under Policy CP9 of the adopted core strategy, 30% provision of affordable housing is required.

Furthermore a contribution of £20,873.26 towards education provision has been requested by Education Services and £41,202.84 for Parks and Open Spaces.

However the application has been accompanied by a Viability Assessment Report, which sought to demonstrate that the seeking of any affordable housing provision or S106 contributions would make the development unviable.

Para 016 of the NPPG states 'where the deliverability of the development may be compromised by the scale of planning obligations and other costs, a viability assessment may be necessary.'

Para 019 goes on further to state 'where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations.'

'This is particularly relevant for affordable housing contributions which are often the largest single item sought on housing developments. These contributions should not be sought without regard to individual scheme viability. The financial viability of the individual scheme should be carefully considered in line with the principles in this guidance.'

The lack of affordable housing provision has been met with concern by Housing Services with the view expressed that the scheme is contrary to Policy CP9 of the Core Strategy. That said, on site affordable housing provision was always going to be problematic as the proposed layout did not lend itself to the provision of affordable housing nor were the appropriate affordable housing standards going to be met, part of which is due to the high service charges that a scheme like this would demand.

The development was initially designed when a scheme of 14 dwellings would have been below the relevant thresholds over which an affordable housing provision would have been required.

Furthermore, Housing Services, in acknowledging that they are happy to discuss a Commuted Sum consideration in lieu of on-site provision, are obviously of the view that on site provision is not absolutely necessary to make the scheme acceptable.

The submitted viability assessment has been subject to an independent assessment which has found that it has been demonstrated that the development is unviable even before the seeking of any affordable housing provision or S106 contributions.

Notwithstanding, by the time this application is considered by Development Control Committee the Community Infrastructure Levy (CIL) will have been adopted by the Council and the development will therefore be CIL liable. CIL will be applied in the event that permission is granted. An indicative CIL calculation can be presented by way of an update report once CIL comes into effect however the final figure would be dependent on permission being granted.

As a result of CIL, contributions such as Education and Parks will be included in the CIL charge. This means that a viability argument can now only be made on the basis that the provision of affordable housing provision would make the development unviable.

The National Planning Policy Framework sets out a core planning principle that in decision-taking local planning authorities should encourage the effective use of land by re-using land that has been previously developed. To incentivise the bringing back into use of brownfield sites, the Government confirms (through the NPPG) that local planning authorities should take a flexible approach in seeking levels of planning obligations and other contributions to ensure that the combined total impact does not make a site unviable.

As it has been demonstrated that the scheme is unviable even before taking into account affordable housing provision or S106 contributions, the addition of the CIL charge into the costs of the development would only serve to make the development more unviable. Officers therefore remain satisfied that seeking any affordable housing provision would make the development even more unviable and therefore, in line with the NPPF and NPPG, the Council is allowed to take a more flexible approach in not seeking commuted contributions.

The lack of affordable housing provision/commuted sum for reasons of viability make the application contrary to Policy CP9 of the Core Strategy and therefore the application has been advertised as a departure in line with the statutory requirements set out in the Development Management Procedure Order, the consultation period for this is due to expire on 16 April 2015.

CONCLUSION:

The principle of a building of a similar scale, height and width in this location has already been established, which, as stated, is a material consideration that has significant weight and is a strong fallback position.

Notwithstanding this the application now being considered has to be considered on its merits.

The proposed development has been met with significant levels of objection by local residents and, whilst these concerns have been taken into account, Officers are nevertheless of the view that the proposed development is acceptable and would not have a detrimentally harmful impact on the street scene. Furthermore it is considered that the

development would preserve the character of this part of the Bath Conservation Area and not have a harmful impact on the Outstanding Universal Values of the World Heritage Site.

It is the case that the building is marginally larger than the building permitted under the extant permission but, considering the overall size of the building, as is stated above, and is repeated here for completeness, the principle issue is not whether one building is bigger than another, but instead whether or not a building of this scale is acceptable with the street scene and preserves the character and appearance of the Conservation Area. The height of the proposed building is considered to remain acceptable in terms of its relationship with its immediate neighbour (Hayesfield School), retains the step between building heights and maintains the gap between buildings which is characteristic of this part of the Conservation Area and World Heritage Site. In light of this the height, bulk and mass of the development is considered to be acceptable and would sit in harmony with the surrounding buildings and streetscene.

The proposed development is not considered to have an adversely harmful impact on the residential amenity of either the future occupiers or those neighbouring the site. An issue has been raised with regard to glare from windows within the development but it is considered that this would only occur at certain times of the year and in any case can be adequately mitigated by increased planting along the boundary with Junction Road.

The proposed development is also not considered to have a harmful impact on highway safety subject to an obligation in a S106 legal agreement and conditions.

The proposed development, under Policy CP9 of the Core Strategy, has triggered a requirement for affordable housing provision which Housing Services have agreed does not need to be provided on site but could be met through a commuted sum. In addition to this, contributions have also been requested under the Planning Obligations SPD. In response the application has been accompanied by a Viability Assessment Report, which, having been independently assessed and verified, has demonstrated that the development is unviable even before the above requirements have been taken into account.

Of course by the time this application is considered CIL will have been adopted and a CIL charge will therefore be payable instead of individual contributions. This only leaves affordable housing provision to be considered under a viability argument. Notwithstanding this, as has been explained in more detail within the report above, Officers remain satisfied that the development is unviable and therefore the seeking of any affordable housing provision, either on site or a commuted sum, would make the development even more unviable. In line with the NPPG, and in light of the fact that this development has been shown to be unviable the Council are not therefore requiring the developer to provide a commuted sum in respect of affordable housing.

Finally it should also be borne in mind that the building subject to the extant permission was tested against policies that remain relevant and found to be acceptable in this part of the Bath Conservation Area and World Heritage Site. The building on this site was always going to be visible within short and medium range views.

In light of this great care has been taken to not only consider the proposed development on its merits but also in light of the extant permission. This is a balanced recommendation but, having carried out this careful assessment Officers are of the view that, in comparison, the amendments to the size and design of the building would not warrant refusal of retrospective planning permission and whilst the enlarged fourth floor does have an impact on the appearance of the building, it is not considered to be an unacceptable one.

Overall Officers are of the view that the development is acceptable. Limited concerns remain in respect of some details of the building particularly at roof level however in the overall context of the site, its setting and the area as a whole, it is concluded on balance that the development preserves the Conservation Area and does not detrimentally harm the Outstanding Universal Value of the World Heritage Site or the street scene. It is therefore recommended that retrospective permission is granted subject to the completion of a legal agreement and subject to conditions.

RECOMMENDATION

PERMIT

CONDITIONS

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

The provision of parking space for the local car share club and membership of the aforementioned club for future residents on a lifetime basis at a ratio of two memberships per flat

B Wait for the consultation period for advertisement as a departure from the Development Plan to expire and then

C Subject to the prior completion of the above agreement, authorise the Group Manager to PERMIT subject to the following conditions:

1 No occupation shall commence 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 new walls, fences and other boundary treatment, 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.

2 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.

3 The protective fences erected around the Pine tree on the Junction Road boundary, approved under Condition 4 of planning permission Ref: 07/02461/FUL, and discharged under application Ref: 11/05409/COND, which is located within Hayesfield School site, shall not be removed until the completion of the development. The area within the protected areas are to be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for arboricultural or landscape works as otherwise approved.

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

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

Reason: In the interests of amenity and road safety.

5 Before the dwellings hereby approved are first occupied, a properly consolidated and surfaced access (not loose stone or gravel) shall be constructed, details of which shall have previously been submitted to and approved by the Local Planning Authority.

Reason: In the interests of highway safety.

6 No occupation shall commence until the cycle parking indicated on the approved plans has been provided and shall thereafter be kept clear of obstruction and shall not be used other than for the parking of cycles in connection with the development hereby permitted.

Reason: In the interests of sustainable development.

7 The vehicle access/exit from Junction Road shall not be used other than for servicing and emergency vehicles.

Reason: In the interest of Highway Safety.

8 Before the dwellings are first occupied, new resident's welcome packs shall be issued to purchasers which should include information of bus and train timetable information, information giving examples of fares/ticket options, information on cycle routes, a copy of the Travel Smarter publication, car share, car club information etc. The packs shall have previously been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of sustainable development.

9 No occupation shall commence until 1:50 scale drawings of the following are submitted and approved in writing by the Local Planning Authority:

- Doors and windows, to include colour details of frames and lintel and cill details;
- Any external vents and flues;

The development shall thereafter be carried out in accordance with the approved details.

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

10 Notwithstanding the approved plans and the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no further satellite dishes or microwave antennae shall be attached to any building or erected within the site without the prior written permission of the Local Planning Authority.

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

11 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no lines, mains, pipes, cables or other apparatus shall be installed or laid on the site other than in accordance with drawings first submitted to and approved in writing by the Local Planning Authority.

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

12 No occupation shall commence until an elevation and 1:50 scale plans of the proposed front boundary wall and stone piers has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out strictly in accordance with the approved details prior to occupation.

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

13 Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2008 (or any order revoking and re-enacting that Order with or without modification) no further solar PV or solar thermal shall be installed on the building hereby approved unless a further planning permission has been granted by the Local Planning Authority.

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

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

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

PLANS LIST:

1 This decision relates to drawing nos 492:S:001B, 492:5:000, 492:BR:02H, 492:BR:03H, 492:BR:04H, 492:BR:05H, 492:BR:06H, 492:BR:07H, 492:BR:08G, 492:BR:09H, 492:BR:12D, 492:BR:13H, 492:BR:14L, 492:BR:15L, 492:BR:16L, 492:BR:17L.

492:C:010, 492:C:011.

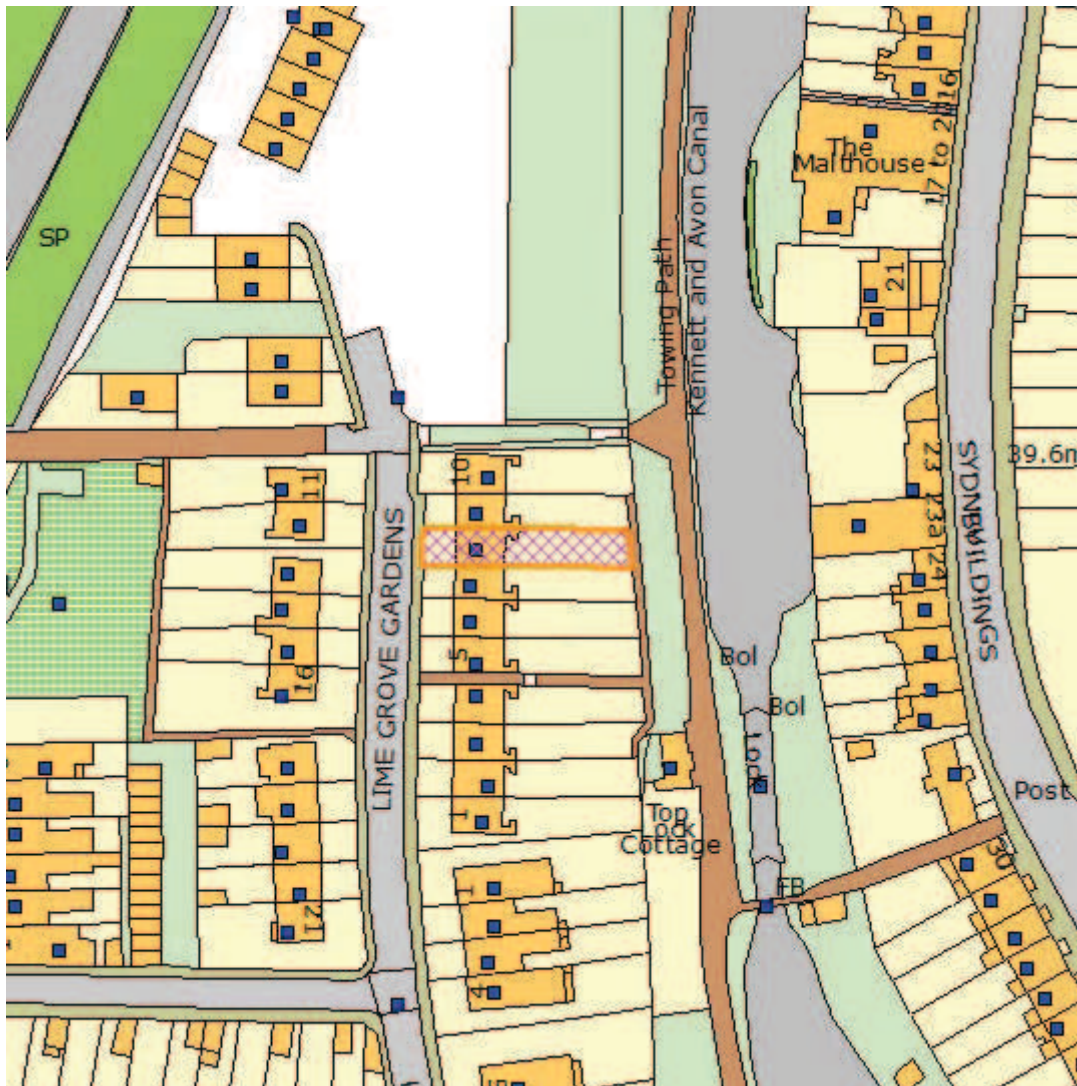
2 ADVICE NOTE:

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

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

4 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 revised proposals was taken and consent was granted.

Item No: 02
Application No: 14/04373/FUL
Site Location: 8 Lime Grove Gardens Bathwick Bath And North East Somerset
 BA2 4HE



Ward: Bathwick **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Nicholas Coombes Councillor David Martin
Application Type: Full Application
Proposal: Erection of a single storey extension providing kitchen and a new second floor dormer
Constraints: Agric Land Class 3b,4,5, Conservation Area, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,
Applicant: Ms Megan Yakely
Expiry Date: 18th November 2014
Case Officer: Stuart Ashford

REPORT

REASON FOR REFERRING THIS APPLICATION TO COMMITTEE

Councillor Martin requested that if the application were to be recommended for approval it be considered by the Development Control Committee concerning issues of potential overdevelopment and loss of amenity issues to neighbouring properties in a conservation area.

Site Description and Proposal:

No.8 Lime Grove Gardens is a small mid-terrace stone dwelling forming part of a row of six houses. Built in the 1930's each property has a narrow rear curtilage that rises steeply eastwards to meet the canal towpath behind. Rear extensions and rooflights are present on a number of houses along the row. Lime Grove Gardens is close to the historic centre of Bath and the Kennet and Avon Canal. The site falls within the designated local Conservation Area and the World Heritage Site. Behind the terrace lies the small listed building 'Top Lock Cottage' and beyond this across the canal are the listed buildings of Sydney Gardens.

This application proposes two extensions to the property in the form of (1) a rear extension to provide additional living space and (2) a rear flat-roofed dormer to facilitate a loft conversion.

Planning History: 14/01014/FUL: Permit - Erection of single storey outbuilding (not yet implemented to date).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Summary of Consultation/Representations:

Occupants of No.s 5, 6, 7 and 9 Lime Grove Gardens: Object to the proposed scheme. Summarised as:

- Overdevelopment of the plot and the dwelling
- Adverse visual, character and historic impact
- Loss of neighbouring residential amenity through overshadowing and overbearing
- Proposals not in keeping with the dwelling, the terraced row and the streetscene.

Occupant of 42 Sydney Gardens: Object:

- Overdevelopment, precedent and adverse impact on listed buildings.

Bath Preservation Trust: Comment:

- The setting of the canal and listed properties in Sydney Buildings should not be harmed.

Councillor Martin:

- If the case officer is minded to recommend approval, I would like the application to be determined by the Development Control Committee. This is because the

application raises potential overdevelopment and loss of amenity issues to neighbouring properties in a conservation area.

Planning Chair Gerry Curran:

- Agreed that the case should be considered by the Planning Committee

POLICIES/LEGISLATION

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Council's Development Plan now comprises: Core Strategy and Saved Policies in the B&NES Local Plan (2007)

The following policies of the Bath and North East Somerset Core Strategy are relevant to the determination of this application:

B4 - The World Heritage Site and its Setting

The following saved policies of the Bath and North East Local Plan, including minerals and waste policies, adopted October 2007 are also relevant to the determination of this application.

D2 - General Design and public realm considerations

D4 - Townscape considerations

BH6 - Development within or affecting Conservation Areas

The National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are also material considerations. The following sections of the NPPF are of particular relevance:

Section 7: Requiring good design

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area.

OFFICER ASSESSMENT

A number of objections have been received from several neighbouring properties on the same terrace regarding unsympathetic design, loss of amenity and adverse heritage and historic building impacts.

The proposed dormer and the extension are therefore each considered in terms of their (1) design and character impact; (2) neighbour amenity impact and (3) wider settings impact (Conservation Area / World Heritage Site).

In 2014 permission was granted for a rear single-storey detached outbuilding. To date this has yet to be implemented. A number of the objections received make references to issues concerning that case and the decision-making process. However, this report considers this application and the relevant merits, considerations and issues.

(1) Design and Character Impact:

A small existing lean-to rear extension is to be demolished to make way for a replacement. The proposed extension would have a height of 3 metres, a width of 5.4 metres and a projection of 3.5 metres. These dimensions are considered proportionate, subservient and acceptable in size and scale. The proposed design, although contemporary in style and fenestration, is also acceptable and it will not result in an adverse visual impact or character harm to the dwelling, the row or the streetscene.

The expanded footprint can be accommodated within the curtilage without adverse impact to the current and future amenity usage. Although the choice of walling materials does not match the existing stone the proposed boards are acceptable providing representative samples and colours are agreed via a planning condition.

Although the properties are not listed they do fall within the designated Conservation Area and the World Heritage Site. Dormer windows are not specifically prohibited in principle however and they can be considered on their individual merit, design and amenity impacts.

The dormer initially proposed raised officer concerns regarding its unsympathetic size and scale. A revised and reduced scheme was then submitted. This reduced the width to 4 metres with a height of 1 metre. It is now considered to be sufficiently subservient in size, scale and siting. It will sit below the ridge, above the eaves and be set-in in from both neighbouring roof boundaries.

It will sit centrally and reflect the fenestration layout below and it will not result in unacceptable visual or character harm to the dwelling or the streetscape. Although it will alter the profile of the existing terraced roofscape it will not appear strikingly discordant or incongruous. The same materials as the extension are proposed and similarly, a condition should be applied in order to obtain the most sympathetic visual match.

(2) Neighbour Amenity Impact:

The proposed extension is not quite full width and will sit just inside each boundary separation. It's slight degree of set-back, single-storey nature and acceptable dimensions ensure no physical overbearing impacts either side. No side windows are proposed and the rear windows will only offer existing and restricted views. Therefore no adverse overlooking or loss of privacy issues will result to either neighbour.

The neighbouring property No.7 is situated directly to the south and it will continue to receive its current level of eastern and southern light without any overshadowing impacts.

No.9 is situated to the north and has a rear conservatory sited the other side of the tall wall. It is possible that there may be a small reduction in the amount of southern light reaching the neighbouring conservatory.

The additional length (0.5m over that allowed without planning permission) may also result in some overshadowing of the curtilage for a short part of the day. However, neither the height nor the length of the proposed extension are considered to result in an impact constituting an unacceptable level of harm through loss of neighbouring residential amenity.

The small scale, centrally sited dormer will not result in any overbearing, overshadowing or loss of light. The dwellings forming this row have a close and compact relationship with cross-curtilage views. The proposed dormer windows will not offer any new or intrusive views and no adverse overlooking impacts or loss of privacy will result.

(3) Wider Setting:

The rear extension is of a relatively small scale and low-level rear-siting with limited visibility outside of the rear curtilages. The dormer itself will have a more pronounced visibility and greater profile. However, as discussed, it of a subservient size and scale and it will be set against the taller ridge of the terraced row in an urban environment.

The rear of the terraced row is well screened by fencing and mature boundary hedging which much restricts views from the canal towpath to the east. Similarly, the path and steps to the north of the row would only allow a partial and distanced glimpse in passing. The modest size and scale of the proposals, their rear-siting and appropriate built context much mitigates any adverse impact. Neither is considered to result in unacceptable harm to the Conservation Area or the World Heritage site or its Setting.

Concerns have been raised about the wider impacts of the dormer on local protected historic buildings and fabric. Top Lock Cottage (listed) to the rear is a small dwelling associated with the listed lock gates. Both are set at a higher land level and distanced by some 40 metres. The listed dwellings of Sydney Gardens are distanced by over 70 metres at the closest point and situated across the canal. Neither development is considered to have an adverse visual or character impact on either listed grouping.

Due consideration has been given to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act in assessing the proposals and the development will not be harmful to heritage assets on or adjoining the site. In addition consideration has been made of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act which requires special attention be paid to the preservation or enhancement of the character of the surrounding conservation area. In this case the scheme is considered to preserve the character and appearance of the conservation area.

Cumulative impact:

The proposed dormer and kitchen extension constitute proportionate and sympathetic extensions. Taken together the combined increase in volume and the additional footprint are not considered to constitute harmful overdevelopment of the dwelling or the plot either. Objections have been made concerning the cumulative impact including the separate

permitted outbuilding. This element has not yet been constructed and it may not be. If that development does occur however it is still not considered that it will result in unacceptable and harmful disproportionate overdevelopment of the site.

Summary:

Therefore, as both aspects of the proposal are considered acceptable in design and amenity impact terms and neither will result in an unacceptable harm to the Conservation Area or the World Heritage Site, the application is recommended for approval.

RECOMMENDATION

PERMIT

CONDITIONS

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

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

2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no windows, roof lights or openings, other than those shown on the plans hereby approved, shall be formed in the at any time unless a further planning permission has been granted.

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

3 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.

4 The proposed dormer window serving the bathroom shall be glazed with obscure glass and permanently retained as such.

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

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

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

PLANS LIST:

Proposed Plans: Site Plan and Drawing numbers - 273 S 010, 273 S 100, 273 S 101, 273 S 300, 273 S 301, 273.P.111 P2, 273.P.210 P2, 273.P.310 P2, 273.P.311 P2.

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 the delegated report, a positive view of the submitted proposals was taken and permission was granted.

Bath & North East Somerset Council	
MEETING:	Development Control Committee
MEETING DATE:	8 April 2015
TITLE:	ENFORCEMENT UPDATE REPORT: LAND AT FORMER FULLERS EARTH WORKS, FOSSEWAY, COMBE HAY, BATH
WARD:	Bathavon West
AN OPEN PUBLIC ITEM	
<p>List of attachments to this report:</p> <ul style="list-style-type: none"> • Annex A - 2013 Second Bite Enforcement Notice dated 21/02/13 • Annex B – 2012 Enforcement Notice 02 dated 30/5/12 (scaffolding yard). • Annex C – 2012 Enforcement Notice 03 dated 30/5/12 (stonemasons) • Annex D – Copy of email dated 23/12/2014 from the Council's Consultant to the Landowner's Agent requesting information, together with a copy of a letter dated 19/01/2015 from the Landowner's Agent's in response. • Annex E – plan showing where the stonemasons now operate, where the skips are stored, where the bays for the concrete batching are located (also showing area A) • Annex F - plan showing hardstanding and fence as proposed in RWF/reserved matters application and relating to the scaffolding and unauthorised stonemason's yard (also showing areas A and E) • ANNEX G – Summary of the Mr. Justice Hickinbottom judgement in the High Court of 3 March 2015 in respect of the Judicial Review proceedings. • ANNEX H - Copy letter to the Planning Inspectorate from the Landowner's Agent dated 11 March 2015 	

1. UPDATE

- 1.1 As the committee will be aware, outline planning permission (14/00839/EMINW) for the Residual Waste Facility (RWF) was granted on 04/08/2014.
- 1.2 The Judicial Review of the above permission by Protect Bath.org and Victims of Fullers Earth Ltd was dismissed on the 3 March. Summary attached at Annex G.
- 1.3 The Landowner's Agent informed the Inspector at the pre-inquiry meeting last September (when the enforcement notice appeal inquiry was put in abeyance pending the outcome of the High Court case) that, if Protect Bath/Victims' High Court claim was dismissed, the Landowner's appeal against the "second bite" enforcement notice would thereupon be withdrawn. Officers have written to the Landowner's agent, copied to the Planning Inspectorate, seeking confirmation that the appeal has been/is imminently to be withdrawn.
- 1.4 Officers have also been in discussions with the Landowner's Agent to discuss compliance with the Enforcement Notices 2 and 3 and changes on the Land which effect the second bite Enforcement Notice. The Landowner's Agent wrote to the Planning Inspectorate on 11 March 2015 advising that they are awaiting the outcome of this Meeting before they decide whether or not to withdraw their appeal in respect of the Second Bite Notice. (Please see Annex HI)
- 1.5 The Committee is being asked to consider the content of this report, the expediency of the current enforcement action in respect of Enforcement Notices 2 and 3 (see Annexes B and C) and the effect the changes on the Land may have on the second bite Enforcement Notice dated 21 February 2013 (see Annex A).

2 ENFORCEMENT NOTICES

- 2.1 There are currently three Enforcement Notices in place on the Land, as follows:

- Enforcement Notice No 2 dated 30 May 2012;
- Enforcement Notice No 3 dated 30 May 2012; and
- The second bite Enforcement Notice dated 21 February 2013. This Notice is subject to an Enforcement Notice appeal which has been held in abeyance by the Planning Inspectorate pending the outcome of Judicial Review proceedings.

Enforcement Notice 2

- 2.2 This relates to change of use of the Land from agriculture to use for the storage, distribution and repair of scaffolding.

- 2.3 The steps required to comply with Enforcement Notice 2 are as follows:

- i) *Permanently cease using the Land outlined in red on the plan "2012 Enforcement Notice02 detail plan" for the storage, distribution and repair of scaffolding – Complied;*
- ii) *Permanently remove from the Land referred to in i) above all scaffolding, steel containers, storage cases, machinery and vehicles – Complied;*

- iii) *Demolish all fencing and remove all resultant materials from the Land – some boundary fencing has been retained to maintain security at the site;*
- iv) *Dismantle all concrete, hardstandings, underlying sub bases and remove the resultant material from the Land – not Complied;*
- v) *Restore the Land to its condition before the breach took place and level with topsoil – not Complied.*

2.4 In respect of Enforcement Notice 2 the scaffolding use has now ceased. The remaining steps are required to be taken for the Notice to be complied with:

- the removal of the concrete hardstandings
- sub bases
- boundary fencing and
- the area to be topsoiled.

Enforcement Notice 3

2.5 This relates to the change of use from agriculture to use for stonemasonry including the preparation, cutting, forming and storage of stone.

2.6 The steps required to comply with Enforcement Notice 3 are as follows:

- i) *Permanently cease using the Land outlined in red on the plan “2012 Enforcement Notice03 detail plan” for stonemasonry including the preparation, cutting, forming and storage of stone – Complied;*
- ii) *Permanently remove from the Land referred to in i) above all stone, steel containers, pallets, machinery and vehicles – partially Complied;*
- iii) *Demolish all fencing and remove all resultant materials from the Land – some boundary fencing has been retained to maintain security at the site;*
- iv) *Dismantle all concrete, hardstandings, underlying sub bases and remove the resultant material from the Land – not Complied;*
- v) *Restore the Land to its condition before the breach took place and level with topsoil – not Complied.*

2.7 In respect of Enforcement Notice 3 the stonemason use has now ceased, however, a small scale stonemason operation cutting and forming stone is now located within Area A (see Annex E). Area A has an historic B2 fallback use and the nature of the current stonemasonry operation is considered to fall within use class B2 and therefore officers consider that no enforcement action should be taken at this time in its current location.

2.8 The remaining steps required for compliance with Notice 3 are:

- the removal of the concrete hardstandings;
- sub bases;
- boundary fencing; and
- the area to be topsoiled.

Second Bite Enforcement Notice

2.9 This relates to the change of use from agriculture, residential use (of the dwellings and Land at 1 and 2 The Firs) and general industrial use (B2) to the mixed use of the Land for:

- *Agriculture;*

- Residential use of dwellings and Land at 1 and 2 The Firs;
- Waste processing (within use class use class B2) and waste storage;
- Concrete production and batching (within use class B2) including aggregate storage;
- Green-waste storage (plant material and wood);
- Skip hire and storage (sui generis);
- Scaffolding storage and repair (sui generis);
- As a building/engineering/stonemason contractors yard (sui generis);
- Siting and use of a hot food take-away trailer; and
- Storage of an advert trailer, metal cages and other scrap items.

2.10 The steps required to comply are as follows:

- i) Permanently cease using the Land (save for that area referred to as Area A, see Plan at Annex B) for waste processing (within Use Class B2) and/or any other B2 uses;
- ii) Permanently cease using the Land for storage;
- iii) Permanently cease using the Land for storage, distribution and repair of scaffolding (sui-generis use);
- iv) Permanently cease the using the Land as a contractors' yard for the storage of stone and equipment as well as the preparation, cutting and forming of stone (sui generis use);
- v) Permanently cease using the Land for the storage of green waste;
- vi) Permanently cease using the Land for concrete production, batching and storage (within use class B2);
- vii) Permanently cease using the Land for skip hire and storage (sui generis);
- viii) Permanently remove from the areas (situated on the Land) marked Area D, Area E and Car Park (see Plan at Annex B) all stored and processed sands, aggregates, stone, top-soils, sub-soils, green waste and waste awaiting processing such as hardcore rubble, road scalping, timber, pallets, plastics, skips, storage containers, scaffolding, racking, metal sheeting, gas bottles, fencing, road cones, tyres, windows and door frames from the Land;
- ix) Demolish and permanently remove from the Land all material comprising the bund along the north east boundary of the Land in the approximate position indicated by the black dashed line shown on the Plan (see Annex B) and reduce the ground level to that of the adjoining Land;
- x) Excavate and permanently remove from the Land all compacted hard surfacing and underlying sub bases, fences and storage bays situated on the Land from the Land (other than those compacted hard surfaces and underlying sub bases, fences and storage bays situated within Area A of the Plan (see Annex B);
- xi) Restore the Land to its condition before the breaches set out in paragraphs (i) to (vi) above took place by levelling with top soil to match the level of the adjoin Land.
- xii) Permanently remove the hot food takeaway trailer from the Land in the approximate position marked "HF" on the Plan (see Annex B); and
- xiii) Permanently remove the advert trailer, metal cages and other scrap items from the Land.

3 DELIVERY OF RESIDUAL WASTE FACILITY

- 3.1 The Reserved Matters application for the RWF permission was received by the Council on 18 February 2015 and validated on 9 March 2015. The submitted layout for the Land confirms that the areas of hardstanding proposed in the RWF development coincide with the majority of the areas of existing hardstandings on the Land, see Annex F, whose removal is required by the Enforcement Notices on the Land.

Effect of RWF on Enforcement Notice 2 (scaffolding)

- 3.2 As referred to above the use of the Land for scaffolding has now ceased. However, the Reserved Matters application submitted for the RWF development confirms that the majority of the hardstanding and the remaining boundary fencing is proposed to be situated in the same location as that contained within Enforcement Notice 2 which relates to the unauthorised change of use of the Land from agriculture to use for the storage, distribution and repair of scaffolding.
- 3.3 Officers are of the view that no purpose would be served by requiring the removal of existing hardstandings only for them to be replaced with new hardstandings on implementation of the RWF. Further, officers have been advised by the Landowner's agent that the boundary fencing needs to be retained in order to maintain security on the Land pending the development of the RWF. In respect of the small area of existing hardstanding that does not coincide with the area of proposed hardstanding it is proposed that this is removed as part of the implementation of the landscaping scheme for the RWF. Officers have concluded therefore that it would not be expedient to enforce the removal of the existing hardstanding and remaining boundary fencing provided that the RWF development and landscaping is implemented within a reasonable timescale.
- 3.4 18 months is considered to be a reasonable timescale for the delivery of the RWF having regard to the steps required for the implementation of the RWF. This includes time for a decision to be reached on the recently submitted reserved matters application, the construction of buildings and the implementation of the landscaping scheme.

Effect of RWF on Enforcement Notice 3 (Stonemasonry)

- 3.5 As referred to above the use of the Land for stonemasonry in this location has now ceased. However, the Reserved Matters application submitted for the RWF development confirms that hardstanding and boundary fencing is proposed to be situated in the same location as that contained within Enforcement Notice 3. This relates to the change of use from agriculture to use for stonemasonry including the preparation, cutting, forming and storage of stone.
- 3.6 Officers are of the view that no purpose would be served by requiring the removal of existing hardstandings only for them to be replaced with new hardstandings on implementation of the RWF. Further, officers have been advised by the Landowner's agent that the remaining boundary fencing should be retained in order to maintain security at the Land pending the development of the RWF. Officers have concluded that it is not expedient to enforce the removal of the existing hardstanding and remaining boundary fencing provided that the RWF development is implemented within a reasonable timescale.

- 3.7 18 months is considered to be a reasonable timescale for the delivery of the RWF having regard to the steps required for the implementation of the RWF. This includes time for a decision to be reached on the recently submitted reserved matters application, the construction of buildings and the implementation of the landscaping scheme.

4 SECOND BITE ENFORCEMENT NOTICE

- 4.1 The requirements of the second bite Notice are set out at paragraph 2.10 above. This Notice has been held in abeyance by the Planning Inspectorate pending the outcome of the Judicial Review proceedings relating to the grant of outline planning permission for the RWF (14/00839). The Landowner's agent has been in contact with officers on a without prejudice basis as to what steps would be necessary to comply with the Notice. In particular with regard to the future of the concrete batching plant and the skip hire business.
- 4.2 In considering the expediency of Enforcement action in respect of the concrete batching operations under the second bite Notice it is important to be aware of the circumstances on the Land that now exist..
- 4.3 The current concrete batching operation (which is operating as a B2 use) on the Land is located primarily within Area A. However some material storage bays associated with the operation are located on Area E.
- 4.4 Therefore, subject to the Landowner removing the material storage bays from Area E, officers do not consider that it is expedient to enforce this element of the second bite Notice as it would involve enforcing against a B2 use on part of the Land (Area A) which the Council accepts has an historic B2 fall back use and which would, on any view, have a lawful use if the notice were to be complied with fully.
- 4.5 In respect of the skip hire business circumstances have also changed and it is therefore necessary to consider the expediency of enforcement action having regard to the circumstances that exist on the Land now. Previously in 2009 officers had reported to committee as follows:

"The use of land for a skip hire business would normally be considered as a sui generis use, not falling within any particular use class. It is possible that an element of the skip use at the site could be ancillary to the waste processing use. If skips are brought on to site, emptied and then taken away by the individual operators that would be part of the waste recycling use. This is what would normally be expected with skip operators who would have their own bases elsewhere. The skips would be transported from the site where they have been filled, brought for emptying and then taken away. If skips remain on site temporarily, perhaps if the skip hire operator for some reason has not collected the skip for emptying, it is possible that some would remain on site which would not in itself constitute a materially different use. Similarly, if the recycling company had its own skip-hire business if run at a low-level relative to the recycling use this may also be considered as ancillary. However, at this site, there are clearly a number of companies which do not just bring skips for emptying and then take them away again. They appear to be being stored at the site. The degree to which this takes place is considered substantial and the site appears to be an operational base for the skips, a primary "sui generis" use in its own right."

- 4.6 At that time it was clear that because of the number of different companies that appeared to be using the Land as a base for hiring and collecting skips and the number of skips being stored there that this use was not ancillary to the B2 waste processing use which was being carried out on area A by a separate company.
- 4.7 However, the situation has now changed and officers have been advised by the Landowner's agent that the company now on the Land offering skips for hire is a sister company of the company running the B2 waste processing operation. Accordingly officers understand that the skip hire business is only used in conjunction with the B2 waste processing business. The information submitted shows skip deliveries and collections, which demonstrates that skips are returning to the Land for their contents to be processed and are not taking waste elsewhere for processing or disposal. The Schedule showing three months data of skip deliveries, collections and exchanges is a background paper to this Report. Annex D of this Report contains a copy of the email from the Council's Consultant, together with a copy of the Landowner's Agent's response which includes a summary of the number of deliveries, collections and exchanges during a three month period. Moreover, there is no available evidence suggesting that standalone skip hire businesses are now operating from the Land. Officers have therefore concluded that the current skip hire business as it presently operates could be described as ancillary to the B2 waste processing operation.
- 4.8 Therefore based on the nature of the skip hire business as it currently operates from the Land, officers are of the view that the skip hire business is ancillary to the B2 waste processing operation and that it is not therefore considered expedient to continue to enforce in this regard.
- 4.9 Finally, as with Enforcement Notices 2 and 3, there are areas of hardstanding covered by the second bite notice within Area E where hardstandings and buildings are proposed as part of the RWF permission. Officers are of the view that the same approach should be adopted in that it would not be expedient to require the removal of any hardstandings covered by the second bite Enforcement Notice where they coincide with areas to be developed as part of the RWF permission, see Annex F, provided that the RWF is implemented within 18 months from the date of this report.

5 OFFICER COMMENTS AND RECOMMENDATION

- 5.1 Officers visited the site on the 18th February 2015 and were able to confirm the following:
- That the area of skip storage is within Area A;
 - That the material storage bays used in respect of the concrete batching plant are on Area E, but the landowner's agent has confirmed that these will be removed.;
 - That the stonemason and scaffolding uses have ceased within Area E;
 - That the green waste had been removed from Area E;
 - That the hot food trailer had been removed from the Land; and
 - That a small area as shown on a plan Annex E is being used by a stonemason and is located within Area A.

- 5.2 Officers are of the view that it is not expedient to require the removal of the hardstandings and remaining boundary fencing from the areas covered by Enforcement Notices 2 and 3 where they coincide with areas to be developed as part of the RWF permission provided the RWF is implemented within 18 months of this report and that the hardstanding under the proposed landscaping scheme is removed as part of the implementation of the RWF.
- 5.3 Officers are of the view that it is not expedient to require the removal of any hardstandings covered by the second bite Enforcement Notice where they coincide with areas to be developed as part of the RWF permission, see Annex F, provided that the RWF is implemented within 18 months from the date of this report.
- 5.4 Officers are of the view that it is not expedient to enforce against the skip hire business as it currently operates within Area A and is ancillary to the B2 waste processing operation within that Area.
- 5.5 Officers are of the view that it is not expedient to enforce against the existing concrete batching plant operation provided it operates within Area A and the material storage bays are removed from Area E.
- 5.6 The Committee need to be aware that in all other respects Enforcement Notice 2, 3 and the second bite Enforcement Notice remain enforceable (in respect of second bite Enforcement Notice this is subject to appeal).

6 RESOLUTION

- 6.1 The Committee having considered the contents of this report are asked to accept the officer's recommendation and resolve that:
- It is not expedient to require the removal of the hardstandings and remaining boundary fencing from the areas covered by Enforcement Notices 2 and 3 where they coincide with areas to be developed as part of the RWF and landscaping permission provided the RWF is implemented within 18 months of this report.
 - It is not expedient to require the removal of any hardstandings covered by the second bite Enforcement Notice where they coincide with areas to be developed as part of the RWF permission provided that the RWF is implemented within 18 months from the date of this report.
 - It is not expedient to enforce against the skip hire business as it currently operates within Area A and is ancillary to the B2 waste processing activities taking place within that Area.
 - It is not expedient to enforce against the existing concrete batching plant operation provided it operates within Area A and the material storage bays are removed from Area E.

Contact person	Richard Stott, Principal Planning/Enforcement Officer, 01225 477434
Background papers	<ul style="list-style-type: none"> • Enforcement Reports of 29/10/2008 and 18/02/2009 and Enforcement Notice dated 25/02/09 • Grant of Outline planning permission for Residual Waste Facility dated 04/08/2014 reference 14/00839/EMINW. • Reserved Matters Application - validated on 09/03/2015 • Schedule showing three months data of number of skip deliveries, collections and exchanges
Please contact the report author if you need to access this report in an alternative format	

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IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE

ISSUED BY BATH AND NORTH EAST SOMERSET COUNCIL

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations. The Explanatory Note at the end of the notice and the enclosures to which it refers contain important additional information.
2. **THE LAND TO WHICH THE NOTICE RELATES:**

Land at the Former Fullers Earth Works, Odd Down, Bath, shown edged in red on the attached plan (entitled "2013 Second Bite ENF location plan ("the Land").
3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL:**

Without planning permission, the change of use of the Land from agriculture, residential use (of the dwellings and land at 1 & 2 The Firs) and general industrial use (B2) to the mixed use of the Land for:

 - Agriculture;
 - Residential use of the dwellings and land at 1 & 2 The Firs;
 - Waste processing (within use class B2) and waste storage;
 - Concrete production and batching (within use class B2) including aggregate storage;
 - Green-waste storage (plant material and wood);
 - Skip hire and storage (sui generis);
 - Scaffolding storage and repair (sui generis);
 - As a building/engineering/stone mason contractor's yard (sui generis);
 - Siting and use of a hot-food take-away trailer; and
 - the storage of an advert trailer, metal cages and other scrap items.
4. **REASONS FOR ISSUING THIS NOTICE**
 - i) This notice is served without prejudice, and in the alternative, to all 3 notices (entitled, respectively, Enforcement Notice 01, Enforcement Notice 02 and Enforcement Notice 03) issued by the Council on 30 May 2012;
 - ii) It appears to the Council that the breach of planning control has occurred since 25 February 1999. This notice is issued pursuant to the provisions of section 171B (4)(b) of the above Act (the "second bite"

- provisions) being further enforcement action within 4 years of the Council having purported to take enforcement action (on 25 February 2009) in respect of that breach
- iii) The encroachment of commercial uses beyond the extent of the historical general industrial use of the Land on the area coloured yellow and marked "Area A" on the 2013 Second Bite ENF location plan ("the Plan") (attached), along with the associated structures, enclosures, machinery and piles of materials is inappropriate development within the Green Belt, and has resulted in a loss of openness, does not safeguard the countryside from encroachment and has an adverse impact upon the character and appearance of the rural area which is important for the setting of Bath which is a World Heritage Site (the advert trailer is not believed currently to be on site). The development is therefore contrary to policies GB.1, GB.2, NE1, NE.4 and BH.1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007 and to the advice in the National Planning Policy Framework;
 - iv) The operation of the hot-food trailer (not currently in operation) brought about unsafe conditions within the Land due to potential conflicts between commercial vehicles operating from the Land and the vehicles of other customers. This is contrary to policy T24 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007;
 - v) The encroachment of the commercial uses close to the residential properties at 1 and 2 The Firs (and encroaching within their curtilages) if allowed to continue would have a harmful impact upon the living conditions of those occupying the residential properties contrary to policies ES.10 and ES.12 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007;
 - vi) The agricultural use of the Land is considered to be acceptable;
 - vii) The continued residential use of the dwellings and the land forming their domestic curtilage known as 1 and 2 The Firs is considered to be acceptable;
 - viii) The general historic industrial use (within use-class B2) of the area marked "Area A" on the Plan ' is considered acceptable due to very special circumstances which outweigh the harm to the character and appearance of the rural area and the green belt as well as conflict with policies within the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007 as well as the National Planning Policy Framework;
 - ix) There are no matters that the Council has been made aware of that clearly outweigh the harm to the Green Belt and other harmful impacts. As such there are no very special circumstances to justify the development and planning conditions that could be imposed to overcome these objections.

5. WHAT YOU ARE REQUIRED TO DO:

- i) Permanently cease using the Land (save for that area referred to as "Area A" and coloured yellow on the Plan) for waste processing (within use Class B2 and/or any other B2 uses;


- ii) Permanently cease using the Land for storage
- iii) Permanently cease using the Land for the storage, distribution and repair of scaffolding (sui-generis use);
- iv) Permanently cease using the Land as a contractors' yard for the storage of stone and equipment as well as the preparation, cutting and forming of stone (sui-generis use)
- v) Permanently cease using the Land for the storage of green waste
- vi) Permanently cease using the Land for concrete production, batching and storage (within use class B2)
- vii) Permanently cease using the Land for Skip hire and storage (sui generis)
- viii) Permanently remove from the areas (situated on the Land) marked 'Area D' and coloured green and the area marked 'Area E' and coloured brown' and the area marked 'car park' and coloured blue on the Plan all stored and processed sands, aggregates, stone, top-soils, sub-soils, green-waste and waste awaiting processing such as hard-core rubble, road-scalpings, timber, pallets, plastics, skips, storage containers, scaffolding, racking, metal sheeting, gas bottles, fencing, road cones, tyres, windows and door-frames from the Land;
- ix) Demolish and permanently remove from the Land all material comprising the bund along the north-east boundary of the Land in the approximate position indicated by the black dashed line shown on the Plan and reduce the ground level to that of the adjoining land;
- x) Excavate and permanently remove from the Land all compacted hard-surfacing and underlying sub-bases, fences and storage bays situated on the Land from the Land (other than those compacted hard surfaces and underlying sub-bases, fences and storage bays situated within 'Area A' on the Plan).
- xi) Restore the Land to its condition before the breaches set out in paragraphs (i) to (vi) above took place by levelling with top-soil to match the level of the adjoining land.
- xii) Permanently remove the hot-food Take-away trailer from the Land in the approximate position marked 'HF' on that Plan.
- xiii) Permanently remove the advert trailer, metal cages and other scrap items from the Land

6. TIME FOR COMPLIANCE

Within 18 months from the date this Notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 28 March 2013 unless an appeal is made against it beforehand.

Dated 21/2/13 Signed 
 David Trigwell
 Divisional Director for Planning and Transport

Address to which all communications should be sent:

Planning Services
PO Box 5006
Bath
BA1 1JG
Tel: (01225) 394041
Fax: (01225) 394199

Issued to:

The Company Secretary
GAZELLE PROPERTIES LIMITED
Lilliput House
Fosseway
Midsomer Norton
Radstock
BA3 4BB

SVENSKA HANDELSBANKEN
3 Thomas More Square
London
E1W 1WY

The Company Secretary
WASTE RECYCLING @ BATH LIMITED
Lilliput House,
Midsomer Norton
Radstock
Bath
BA3 4BB

Company Secretary
BATH RECYCLING SKIPS LIMITED
Lilliput House,
Midsomer Norton
Radstock
Bath
BA3 4BB

The Company Secretary
BEECHWOOD ENVIRONMENTAL LOGISTICS LIMITED
16 Old Street
Clevedon
North Somerset
BS21 6ND

Company Secretary
MAPLE SKIP HIRE
29 Banwell Road
Bath
BA2 2UJ

Company Secretary
STONECRAFT OF BATH LIMITED
34A Wellsway
Bath
BA2 2AA

Company Secretary
HANSON QUARRY PRODUCTS EUROPE LIMITED
Hanson House
14 Castle Hill
Maidenhead
SL6 4JJ

Company Secretary
MAPEL SCAFFOLDING LIMITED
46 Hillside View
Peasdown St John
Bath
BA2 8ET

Mr P. Derek
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Fosseway
Englishcombe
Bath
BA2 8PD

Mr S. Bishop
2 The Firs
Fosseway
Englishcombe
Bath
BA2 8PD

Ms S. Ridings
Winsbury House
Bath Road
Marksbury
Bath
BA2 9HF

Mr A. Ridings
c/o Former Fullers Earth Works
Fosseway
Combe Hay
Bath
BA2 8PD

Mr B. Williams
c/o Former Fullers Earthe Works
Fosseway
Combe Hay
Bath
BA2 8PD

"The Occupier – To Who It May Concern"
Former Fullers Earth Works
Fosseway
Combe Hay
Bath
BA2 8PD

YOUR RIGHT OF APPEAL

You can appeal against this Notice, but any appeal must be received, or posted in time to be received, by the Secretary of State before **28th March 2013**. The enclosed information sheet issued by the Planning Inspectorate and the Explanatory Note enclosed with this Notice contain further information on making your appeal.

WHAT HAPPENS IF YOU DO NOT APPEAL

If you do not appeal against this Enforcement Notice, it will take effect on **28th March 2013** and you must then ensure that the required steps for complying with it, for which you may be held responsible, are taken within the periods specified in paragraph 5 of the Notice.

FAILURE TO COMPLY WITH AN ENFORCEMENT NOTICE WHICH HAS TAKEN EFFECT IS AN OFFENCE AND CAN RESULT IN PROSECUTION AND/OR REMEDIAL ACTION BY THE COUNCIL.

EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

There is a right of appeal to the Secretary of State (at the Planning Inspectorate) against this Enforcement Notice.

If you appeal against this Notice, any appeal must be received or posted in time to be received by the Secretary of State BEFORE the date this Notice takes effect, **28th March 2013**.

Unless an appeal is made, as described below, the Enforcement Notice will take effect on **28th March 2013** and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the Notice.

Lodging your appeal

Any appeal to the Secretary of State must be made in writing. I enclose an information sheet from the Planning Inspectorate which provides further information on how to obtain appeal forms and lodge an appeal.

As mentioned above, the appeal must be submitted in good time so that it is received by the Secretary of State BEFORE the date on which the Enforcement Notice takes effect.

Grounds of appeal

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) That planning permission should be granted for what is alleged in the notice.
- (b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
- (c) That there has not been a breach of planning control
- (d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.
- (e) The notice was not properly served on everyone with an interest in the land.
- (f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
- (g) The time given to comply with the notice is too short.

Not all of these grounds may be relevant to you.

When you submit your appeal, you should state in writing the ground(s) on which you are appealing against the Enforcement Notice and you should also state briefly the facts upon which you intend to rely in support of each of those grounds of appeal. If you do not do this when you make your appeal, the Secretary of State will send you a notice requiring you to do so within 14 days.

(ENF)

Deemed planning application fee

If you appeal under Ground (a) above, this is the equivalent of applying for planning permission for the development detailed in the Enforcement Notice and you will have to pay a fee of £ to the Local Planning Authority (payable to Bath and North East Somerset Council) and £ to the Planning Inspectorate (made payable to the Department for Communities and Local Government). Joint appellants need only pay one set of fees.

Additional Information

For your information, Sections 171A, 171B, and 172 – 177 of the Town and Country Planning Act 1990 (as amended) are set out in the Annex on the next page.

ANNEX

171A Expressions used in connection with enforcement

- (1) For the purposes of this Act—
 - (a) carrying out development without the required planning permission; or
 - (b) failing to comply with any condition or limitation subject to which planning permission has been granted,constitutes a breach of planning control.
- (2) For the purposes of this Act—
 - (a) the issue of an enforcement notice (defined in section 172); or
 - (b) the service of a breach of condition notice (defined in section 187A),constitutes taking enforcement action.
- (3) In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

171B Time limits

- (1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.
- (2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.
- (3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.
- (4) The preceding subsections do not prevent—
 - (a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or
 - (b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

172 Issue of enforcement notice

- (1) The local planning authority may issue a notice (in this Act referred to as an
- (ENF)

“enforcement notice”) where it appears to them—

(a) that there has been a breach of planning control; and

(b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served—

(a) on the owner and on the occupier of the land to which it relates; and

(b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place—

(a) not more than twenty-eight days after its date of issue; and

(b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

173 Contents and effect of notice

(1) An enforcement notice shall state—

(a) the matters which appear to the local planning authority to constitute the breach of planning control; and

(b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

(a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

(a) the alteration or removal of any buildings or works;

(b) the carrying out of any building or other operations;

(c) any activity on the land not to be carried on except to the extent specified in the notice; or

(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

(a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;

(b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;

(c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(ENF)

(12) Where—

- (a) an enforcement notice requires the construction of a replacement building; and
- (b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

173A Variation and withdrawal of enforcement notices

(1) The local planning authority may—

- (a) withdraw an enforcement notice issued by them; or
- (b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

174 Appeal against enforcement notice

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
- (b) that those matters have not occurred;
- (c) that those matters (if they occurred) do not constitute a breach of planning control;
- (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;

(e) that copies of the enforcement notice were not served as required by section 172;

(f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;

(g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.

(3) An appeal under this section shall be made.—

(a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or

(b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date; or

(c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date].

(4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—

(a) specifying the grounds on which he is appealing against the enforcement notice; and

(b) giving such further information as may be prescribed.

(5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section “relevant occupier” means a person who—

(a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence; and

(b) continues so to occupy the land when the appeal is brought.

175 Appeals: supplementary provisions

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without

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prejudice to the generality of this subsection, may—

(a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;

(b) specify the matters to be included in such a statement;

(c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;

(d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

[(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.]

(4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under section 289(4A)] be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.

176 General provisions relating to determination of appeals

(1) On an appeal under section 174 the Secretary of State may—

(a) correct any defect, error or misdescription in the enforcement notice;
or

(b) vary the terms of the enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.]

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If [section 175(3) would otherwise apply and] the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

177 Grant or modification of planning permission on appeals against enforcement notices

(1) On the determination of an appeal under section 174, the Secretary of State may—

(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;]

(b) discharge any condition or limitation subject to which planning permission was granted;

(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(ENF)

(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194].

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission [in respect of the matters stated in the enforcement notice as constituting a breach of planning control.

(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.]

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated

as having been given by him in dealing with an application for planning permission made to the local planning authority.

(ENF)



The Planning Inspectorate

CST Room 3/13
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

Direct Line 0303-444 5000

Fax No 0117-372 8782

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or
- by getting enforcement appeal forms by phoning us on 0303 444 5000 or by emailing us at enquiries@pins.gsi.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:-

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We MUST receive this before the effective date on the enforcement notice. This should immediately be followed by your completed appeal

Bath and North East Somerset: District Online

GMS Web Mapping PDF

2013 Second Bite Enforcement Notice Location Plan

Date: 21-2-2013

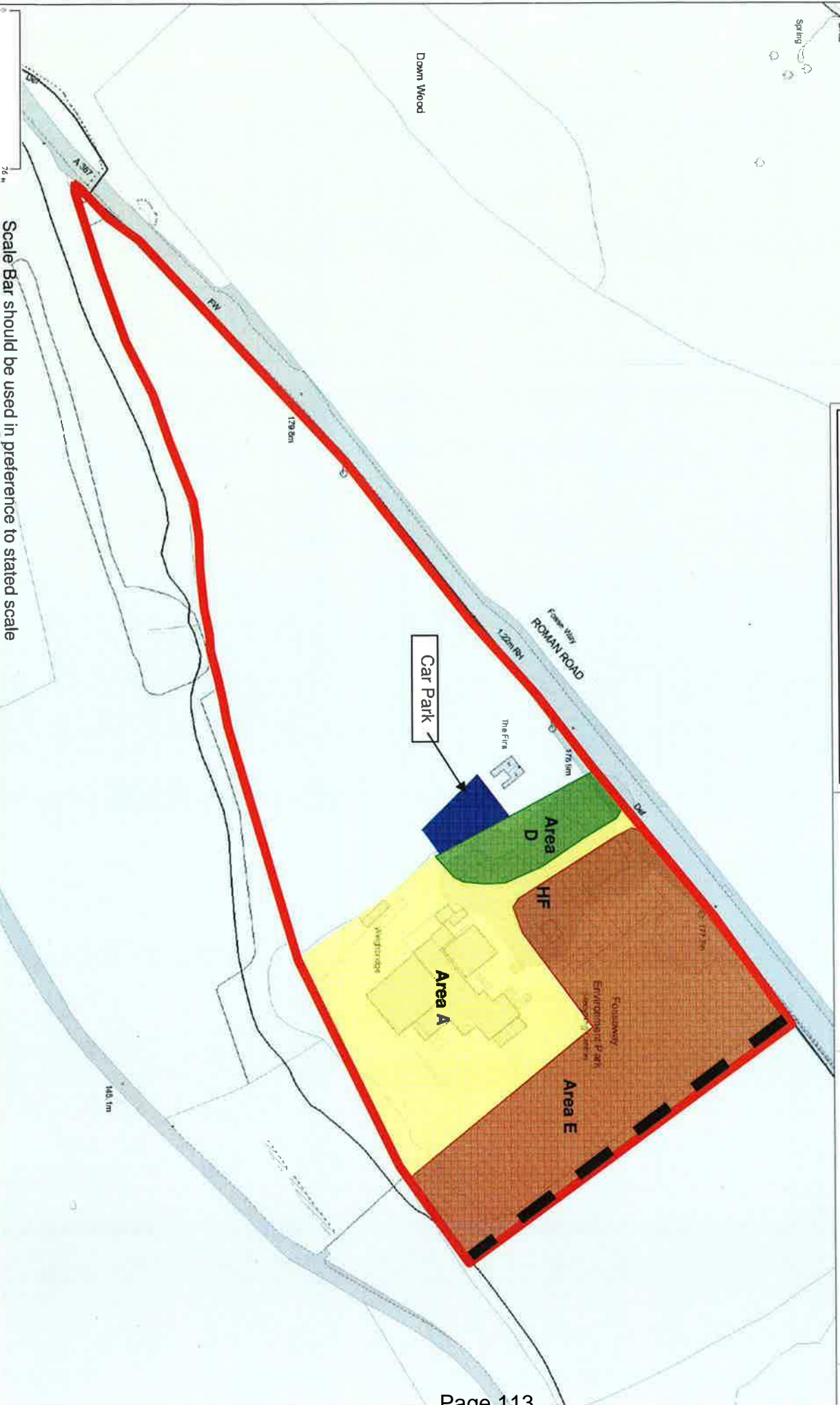
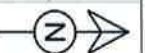
Scale: 1:2500 @ A4

Map Centre - easting / northng:

372798 / 161198

Bath & North East
Somerset Council

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Scale Bar should be used in preference to stated scale

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE 02

ISSUED BY BATH AND NORTH EAST SOMERSET COUNCIL

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations. The Explanatory Note at the end of the notice and the enclosures to which it refers contain important additional information.
2. **THE LAND TO WHICH THE NOTICE RELATES:**

Land at the Former Fullers Earth Works, Odd Down, Bath, shown edged red on the attached plans '2012 *Enforcement Notice 02 location plan*' and '2012 *Enforcement Notice02 detail plan*'.
3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL:**

Without planning permission, the change of use of the Land from agriculture to use for the storage, distribution and repair of scaffolding.
4. **REASONS FOR ISSUING THIS NOTICE**
 - i) It appears to the Council that the breach of planning control has occurred within the last ten years.
 - ii) The increase in area of industrial uses, beyond the extent of the historical general industrial use of the Land marked "Area A" on '2012 *Enforcement Notice02 detail plan*'. (attached), including the associated fences, concrete, structures, containers, machinery, and other materials is inappropriate development within the Green Belt, results in a loss of openness, does not safeguard the countryside from encroachment and has an adverse impact upon the character and appearance of the rural area which is important for the setting of Bath, which is a World Heritage Site. The development is therefore contrary to policies GB.1, GB.2, NE.1, NE.4, and BH.1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007 and to the advice in the National Planning Policy Framework.
 - iii) There are no matters that the Council has been made aware of, that clearly outweigh the harm to the Green Belt and other harmful impacts. As such there are no very special circumstances to justify the

development and planning conditions could not overcome these objections.

5. WHAT YOU ARE REQUIRED TO DO:

- i) Permanently cease using the Land outlined in red on the plan '2012 Enforcement Notice02 detail plan' for the storage, distribution and repair of scaffolding;
- ii) Permanently remove from the land referred to in 5) i) above all scaffolding, steel containers, storage crates, storage bins, machinery and vehicles;
- iii) Demolish all fencing and remove all resultant materials from the Land;
- iv) Dismantle all concrete hardstandings, underlying sub-bases and remove the resultant materials from the Land;
- v) Restore the Land to its condition before the breach took place and level with top-soil.

6. TIME FOR COMPLIANCE

Within 18 months from the date this Notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 12 July 2012 unless an appeal is made against it beforehand.

Dated 30/5/12 Signed

David Trigwell

Divisional Director for Planning and Transport Development

On behalf of Bath and North East Somerset Council

PO Box 5006

Bath

BA1 1JG

Served on:-

Company Secretary
Gazelle Properties Ltd
Lilliput House
Fosseway
Midsomer Norton
Radstock
BA3 4BB

SVENSKA HANDELSBANKEN

Trinity Tower

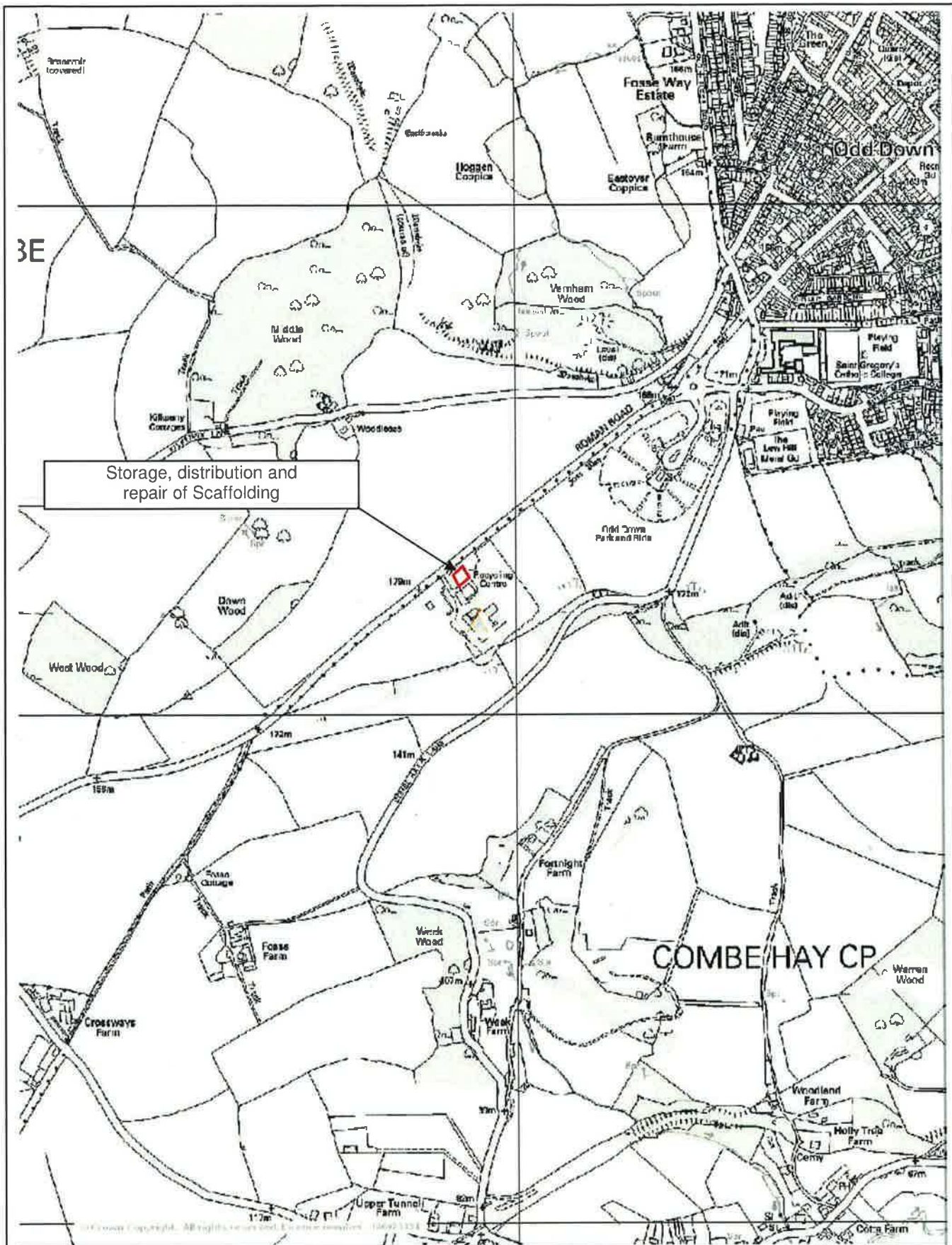
9 Thomas More Street

London

E1W 1WY

Company Secretary
Maple Scaffolding Ltd
46 Hillside View
Peasedown St John
Bath
BA2 8ET

"The Owners and any Occupiers"
Formers Fullers Earth Works
Fosseway
Combe Hay
Bath
BA2 8PD



Bath & North East Somerset Council

Bath & North East Somerset Council,
Planning Services,
Trimbridge House,
Trim Street,
Bath BA1 2DP

**Land at Former Fullers Earth Works, Odd Down, Bath
2012 Enforcement Notice02 Location Plan**



Scale 1/10000

Date 23/5/2012

Centre = 372963 E 161203 N

Drawn by:

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

GMS Web Mapping PDF

2012 Enforcement Notice02 Detail plan

Date: 7-3-2012

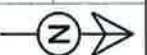
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Map Centre - easting / northing:

372798 / 161198

**Bath & North East
Somerset Council**

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76 m

EXPLANATORY NOTE

YOUR RIGHT OF APPEAL

There is a right of appeal to the Secretary of State (at the Planning Inspectorate) against this Enforcement Notice.

If you appeal against this Notice, any appeal must be received or posted in time to be received by the Secretary of State BEFORE the date this Notice take effect as specified in Paragraph 7 of the Notice.

Unless an appeal is made, as described below, the Enforcement Notice will take effect on 12 July 2012 and you must then ensure that the required steps, for which you may be held responsible, are taken within the period(s) specified in the Notice.

Lodging your appeal

Any appeal to the Secretary of State must be made in writing. I also enclose an information sheet from the Planning Inspectorate which provides further information on how to obtain appeal forms and lodge an appeal.

As mentioned above, the appeal must be submitted in good time so that it is received by the Secretary of State BEFORE the date on which the Enforcement Notice takes effect.

Grounds of appeal

Under section 174 of the Town and Country Planning Act 1990 (as amended) you may appeal on one or more of the following grounds:-

- (a) That planning permission should be granted for what is alleged in the notice.
- (b) That the breach of control alleged in the enforcement notice has not occurred as a matter of fact.
- (c) That there has not been a breach of planning control
- (d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.
- (e) The notice was not properly served on everyone with an interest in the land.
- (f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
- (g) The time given to comply with the notice is too short.

Not all of these grounds may be relevant to you.

When you submit your appeal, you should state in writing the ground(s) on which you are appealing against the Enforcement Notice and you should also state briefly the facts upon which you intend to rely in support of each of those grounds of

appeal. If you do not do this when you make your appeal, the Secretary of State will send you a notice requiring you to do so within 14 days.

Deemed planning application fee

If you appeal under Ground (a) above, this is the equivalent of applying for planning permission for the development detailed in the Enforcement Notice and you will have to pay a fee of £335 . You should pay half of the fee to Bath and North East Somerset Council (payable to Bath and North East Somerset Council) and the other half of the fee to the Planning Inspectorate (made payable to the Department for Communities and Local Government). Joint appellants need only pay one set of fees.

Additional Information

For your information, Sections 171A, 171B, and 172 – 177 of the Town and Country Planning Act 1990 (as amended) are set out in the Annex overleaf.

ANNEX

171A Expressions used in connection with enforcement

(1) For the purposes of this Act—

(a) carrying out development without the required planning permission; or

(b) failing to comply with any condition or limitation subject to which planning permission has been granted,

constitutes a breach of planning control.

(2) For the purposes of this Act—

(a) the issue of an enforcement notice (defined in section 172); or

(b) the service of a breach of condition notice (defined in section 187A),

constitutes taking enforcement action.

(3) In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

171B Time limits

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

172 Issue of enforcement notice

(1) The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—

- (a) that there has been a breach of planning control; and
- (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served—

- (a) on the owner and on the occupier of the land to which it relates; and
- (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place—

- (a) not more than twenty-eight days after its date of issue; and
- (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

173 Contents and effect of notice

(1) An enforcement notice shall state—

- (a) the matters which appear to the local planning authority to constitute the breach of planning control; and
- (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

- (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by

discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

(b) remedying any injury to amenity which has been caused by the breach.

(5) An enforcement notice may, for example, require—

(a) the alteration or removal of any buildings or works;

(b) the carrying out of any building or other operations;

(c) any activity on the land not to be carried on except to the extent specified in the notice; or

(d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.

(6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.

(7) A replacement building—

(a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;

(b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;

(c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).

(8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.

(9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.

(10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.

(11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

173A Variation and withdrawal of enforcement notices

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

174 Appeal against enforcement notice

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
 - (b) that those matters have not occurred;
 - (c) that those matters (if they occurred) do not constitute a breach of planning control;
 - (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
 - (e) that copies of the enforcement notice were not served as required by section 172;
 - (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
 - (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.
- (3) An appeal under this section shall be made. . .—
- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
 - (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date[; or
 - (c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date].]
- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—
- (a) specifying the grounds on which he is appealing against the enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of

State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

(6) In this section “relevant occupier” means a person who—

- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence . . . ; and
- (b) continues so to occupy the land when the appeal is brought.

175 Appeals: supplementary provisions

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—

- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
- (b) specify the matters to be included in such a statement;
- (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
- (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

[(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.]

(4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under section 289(4A)] be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

[(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.]

176 General provisions relating to determination of appeals

[(1) On an appeal under section 174 the Secretary of State may—

(a) correct any defect, error or misdescription in the enforcement notice; or

(b) vary the terms of the enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.]

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If [section 175(3) would otherwise apply and] the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

177 Grant or modification of planning permission on appeals against enforcement notices

(1) On the determination of an appeal under section 174, the Secretary of State may—

(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;]

(b) discharge any condition or limitation subject to which planning permission was granted;

(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194].

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

[(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.]

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission [in respect of the matters stated in the enforcement notice as constituting a breach of planning control].

(5A) Where—

(a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;

(b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and

(c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.]

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.



The Planning Inspectorate

CST Room 3/05
Temple Quay House
Direct Line 0117-372 6372
2 The Square Switchboard 0117-372 8000
Temple Quay Fax No 0117-372 8782
Bristol BS1 6PN
www.planning-inspectorate.gov.uk

THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or
- by getting enforcement appeal forms by phoning us on 0117 372 6372 or by emailing us enquiries@pins.gsi.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:-

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We MUST receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.

IMPORTANT - THIS COMMUNICATION AFFECTS YOUR PROPERTY

**TOWN AND COUNTRY PLANNING ACT 1990
(as amended by the Planning and Compensation Act 1991)**

ENFORCEMENT NOTICE 03

ISSUED BY BATH AND NORTH EAST SOMERSET COUNCIL

1. **THIS NOTICE** is issued by the Council because it appears to them that there has been a breach of planning control, within paragraph (a) of Section 171A(1) of the above Act, at the land described below. They consider that it is expedient to issue this Notice, having regard to the provisions of the development plan and to other material planning considerations. The Explanatory Note at the end of the notice and the enclosures to which it refers contain important additional information.
2. **THE LAND TO WHICH THE NOTICE RELATES:**

Land at the Former Fullers Earth Works, Odd Down, Bath, shown edged red on the attached plans '2012 *Enforcement Notice 03 location plan*' and '2012 *Enforcement Notice03 detail plan*'.
3. **THE MATTERS WHICH APPEAR TO CONSTITUTE THE BREACH OF PLANNING CONTROL:**

Without planning permission, the change of use of the Land from agriculture to use for stonemasonry including the preparation, cutting, forming and storage of stone.
4. **REASONS FOR ISSUING THIS NOTICE**
 - i) It appears to the Council that the breach of planning control has occurred within the last ten years.
 - ii) The increase in area of industrial uses, beyond the extent of the historical general industrial use of the Land marked "Area A" on '2012 *Enforcement Notice03 detail plan*'. (attached), including the associated fences, concrete, structures, containers, machinery, and other materials is inappropriate development within the Green Belt, results in a loss of openness, does not safeguard the countryside from encroachment and has an adverse impact upon the character and appearance of the rural area which is important for the setting of Bath, which is a World Heritage Site. The development is therefore contrary to policies GB.1, GB.2, NE.1, NE.4, and BH.1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007 and to the advice in the National Planning Policy Framework.
 - iii) There are no matters that the Council has been made aware of, that clearly outweigh the harm to the Green Belt and other harmful impacts. As such there are no very special circumstances to justify the

development and planning conditions could not overcome these objections.

5. WHAT YOU ARE REQUIRED TO DO:

- i) Permanently cease using the Land outlined in red on the plan '2012 *Enforcement Notice03 detail plan*' for stonemasonry including the preparation, cutting, forming and storage of stone;
- ii) Permanently remove from the Land referred to in 5) i) above all stone, steel containers, pallets, machinery and vehicles;
- iii) Demolish all fencing and remove all resultant materials from the Land;
- iv) Dismantle all concrete, hardstandings, underlying sub-bases and remove the resultant materials from the Land;
- v) Restore the Land to its condition before the breach took place and level with top-soil.

6. TIME FOR COMPLIANCE

Within 18 months from the date this Notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 12 July 2012 unless an appeal is made against it beforehand.

Dated 30/5/12.....

Signed

David Trigwell

Divisional Director for Planning and Transport Development

On behalf of Bath and North East Somerset Council

PO Box 5006

Bath

BA1 1JG

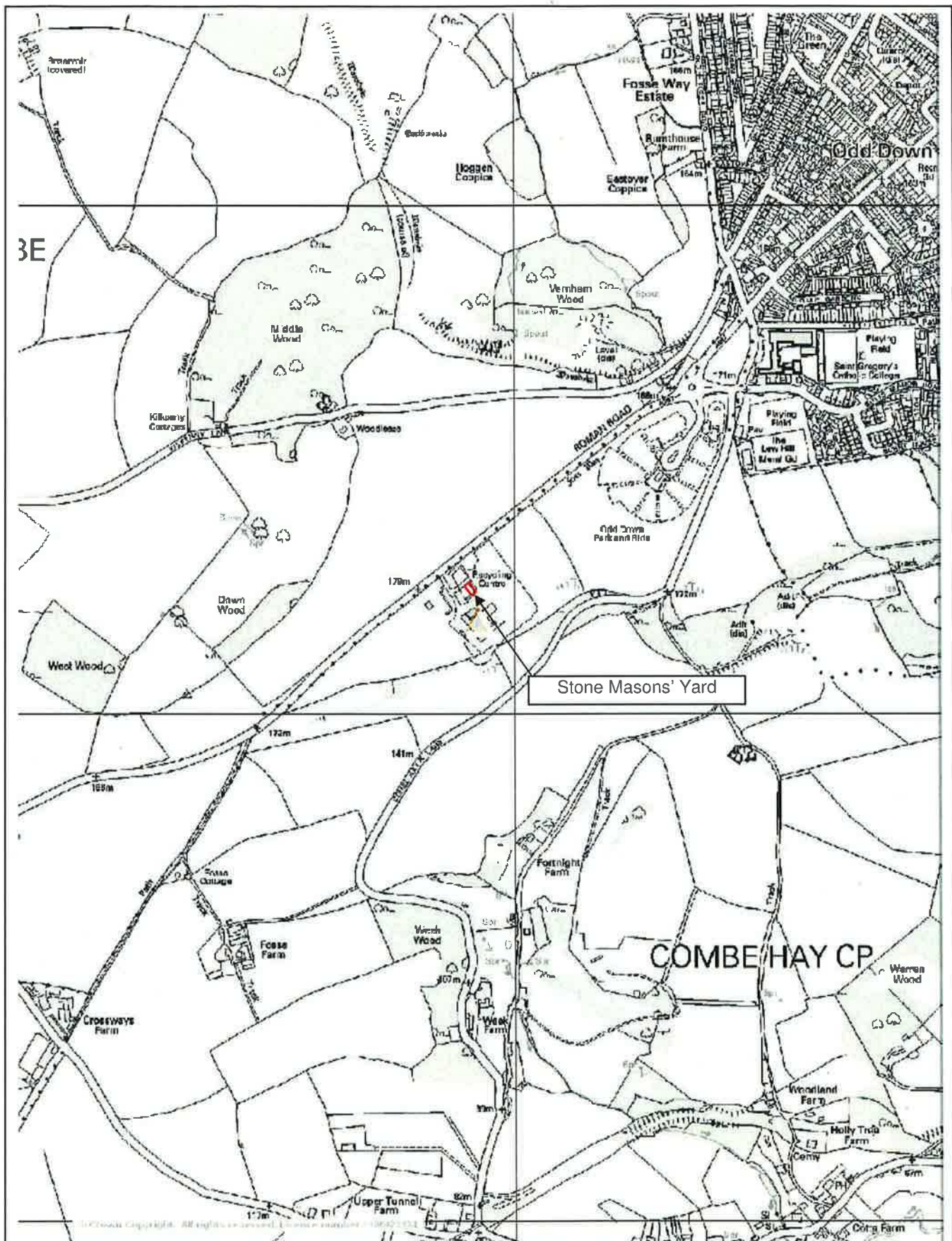
Served on:-

Company Secretary
Gazelle Properties Ltd
Lilliput House
Fosseway
Midsomer Norton
Radstock
BA3 4BB

SVENSKA HANDELSBANKEN
Trinity Tower
9 Thomas More Street
London
E1W 1WY

Company Secretary
Stonecraft of Bath Ltd
34A Wellsway
Bath
BA2 2AA

"The Owners and any Occupiers"
Former Fullers Earth Works
Fosseway
Combe Hay
Bath
BA2 8PD



Bath & North East Somerset Council

Bath & North East Somerset Council,
Planning Services,
Trimbridge House,
Trim Street,
Bath BA1 2DP

Land at Former Fullers Earth Works, Odd Down, Bath
2012 Enforcement Notice03 Location Plan



Scale 1/10000

Date 23/5/2012

Centre = 372963 E 161203 N

Drawn by:

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

GMIS Web Mapping PDF

2012 Enforcement Notice03 Detail plan

Date: 7-3-2012

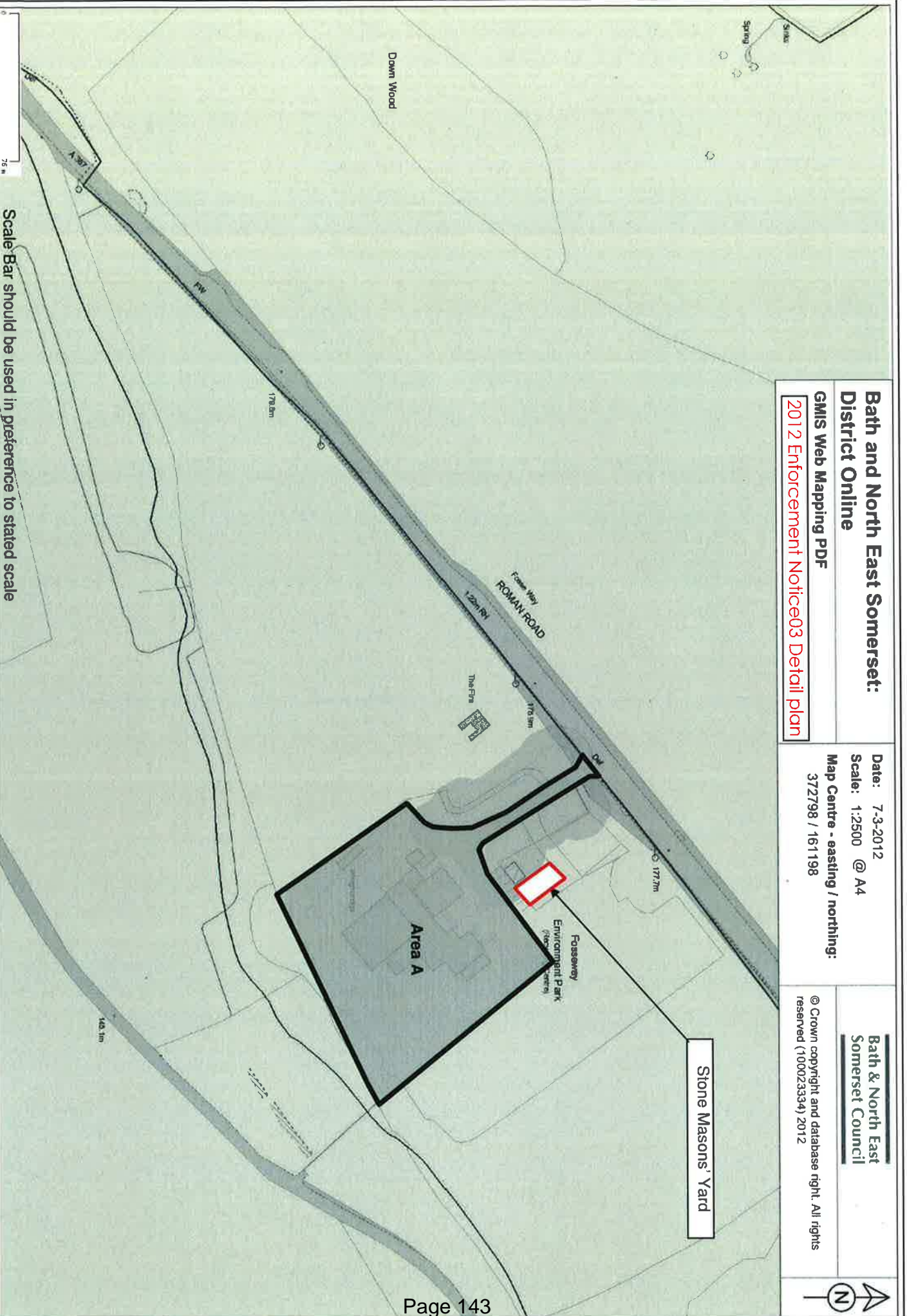
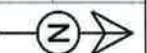
Scale: 1:2500 @ A4

Map Centre - easting / northing:

372798 / 161198

**Bath & North East
Somerset Council**

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- (c) That there has not been a breach of planning control
- (d) That, at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice.
- (e) The notice was not properly served on everyone with an interest in the land.
- (f) The steps required to comply with the requirements of the notice are excessive, and lesser steps would overcome the objections.
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appeal. If you do not do this when you make your appeal, the Secretary of State will send you a notice requiring you to do so within 14 days.

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(b) failing to comply with any condition or limitation subject to which planning permission has been granted,

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(2) For the purposes of this Act—

(a) the issue of an enforcement notice (defined in section 172); or

(b) the service of a breach of condition notice (defined in section 187A),

constitutes taking enforcement action.

(3) In this Part “planning permission” includes permission under Part III of the 1947 Act, of the 1962 Act or of the 1971 Act.

171B Time limits

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach.

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

(4) The preceding subsections do not prevent—

(a) the service of a breach of condition notice in respect of any breach of planning control if an enforcement notice in respect of the breach is in effect; or

(b) taking further enforcement action in respect of any breach of planning control if, during the period of four years ending with that action being taken, the local planning authority have taken or purported to take enforcement action in respect of that breach.

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(1) The local planning authority may issue a notice (in this Act referred to as an “enforcement notice”) where it appears to them—

- (a) that there has been a breach of planning control; and
- (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations.

(2) A copy of an enforcement notice shall be served—

- (a) on the owner and on the occupier of the land to which it relates; and
- (b) on any other person having an interest in the land, being an interest which, in the opinion of the authority, is materially affected by the notice.

(3) The service of the notice shall take place—

- (a) not more than twenty-eight days after its date of issue; and
- (b) not less than twenty-eight days before the date specified in it as the date on which it is to take effect.

173 Contents and effect of notice

(1) An enforcement notice shall state—

- (a) the matters which appear to the local planning authority to constitute the breach of planning control; and
- (b) the paragraph of section 171A(1) within which, in the opinion of the authority, the breach falls.

(2) A notice complies with subsection (1)(a) if it enables any person on whom a copy of it is served to know what those matters are.

(3) An enforcement notice shall specify the steps which the authority require to be taken, or the activities which the authority require to cease, in order to achieve, wholly or partly, any of the following purposes.

(4) Those purposes are—

- (a) remedying the breach by making any development comply with the terms (including conditions and limitations) of any planning permission which has been granted in respect of the land, by discontinuing any use of the land or by restoring the land to its condition before the breach took place; or

- (b) remedying any injury to amenity which has been caused by the breach.
- (5) An enforcement notice may, for example, require—
- (a) the alteration or removal of any buildings or works;
 - (b) the carrying out of any building or other operations;
 - (c) any activity on the land not to be carried on except to the extent specified in the notice; or
 - (d) the contour of a deposit of refuse or waste materials on land to be modified by altering the gradient or gradients of its sides.
- (6) Where an enforcement notice is issued in respect of a breach of planning control consisting of demolition of a building, the notice may require the construction of a building (in this section referred to as a “replacement building”) which, subject to subsection (7), is as similar as possible to the demolished building.
- (7) A replacement building—
- (a) must comply with any requirement imposed by any enactment applicable to the construction of buildings;
 - (b) may differ from the demolished building in any respect which, if the demolished building had been altered in that respect, would not have constituted a breach of planning control;
 - (c) must comply with any regulations made for the purposes of this subsection (including regulations modifying paragraphs (a) and (b)).
- (8) An enforcement notice shall specify the date on which it is to take effect and, subject to sections 175(4) and 289(4A), shall take effect on that date.
- (9) An enforcement notice shall specify the period at the end of which any steps are required to have been taken or any activities are required to have ceased and may specify different periods for different steps or activities; and, where different periods apply to different steps or activities, references in this Part to the period for compliance with an enforcement notice, in relation to any step or activity, are to the period at the end of which the step is required to have been taken or the activity is required to have ceased.
- (10) An enforcement notice shall specify such additional matters as may be prescribed, and regulations may require every copy of an enforcement notice served under section 172 to be accompanied by an explanatory note giving prescribed information as to the right of appeal under section 174.
- (11) Where—

(a) an enforcement notice in respect of any breach of planning control could have required any buildings or works to be removed or any activity to cease, but does not do so; and

(b) all the requirements of the notice have been complied with,

then, so far as the notice did not so require, planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of the construction of the buildings or works or, as the case may be, the carrying out of the activities.

(12) Where—

(a) an enforcement notice requires the construction of a replacement building; and

(b) all the requirements of the notice with respect to that construction have been complied with,

planning permission shall be treated as having been granted by virtue of section 73A in respect of development consisting of that construction.

173A Variation and withdrawal of enforcement notices

(1) The local planning authority may—

(a) withdraw an enforcement notice issued by them; or

(b) waive or relax any requirement of such a notice and, in particular, may extend any period specified in accordance with section 173(9).

(2) The powers conferred by subsection (1) may be exercised whether or not the notice has taken effect.

(3) The local planning authority shall, immediately after exercising the powers conferred by subsection (1), give notice of the exercise to every person who has been served with a copy of the enforcement notice or would, if the notice were re-issued, be served with a copy of it.

(4) The withdrawal of an enforcement notice does not affect the power of the local planning authority to issue a further enforcement notice.

174 Appeal against enforcement notice

(1) A person having an interest in the land to which an enforcement notice relates or a relevant occupier may appeal to the Secretary of State against the notice, whether or not a copy of it has been served on him.

(2) An appeal may be brought on any of the following grounds—

- (a) that, in respect of any breach of planning control which may be constituted by the matters stated in the notice, planning permission ought to be granted or, as the case may be, the condition or limitation concerned ought to be discharged;
 - (b) that those matters have not occurred;
 - (c) that those matters (if they occurred) do not constitute a breach of planning control;
 - (d) that, at the date when the notice was issued, no enforcement action could be taken in respect of any breach of planning control which may be constituted by those matters;
 - (e) that copies of the enforcement notice were not served as required by section 172;
 - (f) that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach;
 - (g) that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed.
- (3) An appeal under this section shall be made. . .—
- (a) by giving written notice of the appeal to the Secretary of State before the date specified in the enforcement notice as the date on which it is to take effect; or
 - (b) by sending such notice to him in a properly addressed and pre-paid letter posted to him at such time that, in the ordinary course of post, it would be delivered to him before that date[; or
 - (c) by sending such notice to him using electronic communications at such time that, in the ordinary course of transmission, it would be delivered to him before that date].]
- (4) A person who gives notice under subsection (3) shall submit to the Secretary of State, either when giving the notice or within the prescribed time, a statement in writing—
- (a) specifying the grounds on which he is appealing against the enforcement notice; and
 - (b) giving such further information as may be prescribed.
- (5) If, where more than one ground is specified in that statement, the appellant does not give information required under subsection (4)(b) in relation to each of those grounds within the prescribed time, the Secretary of

State may determine the appeal without considering any ground as to which the appellant has failed to give such information within that time.

- (6) In this section “relevant occupier” means a person who—
- (a) on the date on which the enforcement notice is issued occupies the land to which the notice relates by virtue of a licence . . . ; and
 - (b) continues so to occupy the land when the appeal is brought.

175 Appeals: supplementary provisions

(1) The Secretary of State may by regulations prescribe the procedure which is to be followed on appeals under section 174 and, in particular, but without prejudice to the generality of this subsection, may—

- (a) require the local planning authority to submit, within such time as may be prescribed, a statement indicating the submissions which they propose to put forward on the appeal;
- (b) specify the matters to be included in such a statement;
- (c) require the authority or the appellant to give such notice of such an appeal as may be prescribed;
- (d) require the authority to send to the Secretary of State, within such period from the date of the bringing of the appeal as may be prescribed, a copy of the enforcement notice and a list of the persons served with copies of it.

(2) The notice to be prescribed under subsection (1)(c) shall be such notice as in the opinion of the Secretary of State is likely to bring the appeal to the attention of persons in the locality in which the land to which the enforcement notice relates is situated.

(3) Subject to section 176(4), the Secretary of State shall, if either the appellant or the local planning authority so desire, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

[(3A) Subsection (3) does not apply to an appeal against an enforcement notice issued by a local planning authority in England.]

(4) Where an appeal is brought under section 174 the enforcement notice shall [subject to any order under section 289(4A)] be of no effect pending the final determination or the withdrawal of the appeal.

(5) Where any person has appealed to the Secretary of State against an enforcement notice, no person shall be entitled, in any other proceedings instituted after the making of the appeal, to claim that the notice was not duly served on the person who appealed.

(6) Schedule 6 applies to appeals under section 174, including appeals under that section as applied by regulations under any other provisions of this Act.

[(7) Subsection (5) of section 250 of the Local Government Act 1972 (which authorises a Minister holding an inquiry under that section to make orders with respect to the costs of the parties) shall apply in relation to any proceedings before the Secretary of State on an appeal under section 174 as if those proceedings were an inquiry held by the Secretary of State under section 250.]

176 General provisions relating to determination of appeals

[(1) On an appeal under section 174 the Secretary of State may—

(a) correct any defect, error or misdescription in the enforcement notice; or

(b) vary the terms of the enforcement notice,

if he is satisfied that the correction or variation will not cause injustice to the appellant or the local planning authority.

(2) Where the Secretary of State determines to allow the appeal, he may quash the notice.

(2A) The Secretary of State shall give any directions necessary to give effect to his determination on the appeal.]

(3) The Secretary of State—

(a) may dismiss an appeal if the appellant fails to comply with section 174(4) within the prescribed time; and

(b) may allow an appeal and quash the enforcement notice if the local planning authority fail to comply with any requirement of regulations made by virtue of paragraph (a), (b), or (d) of section 175(1) within the prescribed period.

(4) If [section 175(3) would otherwise apply and] the Secretary of State proposes to dismiss an appeal under paragraph (a) of subsection (3) [of this section] or to allow an appeal and quash the enforcement notice under paragraph (b) of that subsection, he need not comply with section 175(3).

(5) Where it would otherwise be a ground for determining an appeal under section 174 in favour of the appellant that a person required to be served with a copy of the enforcement notice was not served, the Secretary of State may disregard that fact if neither the appellant nor that person has been substantially prejudiced by the failure to serve him.

177 Grant or modification of planning permission on appeals against enforcement notices

(1) On the determination of an appeal under section 174, the Secretary of State may—

(a) grant planning permission in respect of the matters stated in the enforcement notice as constituting a breach of planning control, whether in relation to the whole or any part of those matters or in relation to the whole or any part of the land to which the notice relates;]

(b) discharge any condition or limitation subject to which planning permission was granted;

(c) determine whether, on the date on which the appeal was made, any existing use of the land was lawful, any operations which had been carried out in, on, over or under the land were lawful or any matter constituting a failure to comply with any condition or limitation subject to which planning permission was granted was lawful and, if so, issue a certificate under section 191.

(1A) The provisions of sections 191 to 194 mentioned in subsection (1B) shall apply for the purposes of subsection (1)(c) as they apply for the purposes of section 191, but as if—

(a) any reference to an application for a certificate were a reference to the appeal and any reference to the date of such an application were a reference to the date on which the appeal is made; and

(b) references to the local planning authority were references to the Secretary of State.

(1B) Those provisions are: sections 191(5) to (7), 193(4) (so far as it relates to the form of the certificate), (6) and (7) and 194].

(2) In considering whether to grant planning permission under subsection (1), the Secretary of State shall have regard to the provisions of the development plan, so far as material to the subject matter of the enforcement notice, and to any other material considerations.

[(3) The planning permission that may be granted under subsection (1) is any planning permission that might be granted on an application under Part III.]

(4) Where under subsection (1) the Secretary of State discharges a condition or limitation, he may substitute another condition or limitation for it, whether more or less onerous.

(5) Where an appeal against an enforcement notice is brought under section 174, the appellant shall be deemed to have made an application for planning permission [in respect of the matters stated in the enforcement notice as constituting a breach of planning control].

(5A) Where—

- (a) the statement under subsection (4) of section 174 specifies the ground mentioned in subsection (2)(a) of that section;
- (b) any fee is payable under regulations made by virtue of section 303 in respect of the application deemed to be made by virtue of the appeal; and
- (c) the Secretary of State gives notice in writing to the appellant specifying the period within which the fee must be paid,

then, if that fee is not paid within that period, the appeal, so far as brought on that ground, and the application shall lapse at the end of that period.]

(6) Any planning permission granted under subsection (1) on an appeal shall be treated as granted on the application deemed to have been made by the appellant.

(7) In relation to a grant of planning permission or a determination under subsection (1) the Secretary of State's decision shall be final.

(8) For the purposes of section 69 the Secretary of State's decision shall be treated as having been given by him in dealing with an application for planning permission made to the local planning authority.



The Planning Inspectorate

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THIS IS IMPORTANT

If you want to appeal against this enforcement notice you can do it:-

- on-line at the Planning Casework Service area of the Planning Portal (www.planningportal.gov.uk/pcs); or
- by getting enforcement appeal forms by phoning us on 0117 372 6372 or by emailing us enquiries@pins.gsi.gov.uk

You MUST make sure that we receive your appeal before the effective date on the enforcement notice.

In exceptional circumstances you may give notice of appeal by fax or letter. You should include:-

- the name of the local planning authority;
- the site address;
- your address; and
- the effective date of the enforcement notice.

We MUST receive this before the effective date on the enforcement notice. This should **immediately** be followed by your completed appeal forms.



Grass Roots Planning Ltd
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Chris Herbert
C/O Development Control
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BA1 1JG

Our Ref: 214/A3/MJK
BANES Ref: 14/00839/EMINW
PINs Ref: APP/F0114/C/13/2195018

19th January 2015

Dear Mr Herbert

RE: FORMER FULLERS EARTH WORKS SITE, ODD DOWN, BATH

Thank you for your email dated the 23rd December 2015. We now write in response to provide the data and information requested in respect to the above site.

Your email asks for information in relation to four matters (in italics below).

Records of skips going in to and out of the site to confirm that all skips hired return to the site for processing (three month's data):

Please find enclosed three months data as requested covering the period June-August 2014. This details each delivery, collection and exchange during that period. A delivery is the deposit of an empty skip container with a customer. A collection is a pick up of a full skip. An exchange is the delivery of an empty skip to a client who already has a full skip ready for collection. Customer names have been redacted from the spreadsheets. This information is confidential and commercially sensitive. In the past, when such data has been supplied to the council, it has been used to contact customers which has caused severe disruption to the business.

The data supplied is a 3 month snapshot and therefore some deliveries are yet to be collected.

The summary of the number of deliveries, collections and exchanges during this period is presented below:

	Deliveries	Collections	Exchange
June	158	156	333
July	187	174	327
August	159	154	327
Totals	504	484	987

The data clearly demonstrates that the majority of skips are returned to the site for processing within the 3 month window shown. There are in fact 20 more deliveries than collections during the period, however 100% of deliveries are collected and returned to the OFE for processing by WRB during the following months. Further clarity regarding this can be provided should you feel it necessary identify specific deliveries not collected during the 3 months identified above.

When did WRB take over Skip Tip;

WRB acquired the business of Skip Tip Ltd on the 4th January 2011, however this warrants further explanation. Skip Tip operated a waste processing business from leased premises at the Old Fullers site for about a year in 2003. They vacated the site before 2004 when the current WRB business was set up. Skip tip continued to operate from alternative premises in Mill Road, Radstock until WRB acquired the business in 2011 and closed the Mill Road site.

From 2004 WRB have operated the waste processing business from the Old Fullers site which continues to this day. From this time the business operation included skip hire and the use of skips for transporting waste to the site for processing (under the B2 use class) and also for the delivery of saleable product off-site. Before the purchase by WRB of the skip tip business in 2011 the majority of waste collected by Skip Tip was processed by WRB at the Old Fullers site.

Details of the skip hire contract;

The terms and conditions that apply to WRB skip hire are enclosed.

How much recycled aggregate is used in the concrete plant (again 3 months' worth of data on inputs and sales);

Data cannot be produced detailing the exact percentage of recycled aggregate at this time. However as discussed on the phone we can outlined what process occurs in this regard.

The concrete plant varies the percentage of recycled aggregate used in each batch because different clients will order different specifications of concrete. A higher spec of concrete usually utilises a lower proportion of recycled aggregate. The level of recycled product used varies between 10-60% depending on the spec ordered.

As previously discussed the classification of ready mixed concrete production within the B2 Use Class is not dependant upon the use of recycled aggregates or otherwise

Documentation should be submitted (by invoices etc.) to show that the stone masons work is now predominantly based on utilisation of recycled materials arising from the over-riding B2 use.

As previously discussed the use of newly quarried or recycled stone for dressing by a stone mason is immaterial to the consideration of whether or not that process falls within the B2 Use Class.

Notwithstanding this position, to give you a better understanding of the site in general we can confirm that a large proportion of the stone worked is new. However, when waste streams coming into the site include a large amount of Bath Stone this is stockpiled for use by the stonemasons in due course.

As we have discussed on a number of occasions the operation you have seen on-site involves a small area under a canopy which is used for working stone and in our view this is clearly a B2 operation.

On other matters we can confirm that the hot food trailer has been scheduled to be removed from the site and that the use of the agricultural improvement land for the storage of skips will cease by the 23rd of January 2015 as requested. The reserved matters application is relatively far advanced but has been delayed slightly because of the length of time taken to complete ground conditions assessment work, including testing that could not be completed over the Christmas period. We are hopeful that the

application will be submitted by the w/c 16th February 2015 and in light of this it would be appreciated if we could schedule the enforcement paper to be presented to members in March.

We hope that this letter and the enclosed data assists you in preparing a report for committee, if you require anything else please do not hesitate to contact me.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Matthew Kendrick', with a stylized flourish at the end.

MATTHEW KENDRICK
Director

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David Taylor

From: Christopher Herbert <cherbert@slrconsulting.com>
Sent: 23 December 2014 14:59
To: Matthew Kendrick
Cc: stephen bott; Richard Stott
Subject: Fullers Earth Works

Matthew

Thank you for meeting us on the 16th December and as discussed I would be grateful if you could provide the following additional information to assist the Council in reaching a view as to whether the current skip hire operation at the site is ancillary to the recycling operation and the relationship of the stonemasons use and the concrete plant to the recycling operation:

- Records of skips going in to and out of the site to confirm that all skips hired return to the site for processing (three month's data);
- When did WRB take over Skip Tip;
- Details of the skip hire contract;
- How much recycled aggregate is used in the concrete plant (again 3 months worth of data on inputs and sales); and
- Documentation should be submitted (by invoices etc) to show that the stone masons work is now predominantly based on utilisation of recycled materials arising from the over-riding B2 use.

Could you also please ensure that the hot food trailer is removed from the site and that the use of the agricultural improvement land for the storage of skips ceases by the 23rd of January 2015.

With regard to reporting to committee, as I mentioned on site, it will first be necessary to have receipt of the reserved matters application. Once we have that which will help resolve the issue of the retention of the hardstandings, we can then also seek members views on the skip hire, stonemasons and concrete plant issues based on the information we have requested above.

If you have any queries or would like to discuss the above matters please give me a call.

Regards
Chris

Christopher Herbert
Technical Director - Planning & Estate Management
SLR Consulting Limited



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



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LEGEND		AREA - A
		AREA - E
		PROPOSED HARDSTANDING
		ENFORCEMENT NOTICES 2 & 3

0	PS	CH	25.02.15	
Revision	By	Chk'd By	Date	Comments

SLR



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Site
ROMAN ROAD, ODD DOWN

Project	FULLERS EARTH WORKS
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Drawing Title
PLAN 2
ANNEXE F

Scale 1:500 @ A1	Date FEB 2015
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Drawing Number	002	Revision	0
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R (on the application of **Protectbath.org and victims of Fullers Earth Ltd) v
Bath and Northeast Somerset Council**

[2015] EWHC 537 (Admin)

Queen's Bench Division, Administrative Court (Bristol)

Mr Justice Hickinbottom

3 March 2015

Town and country planning - Permission for development - Outline permission - Claimant seeking judicial review of defendant local planning authority's decision to grant outline planning permission to interested party for residual waste facility and associated development - Whether existing use of land being safeguarded - Whether officer's report and planning committee failing to grapple with harm to Green Belt - Whether officer's report and planning committee erring in proceeding on assumption development not causing detrimental effect.

Judgment

Richard Drabble QC (instructed by **Harrison Grant**) for the **Claimant**

Richard Humphreys QC and Thea Osmund-Smith (instructed by **the Principal Solicitor, Bath and North East Somerset Council**) for the **Defendant**

The **Interested Party** was not represented and did not appear

JUDGMENT: APPROVED BY THE COURT FOR HANDING DOWN (SUBJECT TO EDITORIAL CORRECTIONS)

MR JUSTICE HICKINBOTTOM:

Introduction

1. In this claim, the Claimant challenges the decision of the Defendant local planning authority ("the Council") dated 4 August 2014 to grant outline planning permission to the Interested Party ("the Developer") for a residual waste facility and associated development on land at Fosseyway Environment Park, Fosseyway, Englishcombe, Bath ("the Proposed Development Site").

2. Before me, David Forsdick QC having settled the grounds of claim and the skeleton argument, Richard Drabble QC has appeared for the Claimant; and Richard Humphreys QC and Thea Osmund-Smith for the Council. At the outset, I thank them all for their respective contributions.

Legal Principles

3. The claim hinges to some extent upon criticisms of the Council Officer's Report, upon which the decision of the Council (through its Development Control Committee) was made, seen in the light of relevant planning policy. That report recommended approval of the proposed development, a recommendation which the Committee followed.

4. The relevant legal principles relating to such reports are well-established.

- - i) In the absence of contrary evidence, it is a reasonable inference that members of the planning committee follow the reasoning of the Officer's Report, particularly where a recommendation is adopted, as it was in this case.
- - ii) A report has to be sufficiently clear and full to enable councillors to understand the important issues and the material considerations that bear upon them; and decide those issues within the limits of planning judgment that the law allows them. Whilst the report must be sufficient for those purposes, the courts have stressed the need for reports to be concise and focused, and the dangers of reports being too long, elaborate or defensive (see, e.g., *R (Morge) v Hampshire County Council* [2011] UKSC 2 at [36], per Baroness Hale; and *R (Maxwell) v Wiltshire Council* [2011] EWHC 1840 (Admin) at [43], per Sales J as he then was).
- - iii) If the material included is insufficient to enable the planning committee to perform its function, or if it is misleading, the decision taken by the committee on the basis of a report may be challengeable. However:
- - "[A]n application for judicial review based on criticisms of the planning officers' report will not normally begin to merit consideration unless the overall effect of the report significantly misleads the committee about material matters which thereafter are left uncorrected at the meeting of the planning committee before the relevant decision is taken" (*Oxton Farms, Samuel Smiths Old Brewery (Tadcaster) v Selby District Council* (18 April 1997) 1997 WL 1106106, per Judge LJ).
- - iv) Furthermore, when challenged, officers' reports are not to be subjected to the same exegesis that might be appropriate for the interpretation of a statute: what is required is a fair reading of the report as a whole (*R (Zurich Assurance Limited trading as Threadneedle Property Investments) v North Lincolnshire Council* [2012] EWHC 3708 (Admin) at [15]).
- - v) In construing reports, it has to be borne in mind that they are addressed to a "knowledgeable readership", including council members "who, by virtue of that membership, may be expected to have a substantial local and background knowledge" (*R v Mendip District Council ex parte Fabre* (2000) 80 P & CR 500, per Sullivan J as he then was). That background knowledge includes "a working knowledge of the statutory test" for determination of a planning application (*Oxton Farms*, per Pill LJ) and also relevant development plan policies.

5. The principles relevant to the proper approach to planning policy are equally uncontroversial:

- - i) The interpretation of policy is a matter of law, not of planning judgment (*Tesco Stores Ltd v Dundee City Council* [2012] UKSC 13).
- - ii) National planning policy, and any relevant local plan or strategy, are material considerations; but local authorities need not follow such guidance or plan, if other material considerations outweigh them.
- - iii) Whereas what amounts to a material consideration is a matter of law, the weight to be given to such considerations is a question of planning judgment: the part any particular material

consideration should play in the decision-making process, if any, is a matter entirely for the Council (*Tesco Stores Ltd v Secretary of State for the Environment* [1995] 1 WLR 759 at page 780 per Lord Hoffman).

Background

6. This claim concerns waste disposal facilities.

7. European Directive 2008/98/EC (the Waste Framework Directive) lays down measures to protect the environment by preventing or reducing the adverse impacts of resource use, and the generation and management of waste. A key principle of the Directive is the waste hierarchy, which requires waste issues to be addressed as close as possible to source. Thus strategies are required to prevent the generation of waste and, where this is not possible, to reuse, recycle or recover waste, so that disposing of waste by landfill is a last resort. The Directive is reflected in national waste policy as set out in Waste Strategy for England 2007, and Planning Policy Statement 10: Planning for Sustainable Waste Management 2005 ("PPS10") which, reflecting the Directive principle, sets out the following waste hierarchy, namely waste prevention, reuse, recycling/composting, energy recovery and, finally, disposal. PPS 10 emphasises that sustainable development can be assisted by managing waste as high up this hierarchy as possible, encouraging planning authorities to identify suitable sites for new waste management facilities in this context.

8. Two categories of facility are relevant to this claim. Non-Residual Waste Treatment Facilities ("NRWF") are those facilities required to process and treat waste to enable as much of it to be recycled as possible. Residual Waste Treatment Facilities ("RWF") are those concerned with the mechanical, biological, thermal and aerobic treatment of the balance, designed to reduce the proportion then left for disposal by landfill to a minimum.

9. By 2007, it was very apparent that the West of England had insufficient NRWF and RWF. Indeed, no RWF existed in the area at all.

10. With a view to addressing this shortfall, four local authorities (Bath and North East Somerset Council, Bristol City Council, North Somerset Council and South Gloucestershire Council, together known as "the West of England Partnership") joined together to prepare an appropriate joint strategy for their sub-region. They appointed consultants to assist them with site selection and sustainability appraisal.

11. One location considered was that with which this claim is concerned, which falls within the Green Belt. National policy relating to Green Belt land is found in Part 9 of the National Planning Policy Framework ("the NPPF"). By paragraph 89, subject to exceptions irrelevant to this claim, the construction of new buildings in the Green Belt is inappropriate development. Paragraphs 87-88 provide:

- "87. ... [I]nappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
- 88. When considering any planning application, local planning authorities should ensure that substantial weight is given to harm to the Green Belt. '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."

Policy CP8 in the Core Strategy for Bath and North East Somerset, which forms part of the statutory development plan, substantially replicates this national policy.

12. The plot of land with which we are concerned comprises two distinct areas. First, there is an area of large tall buildings which was previously part of works for the extraction and processing of Fullers Earth.

That particular use has long since ceased, and it has for some years been used as an NRW. In effect, through long usage and a lack of enforcement, it has existing B2 (General Industrial) Town and Country Planning (Use Classes) Order 1987 (SI 1987 No 764) use rights. I shall refer to that area as "the Existing Developed Land" or "the EDL". The second area is L-shaped wrapping round two sides of the EDL, which has no relevant existing lawful use rights, being, in law, open and undeveloped land. However, it was at the relevant time - and currently is - used for unauthorised waste related activities, particularly the stockpiling of waste, in respect of which enforcement action is ongoing. I shall refer to this area as "the Open Land". I shall refer to the EDL and the Open Land together as "the whole site".

13. In due course, the West of England Partnership prepared a Joint Waste Core Strategy Development Plan Document ("the JWCS"), which was subject to examination by an inspector appointed by the Secretary of State. He reported on 3 February 2011 that the JWCS satisfied the statutory and policy requirements, and it was consequently adopted in March 2011.

14. Part 4 of the JWCS sets out the strategic objectives, one of which is (unsurprisingly) to move the management of waste up the waste hierarchy, "by increasing waste minimisation, recycling and composting then recovering further value from any remaining waste, and only looking to landfill for the disposal of pre-treated waste" (paragraph 4.3). That objective is to be attained by, amongst other things, encouraging NRW and RWF, both of which are regarded as key (see paragraphs 4.4.3 and 4.4.4).

15. With regard to NRW, whilst no specific sites are identified, it is noted that the draft Regional Spatial Strategy calls for an additional 0.8m tonnes of recycling and composting capacity for the sub-region by 2020, and the Waste Strategy for England 2007 increased the proportion of waste to be recycled/composted to 50% by that same year. Significant NRW were therefore required over the JWCS plan period (see paragraphs 6.3.1 and 6.4.1).

16. With regard to RWF, Policy 5 identifies locations where:

- "Planning permissions for development will be granted for development involving the treatment of residual wastes where it supports the delivery of the Spatial Strategy..."

17. These include, as BA12, the whole site. The Key Development Criteria for the site include:

- "Site Design: A high standard of design is expected for both built development and site layout, including landscaping, the relationship with nature conservation and geological interest on site."
- "Green Belt: Any development should be designed to minimise any impact on the openness of the Green Belt."

18. Paragraph 6.5.6 of the JWCS states:

- "Sites identified within Policy 5 may also be appropriate for non-residual waste related facilities, but not at the expense of delivering residual waste treatment capacity, and provided the development meets the identified Key Development Criteria..."

This, Mr Humphreys submitted with some force, is consistent with the sub-regional need for both RWF and NRW; and implicitly recognises the obvious advantages of co-location subject to ensuring that the RWF capacity requirement is satisfied.

19. The JWCS also contains safeguarding provisions. Paragraph 4.4.9 states:

- "Operational and allocated waste sites are safeguarded by Policy 13."

Under the heading "Safeguarding Operational and Allocated Sites for Waste Management Facilities", Policy 13 provides:

- "Operational waste sites are safeguarded, except where alternative suitable facilities are to be provided as part of an authority approved strategy.
- The specific sites listed in Policy 5 are safeguarded to deliver the Spatial Strategy. Where proposals would prejudice the implementation of the JWCS, consideration will be given as to how they could be amended to make them acceptable, or, where this is not practicable, to refusing planning permission."

I shall refer to the safeguarding provision in the first paragraph as "the first limb", and that in the second paragraph as "the second limb", of Policy 13.

20. Paragraph 6.15.2 explains:

- "... The purpose of safeguarding sites in existing waste use or allocated for waste treatment facilities is to ensure that these locations are not lost to non-waste development."

The Application

21. On 20 February 2014, the Developer made an application to the Council for outline planning permission for RWF, on land comprising mainly, but not exclusively, the Open Land. The development encroached to a small extent onto the EDL, although it left the buildings etc on that land entirely in tact.

22. There were a number of objections, including objections from the Claimants. The Council's Development Control Committee considered and approved the application, on the basis of the usual Officer's Report. Outline Planning permission was granted on 4 August 2014. It is the decision to grant that permission which is challenged in this claim.

The Claim

23. Mr Drabble relies upon several grounds, but, at the heart of his submissions is the proposition that, on its true construction, the existing use of the EDL was not safeguarded by the first limb of Policy 13, which was in effect overtaken by (and as a result of) the allocation of the whole site to RWF use by Policy 5. As a result, there was an "essential underlying assumption" that development pursuant to the allocation would replace and not add to the built development thus replacing the extant buildings - which the skeleton argument describes as "large and unsightly" - with a properly planned and landscaped waste facility. But, even if that were not the case, it was impossible for one site to be safeguarded by more than one provision, and Policy 5 was, in effect, predominant. The allocation was of the whole site, and, on the basis of the allocation, planning permission for RWF use was in principle available for the whole site. Following discussions with the site owner, Environmental Resources Management (who prepared the Revised Detailed Site Assessment Report in September 2009) said that they assumed the whole site "to be available in the short term". The Key Development Criteria for the site in Appendix 1 to the JWCS did not require existing use of the EDL to be safeguarded or retained: the criteria appear to have been drafted on the basis that they applied to the

whole site. Thus, when the JWCS was read as a whole, the current EDL use as a NRWF was not safeguarded. It was crucial to the analysis of the Officer's Report that it was. The Committee in adopting that analysis erred in law. There is no doubt that this part of the analysis was material (indeed, crucial) to their decision.

24. Alternatively, if the first limb of Policy 13 did safeguard the current EDL use as an NRWF, Mr Drabble submitted that the Officer's Report erred in simply relying upon that safeguarding effect, and not having regard to the planning merits and demerits of the two competing safeguarding provisions, in the context of the Key Development Criteria. These required consideration site design and minimisation of any impact on the openness of the Green Belt over the whole of the allocated site. The Officer's Report only considered them in the context of the new proposed development, and any future development of the EDL: it did not consider them in respect of the site as a whole, comprising the new proposed development and the existing NRWF on the EDL. If the continued presence of the existing development had been judged to be inconsistent with the site design or Green Belt requirements for the whole site, as it might have been, then that would have led to the application being refused or, at least, that breach of policy would have been a material factor which the Officer's Report, and in its turn the Committee, would have been bound to take into account. In any event, the decision to grant is unlawful, and should be quashed.

25. Grounds 2 and 3 rely upon the same essential premise. As Ground 2, Mr Drabble, relying upon *The Governing Body of Langley Park School for Girls v London Borough of Bromley* [2009] EWCA Civ 734 ("*Langley Park*"), submits that, in determining to grant the application, the Committee failed to consider an obvious alternative, namely whether the development could be located at least in large part on the EDL to minimise the impact of the development on the Green Belt as it was required to do. As Ground 3, he submits that the Council could not have rationally concluded that very special circumstances exist to allow this development in the Green Belt, when there is an obvious means on the same site to reduce the harm to the openness of the Green Belt by placing the development or a large part of it on the EDL. Mr Drabble, rightly, considered that the first three grounds were essentially interlinked and stood or fell together.

26. Mr Forsdick's grounds and skeleton argument relied upon two further grounds, upon which Mr Drabble did not elaborate at the hearing today; nor did he abandon them. They are as follows.

- *Ground 4:* The Report and thus the Planning Committee failed to grapple with the harm to the Green Belt caused by the proposed development, regarding the acceptability of the development to have been effectively settled by the allocation in the JWCS.
- *Ground 5:* The Report and thus the Committee proceeded on the basis of a conclusion or assumption that the proposed development caused no detrimental impact. In doing so, they erred in law because (i) there was patently detriment, notably in respect of openness, and/or (ii) they gave no reasons for concluding or assuming there was not.

27. In granting permission to proceed on 3 November 2014, Cranston J indicated that he did not consider Ground 1 arguable. No renewed application for permission was made. In the circumstances, Mr Humphreys suggested in his skeleton argument that this in effect removed Grounds 1, 2 and 3, because they were all based on the same foundation. That suggestion, although lightly put, appears to me to have some merit. However, as Cranston J's order is possibly ambiguous as to the grounds on which he granted permission and as each of the grounds has been fully argued before me, I will deal with them all.

Grounds 1, 2 and 3

28. However, despite Mr Drabble's efforts, I am afraid I am as unimpressed by his primary submission in respect of Ground 1 as was Cranston J.

29. It is my firm view that, on its true construction, the existing use of the EDL was safeguarded by the first limb of Policy 13 of the JWCS, despite the allocation of the whole site by Policy 5.

30. In coming to those conclusions, I have particularly taken into account the following.

- - i) It is noteworthy that a site allocated under Policy 5 of the JWCS is allocated for "development *involving* [not restricted to] the treatment of residual waste..."; and it is clear from that, and paragraph 6.5.6, that one site may be developed for both RWF and NRWF purposes, subject of course to the restrictions on such development imposed by Policy 13 and paragraph 6.5.6. As Mr Humphreys submitted, there are obvious advantages in co-locating the two.
- - ii) The JWCS allocated the whole site (including the Open Land) for that use, in the Green Belt, after detailed consideration, had determined that there was a need for such facilities and a lack of alternative sites. That consideration included an inspector's examination, in which all, including the Claimants, had an opportunity to contribute.
- - iii) The allocation in the JWCS could have restricted the allocation to the EDL, or, through the Key Development Criteria, could have required any proposed development to use the EDL in preference to the Open Land and/or required that, in any development of the site for waste management purposes, the existing buildings be removed. It singularly did not do so.
- - iv) The Officer's Report considered that the RWF proposed largely on the Open Land would fulfil immediate and medium term requirements for such facilities; and that no alternative NRWF were available. The report indicated that, of an indicative capacity of 150,000 tpa identified in the JWCS, the proposed facility would deliver 100,000 tpa; and the remainder of this allocated site (or another site at Broadmead Lane) were available if further capacity were needed before the end of the plan period (i.e. before 2026). Further, the report concluded that the proposed development would not prejudice an extension on the same to accommodate more capacity, nor prejudice such further development being of high standard in respect of site design. Those judgments are not challenged, and are unchallengeable.
- - v) As Mr Humphreys emphasised, it is surprising that there is no reference at all to Policy 13 in the Claimant's Particulars of Claim. The relevance and importance of that policy was raised in paragraph 6 of the Council's Summary Grounds of Resistance. In fact, Policy 13 is key to this claim.
- - vi) Mr Drabble submitted that a particular site could not be safeguarded under both limbs of Policy 13 - indeed, that was the premise upon which his submission was founded - but I do not agree. Safeguarding provisions such as these, as a matter of policy, merely prohibit development of a particular kind. The first limb of Policy 13 safeguards existing operational sites, whether RWF or NRWF, against any development without a suitable alternative being provided for the facilities that will be lost. The second limb safeguards specific allocated sites against development that does not involve RWF. Where a site, such as this, is both an operational NRWF site, but is also a site allocated for RWF development, there is no conceptual or practical discordance in it being safeguarded for both purposes. For the Site, Policy 13 had the effect of safeguarding the existing operational waste facility site unless it was required for RWF and alternative NRWF facilities were available.
- - vii) The JWCS must be looked at as a whole. Given that the use of the EDL for NRWF was safeguarded (so that it could not be removed unless a suitable alternative was provided), the document read as a whole clearly contemplated, not that RWF development on the site should

use the EDL in preference to the Open Land or should require the existing building be removed, but rather that it might be co-located on the site with the existing NRWF.

- viii) *Langley Park*, relied upon with some weight in the skeleton argument but not pressed upon me by Mr Drabble today, is readily distinguishable, primarily (although not exclusively) on the ground that, in that case, the existing use was not safeguarded as the use of the EDL is here. In that case, an application was made for planning permission for the demolition of most of a boys' school, and the construction of a new school on the same site but largely on what were the playing fields. The site was in the Metropolitan Open Land ("the MOL"), i.e. effectively Green Belt land. An objection was received (from the adjacent girls' school) that, by placing the new buildings where proposed as opposed to wholly or largely on the site of the buildings to be demolished, the proposed development would severely reduce openness and visual amenity. It was held that the planning authority had failed to take into account that the proposed development would severely injure the openness and visual amenity of the MOL, and that that injury would be greatly reduced if the layout was revised so that the new buildings were sited largely on the built up land as opposed to the open land. They had given no effective consideration to alternative development sitings within the site. However, here (i) unlike the *Langley Park* case, Policy 13 of the JWCS safeguards, not just the allocation, but the existing operational facilities on the EDL, which cannot simply be removed; (ii) unlike the *Langley Park* case, the whole site has been allocated to be built upon, and (iii) unlike the *Langley Park* case, consideration was given to alternative layout/setting but, given that the EDL was safeguarded and the future redevelopment of that land to a high standard was not precluded or prejudiced, it was not considered to be appropriate (see below). *Langley Park* had none of these highly material features, but notably the use of the site for the old school was not safeguarded as the use of the EDL for NRWF is here. Indeed, given the safeguarding of the existing use of the EDL, unless the need for RWF demanded the development of the whole site and there was a suitable alternative location for the existing NRWF operation, it would have been contrary to policy to have required the redevelopment of the EDL.

31. For those reasons, I consider the proposition upon which the primary submission in respect of Ground 1 is based to be flawed. In my judgment, there is no incongruity in a single site being the subject of both limbs of the safeguarding provisions in Policy 13; and the use of the EDL as an NRWF was safeguarded by the first limb of that policy. There was no "underlying assumption" in the allocation that development pursuant to that allocation would replace and not add to the built development thus replacing the extant buildings with a new integrated planned and landscaped waste facility - any such implied assumption there might otherwise have been could not stand in the light of the safeguarding provision in the first limb of Policy 13 - and the Council did not err in construing the allocation of the whole site in the JWCS as permitting development on any part of the site whilst retaining the existing NRWF use of the EDL.

32. In substance, that also deals with the alternative argument Mr Drabble evolved in relation to Ground 1 - that, if the first limb of Policy 13 did safeguard the current EDL use as NRWF, the Committee were bound to consider the planning merits of each of the safeguards in terms of site design and minimisation of openness impact over the whole allocated site - because it was premised upon the first and second limbs of Policy 13 being "competing". As I have described, they were not competing: they were complementary.

33. The allocation requirements in respect of site design and to minimise the impact on openness were made in the context that new RWF development on the site might be permitted alongside the existing facility.

34. In fact, the Officer's Report and Committee did not just have regard to the proposed development when considering the Key Development Criteria. As I have already indicated, they considered the possibility of future development of the EDL, and concluded that that land would be available to assist with capacity for RWF and that the proposed development would have no detrimental impact on the ability to have high site design standards for such further development. Further, the landscaping regime was considered on a whole site basis: the report says expressly that "the proposed

landscaping scheme was enhanced to treat, in landscaping terms, the allocated site as a whole to ensure it was enclosed by a high quality landscaping scheme".

35. The proposed development would clearly adversely affect openness; and the Report acknowledged that. However, it did not specifically consider whether the impact on openness was unacceptable because there may have been a benefit from the removal of the existing buildings etc as, for the reasons I have given, the EDL use was safeguarded and could not be dispensed with or removed (except on the basis that alternative suitable facilities were provided as part of a strategy approved by the Council) - and the JWCS envisaged the possibility of new development and the EDL development co-existing on the same site. The Report simply had to consider the impact on openness of the proposed development - of course, taking into account the relevant existing development, including that on the EDL - which it did.

36. For those reasons, I share Cranston J's view of Ground 1. Certainly, I do not find that, despite his laudable efforts, Mr Drabble has made any part of it good. Ground 1 thus fails. Grounds 2 and 3 founder upon the same rock.

37. The flawed proposition also runs through the remaining grounds; but, for the sake of completeness, I should briefly deal with them discretely.

Ground 4

38. As Ground 4, Mr Forsdick's grounds and skeleton submitted that the allocation in Policy 5 of the JWCS left over consideration of the impacts of any specific form, scale or location of any development against the Green Belt criteria; but the Committee regarded these issues as having been effectively settled by the allocation itself. As a result, they did not grapple with the issues themselves. They did not address the harm the proposed development would cause by reason of its inappropriateness or its impact on openness.

39. However, looked at as a whole, I consider the Officer's Report did sufficiently raise and address these issues. The report unfortunately does not benefit from paragraph or page numbers; but the officer set out the relevant Green Belt policies, setting out the purposes of including land in the Green Belt and the objectives for the use of land within the Green Belt, from the Core Strategy Policy which (as he noted) reflected the national policy in the NPPF. Importantly, he set out the substance of paragraphs 87-89 of the NPPF, to which I have already referred, in terms which are patently appropriate and adequate. He noted that the proposed buildings are an inappropriate development in the Green Belt and therefore it was necessary to require very special circumstances to justify the development. He noted the need for such development and the lack of alternative sites; and, correctly, that the principle of development had been accepted by the adoption of the JWCS which included the allocation of this site for this type of development. He then set out, over several pages, in turn, the adverse impact of the development so far as site design, landscape, cultural heritage, ecology, land contamination, highways, flooding, drainage, other environmental factors and other various matters are concerned. He acknowledged that the some harm would be caused, including harm to openness. However, he noted that the new buildings were restricted to the centre and back of the site, ground levels are to be lowered to reduce roof height and landscaping around the buildings would provide screening; and that the Council's landscape adviser considered that, with appropriate amendments (e.g. removing the stockpiles from the Open Land and lowering the ground levels as proposed), the scheme would not be visually detrimental to the Green Belt in this location. Importantly, as intermediary conclusions, he concluded that (i) the proposal would not compromise the development of the remainder of the Site for its intended (i.e. allocated) purpose or its ability to achieve a high standard of design in that further development; and (ii) having regard to the proposed design, layout and proposed landscaping, the impact on the openness of the Green Belt had been minimised. Noting that the test was whether the very special circumstances clearly outweigh the harm by reason of inappropriateness and any other harm, he ultimately concluded that such circumstances had been demonstrated.

40. When looked at as a whole, that analysis is in my judgment unimpeachable.

Ground 5

42. Finally, I turn briefly to Ground 5. The Officer's Report said:

- "The assessments undertaken indicate that there would be no significant effects on... the Green Belt...".

In the grounds and skeleton argument, Mr Forsdick submitted that this conclusion is unreasoned; and, particularly in respect of openness, is inexplicable and patently wrong.

43. However, I am entirely unpersuaded. This sentence cannot be looked at in isolation. When the Report is looked at as a whole, the author clearly understood the relevant Green Belt policies (which he recites) and their importance; and adopted the correct approach to his task under those policies. The Report clearly recognised that there would be some detriment to openness as a result of the proposed development - because the Report concludes that the impact on openness is minimised by various steps it was proposed to take in relation to landscaping etc. There is, in my respectful view, nothing in this ground.

Conclusion

44. For those reasons, none of the grounds is made good; and I dismiss the claim.



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Our Ref: 214/A3/MJK
BANES Ref: 14/00839/EMINW
PINs Ref: APP/F0114/C/13/2195018

11th March 2015

Dear Ms Davidson

URGENT - RESIDUAL WASTE FACILITY AND SECOND BITE ENFORCEMENT ACTION, LAND AT OLD FULLERS EARTH, ODD DOWN, BATH

We have now received written confirmation that the judicial review proceedings of Protect Bath have been dismissed.

We had outlined at the Pre-Inquiry meeting held on the 23rd September 2015 that in this instance we would withdraw the appeals. Unfortunately circumstances dictate that we are unable to do this. The reason for this relates to the fact that it has taken significantly longer than anticipated to agree a formal route to compliance with the Council. A report on the matter was due to be presented to committee today but this has now been delayed until the 8th April in order to provide members with a full update of the outcome of the JR proceedings.

Although we are confident that the officers report and recommendation will set out a route to compliance which has been agreed between the parties after extensive discussion and fact gathering it is not certain that members will endorse this and accordingly we cannot withdraw the appeals until this confirmation is received. I'm sure that you will be able to appreciate this position.

Therefore we request that the appeals continue to be held in abeyance until the 9th April to allow members to make a decision on this matter. If they resolve to support the officer's recommendation to agree the following key issues we will withdraw the appeals:

- That in respect to Area E no action is required subject to any reserved matters permission being implemented within 18 months of a decision being issued;
- That Concrete Production within use class B2 is acceptable in Area A;
- That the current stonemasonry activities being undertaken in Area A are a B2 use and are therefore acceptable;

- That the skip hire associated with the waste processing uses being undertaken within Area A (by Waste Recycling at Bath) are ancillary to the B2 operations being undertaken in this area; and
- That hard standings be removed from Area D (apart from those associated with the residential use of the cottages known as the Firs).

If members do not support this recommendation unfortunately we will not be able to withdraw the appeals.

If they do endorse the recommendation the key to achieving compliance is the delivery of the residual waste facility granted permission under application 14/00839/EMINW. Although the JR proceedings created uncertainty and delayed the implementation of this permission a reserved matters application has now been submitted to the council and is validated. This application was prepared at risk in light of the JR and is clear evidence of our intention to continue to work proactively with the council to avoid unnecessary appeal proceedings. We hope that the grant of abeyance for a further month will assist in keeping this process on track to avoid unnecessary expense for all parties.

We look forward to your urgent response to this matter and hope that the principles of expediency will allow you to grant this request. If the request cannot be accommodated we will proceed to prepare for a reconvened Inquiry.

Yours sincerely



MATTHEW KENDRICK
Director

cc - Richard Stott, BANES
 - Christopher Herbert, SLR Consulting

Bath & North East Somerset Council		
MEETING:	Development Control Committee	<div>AGENDA ITEM NUMBER</div> <div></div>
MEETING DATE:	8th April 2015	
RESPONSIBLE OFFICER:	Mark Reynolds, Group Manager, Development Management (Telephone: 01225 477079)	
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: 14/03396/FUL
Location: 17 Lansdown Park Lansdown Bath Bath And North East Somerset BA1 5TG
Proposal: Erection of two storey rear extension. (Retrospective).
Decision: REFUSE
Decision Date: 4 February 2015
Decision Level: Delegated
Appeal Lodged: 26 February 2015

App. Ref: 14/04748/LBA
Location: 290 High Street Batheaston Bath Bath And North East Somerset BA1 7RA
Proposal: Internal and external alterations to facilitate the restoration of basement and other decorative details and provision of new doorway between pantry and basement.
Decision: REFUSE
Decision Date: 11 December 2014
Decision Level: Delegated
Appeal Lodged: 27 February 2015

App. Ref: 14/04060/FUL
Location: 12 The Tynning Widcombe Bath Bath And North East Somerset BA2 6AL
Proposal: Demolition of existing glazed studio and erection of single storey studio to side elevation.
Decision: REFUSE
Decision Date: 14 November 2014
Decision Level: Delegated
Appeal Lodged: 2 March 2015

App. Ref: 14/05221/CLPU
Location: 36 Dafford Street Larkhall Bath BA1 6SW
Proposal: Installation of double glazed windows to replace existing timber sash windows. (Certificate of Lawfulness for a Proposed Development)
Decision: REFUSE
Decision Date: 7 January 2015
Decision Level: Delegated
Appeal Lodged: 9 March 2015

APPEALS DECIDED

App. Ref: 14/03160/FUL
Location: 9 Tynning Place Combe Down Bath Bath And North East Somerset BA2 5HA
Proposal: Proposal to extend existing rear roof dormer. (Resubmission of 14/00867/FUL)
Decision: REFUSE
Decision Date: 14 October 2014
Decision Level: Chair Referral
Appeal Lodged: 20 November 2014

Appeal Decision: Appeal dismissed on 20th March 2015

Click [here](#) for Inspector's Decision

App. Ref: 14/03418/FUL
Location: Land To Rear Of 89A-91 Lymore Avenue Twerton Bath Bath And North East Somerset
Proposal: Erection of 1 no. two storey dwelling, associated landscaping and parking for 2 vehicles.
Decision: REFUSE
Decision Date: 26 September 2014
Decision Level: Delegated
Appeal Lodged: 24 November 2014

Appeal Decision: Appeal dismissed on 2th March 2015

Click [here](#) for Inspector's Decision

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