

**Democratic Services**

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Date: 21 April 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, Manda Rigby, Martin Veal, David Veale and Vic Pritchard

**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, 29th April, 2015**

You are invited to attend a meeting of the **Development Control Committee**, to be held on **Wednesday, 29th April, 2015 at 2.00 pm** in the **Council Chamber - Guildhall, Bath**

The Chair's Briefing Meeting will be held at 10.00am on Tuesday 28<sup>th</sup> 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

QrUrl(2)

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](http://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, 29th April, 2015  
at 2.00 pm in the Council Chamber - Guildhall, Bath**

**A G E N D A**

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 19<sup>th</sup> July 2012 to which full reference should be made as appropriate).

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

These are to take place when the agenda item relating to declarations of interest is reached. It is best for Officers' advice (which can only be informal) to be sought and given prior to or outside the Meeting. In all cases, the final decision is that of the individual Member.

**2. Local Planning Code of Conduct**

This document, as approved by Full Council and previously noted by the Committee, supplements the above. Should any Member wish to state/declare that further to the provisions of the Code (although not a personal or prejudicial interest) they will not vote on any particular issue(s), they should do so after (1) above.

**3. Site Visits**

Under the Council's own Local Code, such visits should only take place when the expected benefit is substantial eg where difficult to visualize from a plan or from written

or oral submissions or the proposal is particularly contentious. The reasons for a site visit should be given and recorded. The *attached note* sets out the procedure.

#### 4. **Voting & Chair's Casting Vote**

By law, the Chair has a second or "casting" vote. It is recognised and confirmed by Convention within the Authority that the Chair's casting vote will not normally be exercised. A positive decision on all agenda items is, however, highly desirable in the planning context, although exercise of the Chair's casting vote to achieve this remains at the Chair's discretion.

Chairs and Members of the Committee should be mindful of the fact that the Authority has a statutory duty to determine planning applications. A tied vote leaves a planning decision undecided. This leaves the Authority at risk of appeal against non-determination and/or leaving the matter in abeyance with no clearly recorded decision on a matter of public concern/interest.

The consequences of this could include (in an appeal against "non-determination" case) the need for a report to be brought back before the Committee for an indication of what decision the Committee would have come to if it had been empowered to determine the application.

#### 5. **Protocol for Decision-Making**

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

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

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

#### 6. **Officer Advice**

Officers will advise the meeting as a whole (either of their own initiative or when called upon to do so) where appropriate to clarify issues of fact, law or policy. It is accepted

practice that all comments will be addressed through the Chair and any subsequent Member queries addressed likewise.

7. **Decisions Contrary to Policy and Officer Advice**

There is a power (not a duty) for Officers to refer any such decision to a subsequent meeting of the Committee. This renders a decision of no effect until it is reconsidered by the Committee at a subsequent meeting when it can make such decision as it sees fit.

8. **Officer Contact/Advice**

If Members have any conduct or legal queries prior to the meeting, then they can contact the following Legal Officers for guidance/assistance as appropriate (bearing in mind that informal officer advice is best sought or given prior to or outside the meeting) namely:-

1. Shaine Lewis, Principal Solicitor  
Tel. No. 01225 39 5279
2. Simon Barnes, Principal Solicitor  
Tel. No. 01225 39 5176

General Member queries relating to the agenda (including public speaking arrangements for example) should continue to be addressed to David Taylor, Senior Democratic Services Officer Tel No. 01225 39 4414

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

### **Site Visit Procedure**

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

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

**BATH AND NORTH EAST SOMERSET**

**MINUTES OF DEVELOPMENT CONTROL COMMITTEE**

Wednesday, 8th April, 2015

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

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

Also in attendance: Councillors David Dixon, David Martin, Will Sandry and Ben Stevens

**127 EMERGENCY EVACUATION PROCEDURE**

The Senior Democratic Services Officer read out the procedure

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

A Vice Chair was not required

**129 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

There was an apology from Councillor Les Kew whose substitute was Councillor Sally Davis

**130 DECLARATIONS OF INTEREST**

There was none

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

There was none

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

The Senior Democratic Services Officer informed the meeting that (1) notice of Questions had been received from Margaret Stewart relating to consultation on late receipt of revised drawings on planning applications; and (2) there were a number of people wishing to make statements on planning applications in Reports 9 and 10 and that they would be able to do so when reaching their respective items in those reports.

Margaret Stewart then read out her Questions to which the Group Manager replied. The Chair indicated that further queries on the subject could be directed to the Planning Department.

(Note: A copy of the document - circulated at the meeting - containing the Questions and Reply is retained in the Minute Book)

### **133 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS**

There was none

### **134 MINUTES: 11TH MARCH 2015**

The Minutes of the meeting held on 11<sup>th</sup> March 2015 were approved as a correct record and were signed by the Chair.

Regarding Minute No 122 and the issue raised by Councillor Ian Gilchrist relating to conditions discharged on the permission at Beechen Cliff School, he had spoken to the Case Officer about the matter and it was confirmed that the DCC did not need to be further involved.

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

The Committee considered

- A report by the Group Manager – Development Management on a planning application at 2 Hermitage Road, Lansdown, Bath
- Oral statements by members of the public etc., the Speakers List being attached as *Appendix 1* to these Minutes

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

**No 2 Hermitage Road, Lansdown – Erection of 1 five bedroom dwelling following demolition of existing bungalow** – The Case Officer reported on this application and her amended recommendation to authorise Officers to grant permission subject to conditions and amendments to the list of Plans recommended for approval.

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

Councillor Patrick Anketell-Jones (Ward Member on the Committee) considered that light and openness would be affected by the proposed development. The Officers responded to queries raised by Councillor Dave Laming regarding the volume of the proposed development compared to the previous application dismissed on appeal. Councillor Rob Appleyard stated that the Members' site visit was useful and it was apparent that there would be some impact on adjoining residents. However, he considered that this was not significant and that the car dock was a good facility to reduce the number of cars being parked on the road. He therefore moved the Officer recommendation. The motion was not seconded.

Members continued to discuss the matter with particular regard to loss of light to adjoining properties. Councillor Manda Rigby considered that, as the height of the proposal had increased, the bulk was similar to the application that had been dismissed on appeal. There was a loss of light to No 26 Sion Road and to a lesser

degree, No 3 Hermitage Road. She therefore moved that the recommendation be overturned and that permission be refused on the grounds of loss of light, the mass and bulk of the proposed development and overdevelopment of the site which would be detrimental to the amenities of adjoining residents. The motion was seconded by Councillor Dave Laming. The Group Manager commented on the areas of concern outlining why the Officer recommendation was to permit. There was further discussion and the Group Manager clarified the second reason relating to mass and bulk by relating it to the effect on the character of the Conservation Area.

Members briefly debated the motion after which it was put to the vote. Voting: 6 in favour and 5 against with 2 abstentions. Motion carried.

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

The Committee considered

- A report by the Group Manager – Development Management on applications for planning applications at No 43 Upper Oldfield Park, Bath, and No 8 Lime Grove Gardens, Bathwick, Bath
- Oral statements by members of the public etc. on these applications, the Speakers List being attached as *Appendix 1* to these Minutes
- An Update Report by the Group Manager on No 43 Upper Oldfield Park, Bath, a copy of which is attached as *Appendix 3* to these Minutes

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

**Item 1 No 43 Upper Oldfield Park, Bath – Erection of 14 residential apartments with parking and shared grounds (Revised proposal) (Retrospective)** – The Principal Planning/Enforcement Officer reported on this application and the amended recommendation to (A) authorise the Planning and Environmental Law Manager to enter into a S106 Agreement to secure the provision of parking space for the local car share club and membership of the club for future residents on a lifetime basis at a ratio of 2 memberships per flat; (B) wait for the consultation period for advertisement as a departure from the Development Plan to expire; and (C) authorise the Group Manager to grant permission subject to conditions. He referred Members to the objection by the Junction Road and Environs Residents Group circulated to Members and some inaccuracies that were contained therein. A Petition signed by approximately 280 people had been received against the proposal. He stated that, if the recommendation was approved, some amendments would be required to the wording of Conditions 1, 10 and 13.

The public speakers made their statements against and in favour of the development. These were followed by statements by the Widcombe Ward Councillor Ben Stevens and the Ward Councillors for Oldfield, Councillors Will Sandry and David Dixon, who all supported refusal of the application.

Councillor Ian Gilchrist stated he would consider the application on its own merits. It was now too big for its location, ugly and inappropriate for the area. He therefore

moved that the recommendation be overturned and that permission be refused which was seconded by Councillor Martin Veal.

Members debated the motion. Councillor Rob Appleyard commented on the appearance of the building and referred to waste collection and the lack of affordable housing which was an issue for him. He would support the motion. The Group Manager responded to some of the comments by saying that the former application was for 14 flats when the threshold was 15 units for affordable housing to be sought. The Group Manager clarified that affordable housing was sought in this case in line with the Core Strategy policy. An independent review had however been undertaken of the applicant's viability information and this review confirmed the applicant's position that seeking affordable housing would make the scheme unviable. He also advised that the building was a departure from policy and this was a retrospective application. The building had already been erected on the site and therefore its appearance could not be disregarded in considering the acceptability of the drawings before the Committee which reflected the as built situation. Councillor Manda Rigby considered that the altered roofscape with its equipment for lifts and air conditioning was harmful to the appearance of this part of the Conservation Area. There was little public benefit from this scheme and social housing should be included.

Members continued to debate the motion. The Group Manager advised that a Temporary Stop Notice had been served to halt the development so that the situation on site could be thoroughly assessed. Discussions with the developers then took place and amendments to the drawings were sought which eventually led Officers to conclude that the scheme was acceptable. The provision of affordable housing had been independently assessed and had been shown to be unviable; as such a refusal based on a lack of affordable housing couldn't be defended on appeal. Regarding public benefit, the provision of housing on a brownfield site was such a benefit. Councillor Patrick Anketell-Jones considered that the design was not good enough for the Conservation Area although some effort had been made to adapt to the Victorian architecture of adjoining buildings. It shouldn't be rejected on modernist grounds.

Councillor Ian Gilchrist stated that his reason for moving refusal were that the design was harmful to the area and that the building's increased bulk and height, its enlarged 4<sup>th</sup> floor, flat roofed extensions and the paraphernalia on the roof had a detrimental effect on this part of the Conservation Area and the World Heritage Site. The Group Manager advised that the motion would need to be amended to authorise Officers to formulate the precise wording of the reasons for refusal.

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

(Note: After this decision at 3.55pm, there was an adjournment for 10 minutes for a natural break)

**Item 2 No 8 Lime Grove Gardens, Bathwick, Bath – Erection of a single storey extension providing kitchen and new second floor dormer** – The Principal Planning/Enforcement Officer reported on this application and the recommendation to grant permission subject to conditions. He recommended amended wording to Conditions 2 and 4.

The public speakers made their statements against and in favour of the application. The Ward Councillor David Martin made a statement raising various issues of concern.

Councillor Dave Laming considered that the scheme was acceptable and the installation of a dormer would increase the amount of accommodation. He therefore moved the Officer recommendation which was seconded by Councillor Bryan Organ.

Members debated the motion. Most Members expressed support for the scheme as it was at the rear of the terrace, barely visible from the canal and was only slightly above permitted development rights.

The Chair gave his views on the scheme and then put the motion to the vote. Voting: 12 in favour and 0 against with 1 abstention. Motion carried.

### **137 ENFORCEMENT UPDATE - LAND AT FORMER FULLERS EARTHWORKS, FOSSEWAY, COMBE HAY**

The Committee considered a report by the Group Manager – Development Management (1) updating Members on enforcement matters relating to land at the former Fullers Earthworks, Combe Hay, and delivery of a Residual Waste Facility (RWF); and (2) written representation from a local resident and oral statements by a representative of the Bath Preservation Trust and the landowner's agent.

The Chair reported the view of Combe Hay Parish Council on the matter.

The Principal Planning/Enforcement Officer provided a power point presentation and answered Members' questions.

The Committee discussed the matter. Some concern was expressed regarding the previous planning history of the site and reassurance was sought that the landowner would fulfil his obligations. Some Members also felt that 18 months was too long to wait before the RWF would be delivered and outstanding enforcement issues resolved. The Group Manager stated that the application for an RWF had been in 2 parts with the outline permission having been granted and the reserved matters soon to be determined by the Committee. It was expected that it would probably take 18 months for reserved matters conditions to be discharged and the development delivered. The report set out the matters that it was considered in-expedient for the Council to enforce against at this time subject to the delivery of the RWF. Members sought clarification on the timing of the RWF delivery and current unauthorised uses at the site. The Group Manager stated a 6 monthly report could be brought to the Committee so that Members could be kept updated. . He further advised that, if the appeal against the Second Bite Enforcement Notice was not withdrawn within a month, the matter should be submitted to the Committee for reconsideration. Members supported this as a way forward.

The Committee therefore approved the report and accordingly:

**RESOLVED** that it is not expedient to:

- (1) require the removal of the hard standings 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;
- (2) require the removal of any hard standings 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;
- (3) 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; and
- (4) enforce against the existing concrete batching plant operation provided it operates within Area A and the material storage bays are removed from Area E.

In addition, Members agreed that (i) a report be submitted to the Committee in June if the appeal against the Second Bite Enforcement Notice had not been withdrawn within 1 month; and (ii) an update report be submitted to Committee on a 6 monthly basis.

*(Note: The following day, the landowner's agent confirmed that the Enforcement Notice appeal had now been withdrawn.)*

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

The report was noted.

The meeting ended at 5.05 pm

Chair(person) .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

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

**MEMBERS OF THE PUBLIC WHO MADE A STATEMENT AT THE MEETING OF  
THE DEVELOPMENT CONTROL COMMITTEE ON WEDNESDAY 8<sup>TH</sup> APRIL 2015**

<b>SITE/REPORT</b>	<b>NAME/REPRESENTING</b>	<b>FOR/AGAINST</b>
<b>PUBLIC QUESTIONS AND STATEMENTS (ITEM 6)</b>		
Consultation procedures on receipt of revised plans	Margaret Stewart	Questions
<b>SITE VISIT LIST – REPORT 9</b>		
2 Hermitage Road, Lansdown, Bath (Pages 39-50)	Annie <u>AND</u> Grahame Meharg  Tom Roche, Roche Associates (Applicant's Agents)	Against – To share 3 minutes  For
<b>MAIN PLANS LIST – REPORT 10</b>		
43 Upper Oldfield Park, Bath (Item 1, Pages 53-77)	Heather Kale (Junction Road and Environs Residents Group)  Marc Willis, Willis & Co (Applicants' Agents) <u>AND</u> Nicola McCarthy	Against  For – To share 3 minutes
8 Lime Grove Gardens, Bathwick, Bath (Item 2, Pages 78-84)	Simon Maughan  Chris Mackenzie	Against  For
<b>ENFORCEMENT UPDATE – REPORT 11</b>		
Former Fullers Earthworks, Fosseyway, Combe Hay (Pages 85-180)	Robert Hellard (for the Bath Preservation Trust)  Matthew Kendrick (for the owner)	Statement  Statement

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**BATH AND NORTH EAST SOMERSET COUNCIL**  
**DEVELOPMENT CONTROL COMMITTEE**

**8th April 2015**

**DECISIONS**

<b>Item No:</b>	001	
<b>Application No:</b>	14/04081/FUL	
<b>Site Location:</b>	2 Hermitage Road, Lansdown, Bath, Bath And North East Somerset	
<b>Ward:</b> Lansdown	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of 1no five bedroom dwelling following demolition of existing bungalow.	
<b>Constraints:</b>	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,	
<b>Applicant:</b>	Nitor Investments Ltd	
<b>Expiry Date:</b>	19th November 2014	
<b>Case Officer:</b>	Tessa Hampden	

**DECISION REFUSE**

1 The proposed development, due to its inappropriate bulk and proximity to the neighbouring dwellings would result in an unacceptable loss of light to the windows of the adjacent neighbouring properties, and as such result in unacceptable harm to the residential amenity currently enjoyed by these neighbouring occupiers. The development is therefore contrary to saved policies D2 and D4 of the Bath and North East Somerset Local Plan 2007.

2 The development, due to the unacceptable design, mass and bulk of the development is considered to result in a built form that would have an unacceptable detrimental impact upon the character and appearance of the City of Bath Conservation Area. The development is therefore considered to be contrary to saved policies BH6, D2 and D4 of the Bath and North East Somerset Local Plan 2007 and CP6 of the Core Strategy 2014.

3 The proposed development, due to its proximity to the neighbouring dwellings and its overall massing and bulk, is considered to represent the overdevelopment of the site. The development is therefore contrary to saved policies BH6, D2 and D4 of the Bath and North East Somerset Local Plan 2007. and CP6 of the Core Strategy 2014.

**PLANS LIST:**

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 06 PROPOSED LOWER GROUND AND GROUND FLOOR PLAN

05 Sep 2014 P 07 PROPOSED 1ST AND 2ND FLOOR PLANS  
05 Mar 2015 P 08a PROPOSED NORTH ELEVATION  
05 Mar 2015 P 09b PROPOSED SOUTH ELEVATION  
05 Mar 2015 P 10b PROPOSED WEST ELEVATION  
05 Mar 2015 P 11b PROPOSED EAST ELEVATION  
05 Mar 2015 P 12b PROPOSED SITE SECTION AA  
05 Mar 2015 P 13a 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. Whilst the Case Officer recommended approval, Members of the Development Control Committee took an adverse view and decided to refuse the application.

**Development Control Committee**  
**UPDATE REPORT**  
**8<sup>th</sup> April 2015**

**14/04547/FUL – 43 Upper Oldfield Park**

**Site Visit**

A pre-committee site visit with Members was conducted on Monday 30<sup>th</sup> March. Members viewed the site in long range views from the north of the City from Sion Road, Lansdown where they were able to see the development in the wider setting of the Conservation Area and World Heritage Site. In addition the site was viewed in more detail at close range from Lower Oldfield Park, Upper Oldfield Park, and Junction Road (including the entrance to Second Avenue and outside Livingstone Terrace opposite the doctor's surgery).

**Status of the Planning Permission / Fall Back**

Since the publication of the main report, further case law has come to officers' attention which suggests that the correct approach to considering whether a planning permission has been implemented involves looking at what has been built as a whole and reaching a judgment as a matter of fact and degree upon that whole as to whether or not the planning permission has been implemented.

In this case, where there are differences between the planning permission and what has been built, officers' view is that the planning permission was not in fact implemented, meaning that it has now expired. This means that it is not capable of implementation and does not provide a fall-back position.

Notwithstanding, Members are advised that the planning history of the site is a material consideration and it is highly relevant that permission was granted previously and that the policy position against which that permission was granted has not changed in any material respect. As such, it is still correct to make a comparison between what was permitted and what has been constructed on site.

**Conservation Officer's Consultation Response - Addendum**

Following receipt of the advice from the legal team the Conservation Officer has issued the following addendum to the earlier consultation response:

"I am aware that further case law has come to light since I provided my last comments in respect of the revised drawings and legal advice has been provided to Officers in respect of whether or not the previous permission remains extant. The conclusion of the advice is that as there are substantial differences between the planning permission and what has been built, the original permission is no longer considered to have been implemented meaning that it has now expired.

In my previous consultation response (23<sup>rd</sup> March 2015) I stated that I was "*mindful that permission for a building of a very similar size and scale remains extant*" and

that “*this application, whilst treated on its own merits, cannot ignore the provisions of the extant permission*”.

In light of the legal advice that has now been provided I would like to clarify my position that, having previously considered this application in line with the provisions set out in the NPPF (paras 132 and 134), and in light of local policy (BH.6 of the Bath & North East Somerset Local Plan and CP6 of the Core Strategy), irrespective of whether there was an extant permission or not I remain of the view that the harm to the Conservation Area (in its totality) is less than substantial. My previous conclusion that, whilst there remains concern over aspects of the roof treatment overall much of the fabric of the Conservation Area would remain unaltered, therefore still stands.

For clarity and completeness, the history of this site (including the previous permission) is a material consideration to my assessment of the scheme. However I remain of the view that apart from the rooftop treatment the development as built is acceptable for reasons previously stated.”

### **Conservation Area / NPPF**

In addition to para 134 NPPF (which is addressed on page 66 of the main report), members are also reminded of the importance of the advice in paragraph 132 NPPF which states:

*“132. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Substantial harm to or loss of designated heritage assets of the highest significance, notably scheduled monuments, protected wreck sites, battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional.”*

Members’ attention is drawn in particular to the advice that “great weight” should be given to the conservation of the Conservation Area as a heritage asset. As is set out in the main report, Officers conclude that whilst there are elements of the scheme that do harm the skyline appearance of the development, this harm is contained to the immediate short range views of the site and when viewed in the context of the Conservation Area as a whole, the totality of harm to the conservation asset is less than significant. Full consideration has been given to the provisions of NPPF para 132 and in concluding that there is “less than significant harm” the Local Planning Authority is required to consider the provisions of NPPF para 134; the assessment in line with para 134 is set out on page 66 of the main report and remains unchanged.

### **Local Representations**

Additional letters of representation have been received from the Junction Road and Environs Residents Group since publishing the main report which raise queries about the views expressed and information contained within the report, in addition suggestions have been made in respect of the wording of certain conditions. Officers have considered the contents of the representation and are of the view that the issues are already satisfactorily covered within the main report.

### **Other Comments**

In the main report the recommendation is to permit the development, this is incorrect and the recommendation is to delegate to permit.

Furthermore, as explained in the main report the application has been advertised as a departure to the Development Plan as it is considered to be contrary to Policy CP9 of the Core Strategy in that it is not providing any affordable housing provision.

The consultation period for the advertisement does not expire until 16 April 2015 which is after the application will have been considered by Members. Therefore the words 'subject to no new planning issues being raised' should be inserted with in part B of the recommendation.

### **Recommendation:**

The recommendation should be amended to read:

Delegate to Permit

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, subject to no new planning issues being raised, then

C Authorise the Group Manager to PERMIT, subject to the following conditions:

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**BATH AND NORTH EAST SOMERSET COUNCIL**  
**DEVELOPMENT CONTROL COMMITTEE**

**8th April 2015**

**DECISIONS**

<b>Item No:</b>	01	
<b>Application No:</b>	14/04547/FUL	
<b>Site Location:</b>	43 Upper Oldfield Park, Oldfield Park, Bath, Bath And North East Somerset	
<b>Ward:</b> Widcombe	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of 14no. residential apartments with parking and shared grounds (Revised Proposal) (Retrospective).	
<b>Constraints:</b>	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,	
<b>Applicant:</b>	Landmark Developments Limited	
<b>Expiry Date:</b>	13th January 2015	
<b>Case Officer:</b>	Rachel Tadman	

**DECISION REFUSE**

**DRAFT REASON FOR REFUSAL**

1 The development, by reason of its excessive height, bulk and inappropriate design, incorporating enlargements of the side wings at fourth floor level a predominance of flat roofed elements, and a cluttered roof, is incongruous in this prominent location and out of character within its prevailing context. The development is harmful to the character and appearance of the street scene, part of the Bath Conservation Area and to the setting of the wider World Heritage Site. The development is contrary to Policies BH.6, D.2 and D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies), 2007, which are saved Policies, contrary to Policies B4 and CP6 of the Bath & North East Somerset Core Strategy, 2014 and contrary to the National Planning Policy Framework, 2012

**PLANS LIST:**

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.

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.

<b>Item No:</b>	02	
<b>Application No:</b>	14/04373/FUL	
<b>Site Location:</b>	8 Lime Grove Gardens, Bathwick, Bath, Bath And North East Somerset	
<b>Ward:</b> Bathwick	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of a single storey extension providing kitchen and a new second floor dormer	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Conservation Area, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,	
<b>Applicant:</b>	Ms Megan Yakely	
<b>Expiry Date:</b>	18th November 2014	
<b>Case Officer:</b>	Stuart Ashford	

## **DECISION PERMIT**

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 north or south elevations of the dormer window; 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 Upon completion of the dormer window glazing serving the bathroom, it 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.

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<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	<b>29th April 2015</b>
<b>RESPONSIBLE OFFICER:</b>	Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)
<b>TITLE:</b>	<b>APPLICATIONS FOR PLANNING PERMISSION</b>
<b>WARDS:</b>	ALL
<b>BACKGROUND PAPERS:</b>	
<b>AN OPEN PUBLIC ITEM</b>	

AGENDA  
ITEM  
NUMBER

### BACKGROUND PAPERS

List of background papers relating to this report of the 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:
01	11/05078/VAR 24 January 2012	Mr Pat Filer Tia Filers Coaches, Wick Lane, Stanton Wick, Bristol, BS39 4BU Variation of condition 4 of application WC 6174/E to increase number of coaches kept on site from 12 to 20 (Continued use of land as a coach depot on land at Pensford Colliery, Pensford, Bristol)	Clutton	Mike Muston	REFUSE



## **REPORT**

### **REASON FOR REFERRING APPLICATION TO COMMITTEE**

This application is referred to Committee because of the past history of decisions on this site. The application was reported to Committee on 4 July 2012, when it was deferred in order to allow the applicant to provide further information regarding routes served by the depot and the need for additional coaches, the size of coaches, the benefits to the local community and the suitability of other available sites for a depot for the additional coaches.

Further information has now been submitted. This shows that the coaches run from the site are as follows:-

#### **Filers Coaches**

Operating six coaches and three minibuses. The coaches comprise:

Two x 53 seater

One x 51 seater

Three x 57 seater

The company runs Council school contracts to serve Chew Valley School (Chew Magna) and swimming, sports and trips out from the primary schools in the villages of Pensford, Stanton Drew, Dundry, Ubley, Chew Magna, East Harptree, Chew Stoke, Chew Magna and Winford.

The company also offers private hire. The company employs five drivers, two administrative staff and two on site engineers.

#### **Glenvic**

Operating three coaches comprising:

One x 70 seater

One x 53 seater

Glenvic operates within the Chew Valley and Backwell areas consisting several school Council contracts, serves the rural communities in Chew Valley, Chew Stoke, Regil, Winford and Felton and rural communities in North Somerset. The company also offers private hire employing three drivers.

#### **Citistar**

Operates one x 57 seater used for school contracts for Chew Valley School serving the villages of Hinton Blewett, Temple Cloud, West Harptree, Compton Martin, Ubley and Chew Stoke.

The company also operates two public services using one x 37 seater and one x 28 seater on the following routes:

128 Bishop Sutton - Nailsea

134 Bishop Sutton - Weston Super Mare

135 West Harptree - Weston Super Mare

768 Farrington Gurney - Bath

The company employs three drivers.

#### Somerbus Limited

A public transport operator comprising three x 29 seater and one x 43 seater on the following routes:

82 Paulton - Radstock

175 Clutton - Bath

185 Clutton - Trowbridge

640 Bishop Sutton - Keynsham

683 Keynsham - Wells

636 Whitchurch - Keynsham

668 Midsomer Norton - Bristol

757 Odd Down - Midsomer Norton

Somerbus Ltd employs five drivers.

The supporting information says that all four operators have shared use of the parking and workshop and rest room facilities on the site. They also share drivers when the need arises. The statement says that shared use of these facilities and staff reduces the operating costs for the individual operators.

The statement goes on to argue why a Green Belt location is essential for this use. It submits plans showing the relationship between the bus routes and the Green Belt. These will be included in the presentation to Committee. With reference to these plans, the statement goes on to say:-

"This illustrates that in respect of the Council School Contract Services all of Filers and Glenvic coaches routes fall within the Green Belt. The routes undertaken by Citistar relate to villages adjacent or within the Green Belt. In addition, all of the coach companies provide school outing trips from all Green Belt villages in the Chew Valley.

"In respect of the public bus operators (Somerbus and Citistar) all of the routes provided by these companies pass through the Green Belt within BANES or North Somerset Council areas.

"The Council School Bus Contracts and public bus services are at their most sustainable when 'dead mileage' is reduced to a minimum. Plans 1 and 2 referred to above show that this objective can only be met by the operating centres of all the companies being based in the Green Belt."

In respect of community benefits, the statement says the following:-

"The local community benefits of retaining the use of Filers coaches depot to accommodate the additional coaches was additional information sought by Members of the 2012 Planning Committee. It should be noted that 'local community benefit' was an issue previously raised by the Applicant to demonstrate Very Special Circumstances. However Very Special Circumstances do not now need to be pleaded because the NPPF defines the proposal as not inappropriate development in the

Green Belt. NOTE - THIS IS NOT NECESSARILY ACCEPTED FOR REASONS SET OUT LATER. Nonetheless, the benefit of the proposal to the local community is a material planning consideration which can be taken into account in the determination of this application.

"Glenvic carries up to 34,000 school pupils per academic year and Filers 112,700. Filers coaches also undertake 1,000 trips carrying 38,400 primary school children per academic year for swimming trips and many educational day trips for schools in the Chew Valley area. Citistar carry 10,700 school pupils per year.

"It is evident that the use of the site provides an important community function in transporting over 200,000 school children per academic year but it also has an important role in reducing the need to travel by car - many of the trips would have otherwise been undertaken by car.

"Over recent years a number of other coach operators have ceased trading, mainly through the redevelopment of their sites. These include, Winford Queen, Chew Valley Coaches, Silverwing Travel, Avon Coaches and Z Cars. This has exacerbated the scarcity of coach depots in the district, particularly in the western sector which is poorly served by coach operators.

"The use of the site by Somerbus and Citistar as a public transport operators falls outside of the 1984 planning permission. Somerbus own 6 buses that operate from this site and have done so for the past 13 years. The Company currently carries 130,000 passengers a year on local bus services using one of the newest bus fleets in the region. They are also the only company providing a bus service to the new 'Circle Bath Hospital' in Peasedown St John where an hourly service is provided. Somerbus have purchased a new bus to operate the 175 service (Midsomer Norton to Bath). They also provide a partially commercially operated service around Radstock, Midsomer Norton and Paulton. This includes a service to Paulton and Somervale schools to carry pupils not entitled to free transport.

"The public bus service operated by Somerbus provides the only alternative service, from that operated by First Bus, between Midsomer Norton and Bath. They also provide the only service to the new district hospital in Peasedown St John. The services the company provides are a high quality benefit to the community.

"The first public bus services provided by Citistar linking the villages of Chew Valley to the towns in North Somerset District, currently carry 30,500 passengers per year.

"Both Somerbus and Glenvic are important providers of public bus services serving the rural communities located on the western edge of the Bath and North East Somerset District. The companies perform an important social and economic function to allow people to travel for day to day services and employment. It also has an environmental dimension by substituting trip movements that may have otherwise been undertaken by car."

The statement also updates the 2011 information, stating that no suitable alternative premises for the unauthorised coaches are available [NOTE - THIS IS DISPUTED BY AN OBJECTOR]

## DESCRIPTION OF SITE AND APPLICATION

The application site is located in the countryside to the south of Pensford village on land forming part of the designated Green Belt. The site forms part of an area which was formerly used for coal mining and a number of buildings from this period remain close to the application site. To the north of the site are two former colliery buildings now converted into dwellings, 'The Winding House' and 'The Bath House'.

The application site fronts onto the east side of Wick Lane and measures 68m frontage by 40m depth. It is relatively flat but is in an elevated position. It forms part of the larger area presently used by Filers coaches (part of which is unauthorised) and is surfaced with hard core and includes a large workshop building and a number of smaller buildings used by the coach business. The site has a vehicle access onto Wick Lane, the remainder of the frontage being marked by a metal fence and a hedgerow, the side boundaries of the site also being marked with fences and hedgerows.

Filers Coaches presently have planning permission dating from 1984 for the use of an area measuring 40m by 68m adjacent to Wick Lane for the "continued use of land as a coach depot", with a maximum of 12 such vehicles permitted to be parked at the site. This is controlled by condition 4 of permission WC 6174/E. This states that "the number of coaches using the depot shall be limited to twelve". The reason given for the condition is "to control the extent of the development in the interests of the amenities and environment of the locality and of highway safety". This application seeks to increase the number of coaches kept on the site from 12 to 20. It does not involve any increase in the size of the site where coaches may be parked.

An additional area to the east of the approved site has also been taken into use for the parking of buses without planning permission, and this has been the subject of enforcement action by this authority.

## RELEVANT PLANNING HISTORY:

Planning permission for the use of the site for the parking of coaches was first granted in 1979. This was a temporary permission and limited the number of coaches at the site to 12. Another temporary permission was granted in 1981, and then in 1984 planning permission ref WC6174/E was granted for the continued use of the land for parking of coaches. This gave a permanent rather than temporary permission and is the permission on which the present use of the site relies.

During 1990 it came to the Council's attention that land additional to that included in WC6174/E was being used for the parking of coaches. On 6th December 1991 two Enforcement Notices were served requiring cessation of the use of the land outside the permitted area for parking vehicles. Appeals were lodged against these Notices, but were dismissed in February 1993. The notices were then complied with to the satisfaction of the then Wansdyke Council.

In July 2007 an application was submitted for a Certificate of Lawful Existing Use for both the permitted and the unauthorised land for coach parking for 24 coaches and also the parking of two lorries at the site (07/02130/CLEU). The result of this was a split decision,

with the parking of two lorries at the site accepted as lawful, but the parking of coaches over the whole site not being considered demonstrated to an acceptable level.

In June 2008 an Enforcement Report was taken to the Development Control Committee, relating to the siting of more than the permitted 12 coaches on the land approved for coach parking, and the use of additional land to the west for the parking of vehicles. It was resolved that Enforcement Action be taken and two Enforcement Notices were served on 23rd February 2009, one requiring the cessation of parking of more than 12 vehicles on the approved site, and the other the cessation of parking altogether on the remaining land to the east. The time for compliance of both these notices has expired.

In November 2009, an application (09/02418/FUL) was considered by Committee for a proposal to extend the site onto land to the east, and to increase the number of coaches on the site to 22. It was recommended for refusal but permitted by Members. The reasons given for granting permission were:-

"The Council considers that the proposed use of this previously developed site, with appropriate planning conditions would support valuable local transport services and also provide local employment. It is considered that the location of the application is very well placed to serve the surrounding rural communities which amounted to a sustainable approach to transport and represents very special circumstances to outweigh any harm to the openness of the Green Belt or Green Belt Policy. Furthermore it is considered that the proposal will maintain the amenity of any nearby residents, the character and appearance of the area and highway safety."

This permission was legally challenged by an objector. At the 20 January 2010 meeting of the DC Committee, Members were advised on the merits of this challenge in Exempt Session and the Committee "RESOLVED to consent to the quashing of the decision to grant the planning permissions issued under Ref No 09/02418/FUL". The permission was duly quashed by the High Court on 14 June 2010. The application was reported back to the Committee for its reconsideration and determination in September 2010, when it was refused for the following reasons:-

"1 The proposed expansion of the area to be used for coach parking would amount to inappropriate development in the Green Belt. It would harm the openness of the Green Belt and encroach into the countryside. All of this would be contrary to Policy GB.1 of the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007.

2 The proposed expansion of the area used for coach parking and the increase in the number of vehicles parked at the site would detract from the openness and rural character of this area within the designated Green Belt, contrary to Policy GB2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

3 The proposal would be likely to increase vehicle movements, including those of large vehicles, on the local road system, which is unsuitable to accept additional traffic by reason of its inadequate width, alignment and junctions. The proposal would therefore be likely to result in congestion and inconvenience to other road users, contrary to Policy T24 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

4 The proposal is in a location remote from services and public transport facilities to enable staff to access the site, and would be likely to increase the vehicle journeys to and from the site both by coaches and other vehicles. This is contrary to Government Guidance in Planning Policy Guidance Note 13 and the objectives in respect of reducing the adverse impact of travel on the environment, set out in Policy T1 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

5 The benefits of the proposal put forward by the applicant would not clearly outweigh the harm by reason of inappropriateness, and other identified harm, contrary to Policy GB.1 of the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007."

A subsequent application 11/03051/FUL for the same development, but supported by more information, was submitted and refused by Committee on 29 September 2011, for the same reasons.

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

**STANTON DREW PARISH COUNCIL:** Strongly supports the application and express frustration that previous applications were refused. The proposal will not harm the openness of the Green Belt or encroach into the countryside. The firm provides vital transport and employment. The benefits put forward outweigh any harm.

**HIGHWAYS:** This application is similar (in terms of its highways impact) to previous recent applications which have been refused on highways grounds.

It is accepted that coaches have operated from the site for some years, and that the site as a whole has had an employment use for over one hundred years; it is the case however that the proposal will add a level of traffic on the local highway network compared to its current consented use.

The previous refusal decision contained two highways reasons:

1. The traffic generated would use a road which is considered unsuitable to accommodate the increase in traffic, and
2. The proposal is in a remote location and is therefore car-dependant, contrary to PPG13.

While there has been no change in policy since that time, this previous highways advice stated that there was a fine balance to be considered in terms of these two issues due to the following:

#### **1. Highway Safety**

Notwithstanding the fact that the local highway network is not to the standard that might be expected to serve a facility of this sort, which by definition attracts a significant proportion of larger vehicles (narrow carriageways, lack of forward visibility, no street-lighting etc.), there is no evidence to-date that a highway safety issue has resulted. There have been no casualty accidents in the area, or any record of highway safety concerns raised with the Area Traffic Engineer. This must be considered in the context that a coach business has been in operation here for approx. 25 years. It is difficult therefore to prove a

link with the use of the site to-date with any road safety consequence, or therefore that any issue will result from this development.

The proposal will result in an additional 8 coaches being kept on the site - less than that previously applied for. In addition, it could be argued that a more significant reduction in traffic on the wider highway network will result in the provision of alternatives to car travel.

Recent experience suggests that an objection on these grounds would be difficult to defend, and on balance therefore, recommends that this reason for refusal should not be imposed on this occasion.

## 2. Sustainability

The issue of the sustainability of the proposed development is not straightforward. Any employment usage at this location could be considered not to be accessible, due to the need to travel by private car (due to the lack of alternatives). However, the use of the site allows bus services to be delivered from a location which is close to its catchment. These services include local public services and school buses. The facility therefore provides important sustainable travel alternatives for the community as a whole, even though the development (considered in isolation) may not be considered sustainable.

The Competition Commission has published results of an investigation into the local bus market which found that a shortage of suitable depot sites (particularly in rural areas) was a barrier to entry in the market, and that access to depot facilities was a major factor in limiting the ability of some small operators to expand their operations. The evidence with this application would suggest that Filers Coaches have experienced these difficulties, which therefore represents a risk to this authority's delivery of sustainable travel to the public, such as home-to-school transport services, Greater Bristol Bus Network and other rural services.

The application has the support of Bath and North East Somerset Council's Public Transport Team Leader in this regard.

While therefore, there has been no change in policy, the Competition Commission comments highlight the risk to the delivery of sustainable transport to the general public and on balance therefore would recommend removal of the previous objection in this regard.

In summary therefore recommends no highways reason for refusal subject to the following conditions being added to any consent granted:

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

Reason: In the interests of amenity and highway safety.

2. The turning space shown on the submitted plan shall be provided and maintained for that purpose only within the site.

Reason: In the interests of highway safety.

3. The permission shall endure for the benefit of the applicant only.

Reason: In the interests of highway safety.

This final recommended condition allows future reconsideration of the permission, should the site be sold to another operator whose purpose may not be for use for public service (i.e. with the potential to undermine the 'sustainability' justification).

Additional comments dated 10/04/1012:

Further to the above comments, and with regard to the sustainability discussions on the proposed application, the highways advice has been reviewed in the light of the introduction of the National Planning Policy Framework, which effectively supersedes the advice of PPG13 in this regard.

In effect, this new document continues to protect against unsustainable development (in transport/travel terms) in a similar way to PPG13, in that development decisions should be balanced in favour of sites which are sustainable i.e. well-served by a "real" choice of travel and/or reduce the need to travel.

It has never been considered that this site at Wick Lane is sustainable in itself - there is no question that the site is car-dependent for the vast majority of those who work there. The consideration therefore is in respect of the benefit the wider community get from the provision of sustainable transport. In this regard, considers that the benefit received by the public from this business outweighs the disbenefit which may be experienced by the travel of its comparatively minimal workforce.

The applicant appears to have demonstrated the need to expand, and that unsuccessful efforts have been made to relocate within a reasonably convenient distance from its catchment - this reinforces the balanced consideration that the minimal disbenefit of the unsustainable site should not outweigh the risk of losing of the provision of sustainable travel for the community as a whole.

Is conscious that a change of highways advice has resulted from the reduction in numbers of vehicles being kept on the site (from 22 to 20). There is no strict guidance on minor roads as to what constitutes a 'material' increase in traffic movements, and therefore what might be considered to be detrimental in purely numerical terms. While therefore the change in opinion might appear somewhat arbitrary, it is based in the main (as discussed previously) that there is absolutely no evidence that the existing use has resulted in any road safety or capacity issues in the previous 25 years of its use. As stated, this has always been a finely balanced judgement. Accepts that, in the past, it was possibly not reasonable to have recommended refusal on highways safety grounds given the site's history.

The highway officer has confirmed that his comments have not altered in response to the additional information submitted in 2015.

ENVIRONMENTAL HEALTH: No observations.

REPRESENTATIONS: Five letters received, objecting to the proposal on the following main grounds:-

Highway danger and congestion from more coaches using the narrow lanes around the site

Cannot see any difference between an extra 10 and an extra 8 coaches

Inappropriate development in the Green Belt

Problems with water running off the site from constant washing of coaches

Don't believe it will be possible to accommodate all the coaches within the authorised site

Don't accept that "very special circumstances" exist

The Council has failed to enforce the enforcement notice on the site

21 years of the use of this site have been unauthorised

Other sites exist that could be used as a coach depot

The Council uses some of the operators on the site to provide school buses and so has an interest in the site

The Council should still consider the full implications for the Green Belt when considering this application

The policy position in relation to the Green Belt is much stricter now than was the position when the original permission was granted

This new layout may result in coaches reversing onto the highway

A total of 9 coaches are actively engaged in providing school and public transport, with some 15 other coaches in various states of repair parked or stored in the yard

The applicant's search for alternative sites has been restricted to existing coach depots. A coach depot is similar to a B8 storage or B2 industrial use and anybody seriously trying to find an alternative site should explore opportunities such as this. As an example, the re-developed Winford Cattle Market site some 1 mile to the west of the B&NES Boundary has permission for B2 and B8 purposes and is currently available to let or purchase.

Two letters received, supporting the application on the following main grounds:-

This is a local business employing local people and reduces the need for employees to travel to work

The number of coaches on site now causes no problems whatsoever and contribute to the community.

UPDATE - 2015

One objector has commented on the revised supporting statement as follows:- [Note - given the history of this site it has exceptionally been decided to set this out in full].

"As you are probably aware, planning permission has been now been granted for the conversion of the former colliery buildings to the north into one and seven dwellings (Ref. 14/02856/FUL & 14/02858/FUL respectively). This is a material change in planning circumstances since the application was last considered in July 2012.

"Buildings 1, 6 and 7 of the approved scheme for 7 dwellings have windows of habitable rooms facing towards the application site, and it is considered that any increase in coach parking over and above that for which permission has already been granted will, by reason of noise, disturbance and visual intrusion be detrimental to amenities of the future occupiers of those dwellings.

"I note from your July 2012 report that the changes in planning policy arising from the NPPF were taken into account at that time, and that for a number of reasons, you decided to recommend that permission be refused.

"It appears that the applicant is relying upon the advice at Para. 90 to justify the granting of permission that being " Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These include: "local transport infrastructure which can demonstrate a requirement for a Green Belt location"

"The premise appears to be that because there are no alternative sites available, there is a need for a Green Belt location. In judging this issue the first matter to be considered is how the present situation has arisen. It is well documented history that the site has operated in contravention of planning conditions and an enforcement notice for around 25 years. During that time this Council and the predecessor authority have done nothing to secure compliance with the Enforcement Notice and have been found guilty of maladministration for failure to do so. The Council have also failed to comply with an undertaking to take action to secure compliance with the Enforcement Notice.

"On the other hand, it appears that the Council through its various departments, have granted contracts for school and public bus services operating from this site. It is these services that are now being quoted in support of the proposal. Why these contracts were granted when the Council should have known that the operations involved a contravention of planning regulations is a matter that should be fully investigated before this application is determined. Any other approach may give rise to a suspicion that the Council have some form of interest in the current use continuing.

"Not only is it necessary to investigate the above point, the investigation should also ensure that the committee are aware of the length of the current contracts, the other operators, if any, who also tendered for those contracts and the availability of other operators to take over these contracts if the current occupiers were forced to move out.

"Beyond that I would also comment on the evidence supplied by the applicant in support of the claim that there are no alternative sites available. The letter to the commercial agents stressed the need for accommodation for 12 coaches and maintenance facilities. There is no evidence to show that the current operators have to move to the same location. It is possible that they could be spread over smaller sites. Equally it is not legally essential for on-site maintenance to be available, and I understand from my enquiries that possibly two of the other service operators in B&NES do not have that facility.

"The objector and I have also carried out a brief investigation into alternative premises that are currently available. The results are shown in the attached correspondence. There is other evidence to support this view in the pipeline, but as I undertook to let you have comments by today, I will have to forward this information as and when it becomes available. This supports the objector's contention that other sites are available if there is a genuine desire to comply with the enforcement notice.

"I can support that approach because following the deferral of the application in July 2012, one coach firm operating on Council contracts has relocated at Chilcompton about 3 miles south of Midsomer Norton and the former coach depot at Winford, which at that time was

being advertised as being available for sale has now been sold for residential development. To my mind, this demonstrates that other sites have been available, but for whatever reason, the operators have not sought to pursue these options.

"On the basis of the above, it is considered that there are still sites available and that those in the Green Belt have the benefit of planning permission thereby negating the need for further encroachment onto what should be open land.

"The other point that has still to be addressed is how the proposed use will preserve the openness of the Green Belt. This was and remains a matter of concern to the objector and appears from the last committee report to be a concern to the planning officers.

"I would be grateful if you would take these comments into account in your consideration of this application and trust that you will continue to recommend that permission be refused.

"Should you consider that under the present circumstances there may be a need to allocate additional land for these purposes, I would suggest that this is best considered by the Council as part of the Placemaking Plan, rather than on the basis of a decision that could be considered to be based on the consequences of the Council having been responsible for this unsatisfactory situation in the first place."

#### **POLICIES/LEGISLATION**

Saved policies from the Bath \_ North East Somerset Local Plan (including minerals and waste policies) adopted October 2007:-  
GB.1, GB.2, ET.5, D.2, D.4, T.1, T.24

Bath and North East Somerset Submission Core Strategy policies:

CP8 - Green Belt  
CP13 - Infrastructure Provision

The National Planning Policy Framework is also a material consideration.

#### **OFFICER ASSESSMENT**

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

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

**WHETHER INAPPROPRIATE DEVELOPMENT IN THE GREEN BELT:** The application site lies within the designated Green Belt, to which Policy GB1 of the Local Plan applies. This policy advises that within the Green Belt permission will not be given for development, other than for certain types of development not related to this proposal, except in very special circumstances. This application is for a variation of a condition attached to an existing permission. However, it still amounts to an application for development in the Green Belt - essentially from a coach depot operating a maximum of 12 coaches to one operating a maximum of 20. The application needs to be considered in that context.

Paragraphs 89 and 90 of the National Planning Policy Framework (NPPF) imply that material changes of use are inappropriate development in the Green Belt (although this is not set out in the same explicit way as in PPG2). Paragraph 90 says that certain types of development are not inappropriate development in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. These include local transport infrastructure which can demonstrate a requirement for a Green Belt location.

The applicant's agent argues that the application complies with this policy test because the provision of a rural bus service and school bus transport operation in a catchment area predominantly falls within the Green Belt. They argue that these communities clearly have a need for the transport services provided on Filers yard and as a result, the development proposal meets the policy test of paragraph 90 of the NPPF and falls outside the category of 'inappropriate development' and therefore results in no 'definitional harm' and dispenses with the need to provide very special circumstances.

Whilst these points are appreciated, it is considered that the coach business on the application site has an understandable preference to locate within the Green Belt, given the nature of some of its business. It is not considered, from the evidence submitted, that this proposal passes the paragraph 90 test of demonstrating a "requirement" for a Green Belt location. In addition, even if it did, it still needs to pass the test of preserving the openness of the Green Belt. As the proposal would result in several more coaches being parked on the land than is currently permitted, it is considered that this would result in limited harm to the openness of the Green Belt.

As a result of the above, the application proposal is considered to amount to inappropriate development in the Green Belt. Paragraph 87 of the NPPF confirms that "inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances." Paragraph 88 says that "When considering any planning application, local planning authorities should ensure that substantial weight is given to any 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." These other considerations will be considered later in this report.

**VISUAL AMENITY OF THE GREEN BELT/CHARACTER AND APPEARANCE OF THE AREA:** In terms of visual impact on the Green Belt and rural character, the proposal has to be considered in relation to the already permitted use of land at this site for vehicle parking. The application site is in an elevated location at the top of a hill, and is visible from surrounding land, including land to the west and north-west. Although the site is

screened to some extent by the hedges and trees surrounding the site, it is considered that large and relatively high vehicles such as coaches would be visible on the site and detract from the openness of the landscape and the rural character of the area.

The increase in numbers of vehicles which would result from the proposal would increase the impact of the use above that which is generated by the permitted siting of twelve vehicles on the permitted site. It is accepted that during working hours, many of the coaches would not be parked on the site. However, at other times, the proposal would lead to an increase in the number of coaches parked on the site. Even if 3 coaches are parked in the workshop building, there would still be an increase of 5 coaches in the open (from 12 to 17) compared to the permitted position. It is considered that as a result the proposal would detract, albeit to a limited extent, from the openness of this part of the Green Belt, and the rural character of the area, contrary to Policy GB2 of the Local Plan.

**HIGHWAY ASPECTS:** The application site is in a relatively remote rural location which is accessed by Wick Lane, a narrow and winding rural highway which has poor visibility and steep gradients in some places. Coaches are large vehicles and the local road system is not readily able to accommodate vehicles of this kind. The proposal would increase the permitted capacity of this site and thus the number of vehicle movements to and from the site along Wick Lane. However, the Highways Officer has come to the conclusion that this reduced proposal (20 coaches instead of the previously proposed 22) should not be refused on highway grounds. The reduction in numbers may seem small. However, the Highways Officer now accepts that the earlier applications should not have been recommended for refusal on highways grounds. On balance, no highway safety objection is raised to this application.

**SUSTAINABILITY:** The application site is located in a rural location remote from any services or transport links, the nearest settlement being Pensford village to the north. A result of this is that staff attending the site are likely to travel to the site by car, as will any vehicles servicing the site. In addition, this location means that some of the coaches based at the site are likely to have to travel a significant distance to and from the site to collect their passengers, and to return to the site on completion of their journeys.

The proposal therefore does not represent a 'sustainable location' for this coach depot. However, it is acknowledged that the site is in a good location to serve the need for coaches from surrounding villages and does provide sustainable transport. An objector has made the point that the coach depot could be relocated elsewhere, in a more sustainable location outside the Green Belt. However, it must be borne in mind that permission does exist for 12 coaches to operate from this site. On balance, it is not considered that an objection should be raised to this current proposal on the grounds of sustainability.

The NPPF also now puts forward the concept that "sustainable development" should be permitted. This is made up from economic, social and environmental factors. The proposal is considered to be economically sustainable, by providing local jobs and socially sustainable, by providing coaches that help run public transport services. The location of the site, remote from an urban area, is relevant to environmental sustainability, as it would generate more emissions than the same facility located in an area closer to where the employees live. However, looking at sustainability as a whole, the proposal is not considered to amount to unsustainable development.

LIVING CONDITIONS OF NEARBY OCCUPIERS: The nearest residential property to the application site is 'The Winding House' which is approximately 90m north of the site boundary. Due to the distance, the occupiers of this house would not be significantly affected by the proposed increase in the number of coaches on the site. planning permission has been now been granted for the conversion of the former colliery buildings to the north into one and seven dwellings (Ref. 14/02856/FUL & 14/02858/FUL respectively). . However, the distance of the main house from the application site would be such that the likely increase in use of the site would not have a material effect on these occupiers. It is not considered that the proposal would result in any material harm to the living conditions of occupiers of nearby residential properties.

#### BENEFITS AND FACTORS IN FAVOUR:

The Supplementary Statement submitted in support of the application in 2015 concludes as follows:-

"The existing planning permission for this site limits the number of coaches parked on this site to 12. The application seeks to increase this to 22.

"There are currently 4 coach/bus operators based on the Filers Yard Site who collectively operate a fleet of 16 vehicles plus several non operational vehicles used for spare parts. In total, the four operators have Operators Licence for 19 coaches.

" Citistar and Somerbus are more recent operators to occupy the site. This provides a rental income to Filer Coaches and makes effective use of the 5 bay maintenance workshop and justifies a full-time engineer to be employed on the site. The four operators share drivers and staff facilities and this makes for a low cost operation for each of the company's concerned.

" Up until March 2012, all previous attempts to increase the number of coaches stationed on the site were held to be 'inappropriate development in the Green Belt' and therefore very special circumstances had to be pleaded to justify the granting of planning permission.

" After March 2012, National Green Belt Policy has changed in respect of local transport infrastructure. This is now deemed appropriate development in the Green Belt, providing it can demonstrate a Green Belt location.

"In this statement we have provided the additional information about the coach/bus operators, the availability of other sites and the community benefits. These being the issues on which member of the Council's Planning Committee required further information.

" We have produced evidence to demonstrate the locational justification for the additional coaches operating in the Green Belt and reaffirmed through a second 'call for sites' exercise that there are no alternative sites available or suitable for use in the broad locality. We are therefore content that the application meets the relevant policy tests of the NPPF.

" We have also produced evidence of the significant community (and transport sustainability) benefits of the existing 4 coach operators using Filers depot site.

"The alternative of not increasing the site's capacity from 12 will result in Citistar and Somerbus having to cease operations from the site. In the absence of alternative and suitable sites, this could result in them pulling out of their school and public transport contracts. This outcome would result in a significant loss of a community facility."

The Planning Statement that accompanied the application in 2011 includes a section entitled "The Case for Granting Planning Permission". This sets out the following:-

The use of the site has been established with the benefit of planning permission since 1979 - 32 years.

The area involved already has permission as a coach depot

Both Filers coaches and Glenvic coaches provide a school bus and local private hire coach business..

In recent years, a number of other of coach operators have ceased trading, mainly through redevelopment of their sites. This has heightened the scarcity of coach depots in the district and the locational advantages of the application site. (Although the evidence submitted to support this statement is not compelling).

Somerbus use the site outside the terms of earlier permissions and operate as a public transport operator, and have done for the past 13 years. They are the only company to provide a bus service to the new hospital in Peasedown St John and have purchased a new bus to operate the 175 service between Midsomer Norton and Peasedown St John. They also provide the only alternative to First bus travelling between Bath and Midsomer Norton. (Although note that an objector claims that only 9 coaches are actively involved in providing school and public transport.)

The site provides an important community function in transporting 185,100 school children per academic year but also an important role in reducing the need to travel by car, as many of the trips would otherwise have been undertaken by car.

Public transport operators are at their most sustainable when dead mileage is reduced to a minimum and in this case the site is efficiently located to serve the school and bus routes.

A lack of alternative sites is cited. Somerbus have contacted 12 commercial property agents and 4 other coach depots in an attempt to find alternative premises, but without success. (Although note that the lack of availability of alternative sites is disputed by the objector, as noted above.) The implications of not granting permission would directly threaten the public bus and school bus services operated by both Somerbus and Glenvic. Whilst the comments of the highway officer are noted, it is not considered that the evidence submitted amounts to compelling evidence that premises outside the Green Belt for this coach depot are not available.

The NPPF offers some support for the application.

## CONSIDERATION OF WHETHER VERY SPECIAL CIRCUMSTANCES EXIST AND CONCLUSIONS

This proposal is considered to be inappropriate development in the Green Belt. Substantial weight should be attached to harm caused by reason of inappropriateness. In addition, the proposal would also cause limited harm to the openness of the Green Belt, its most important attribute, and to the rural character of the area.

It is considered that the factors put forward in favour of the proposal are insufficient to "clearly" outweigh the harm by reason of inappropriateness and the limited harm to the openness of the Green Belt and the rural character of the area identified above. On this basis, it is recommended that the variation of the condition be refused.

It is acknowledged that the level of harm is less than was the case when an extension of the site was being considered. However, the benefits of the scheme (even with the additional information submitted in 2015) are similar to those considered before and still not in your officers' opinion sufficient to meet the test now set out within the NPPF.

## **RECOMMENDATION**

REFUSE

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

1 The proposed increase in the number of coaches on the site would amount to inappropriate development in the Green Belt. It would harm the openness of the Green Belt and encroach into the countryside. All of this would be contrary to Policy GB.1 of the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007.

2 The proposed increase in the number of vehicles parked at the site would detract from the openness and rural character of this area within the designated Green Belt, contrary to Policy GB2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted 2007.

3 The benefits of the proposal put forward by the applicant would not clearly outweigh the harm by reason of inappropriateness, and other identified harm, contrary to Policy GB.1 of the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007.

## **PLANS LIST:**

Drawings PL 2678/2A and 2678/4, and Planning Statement with Appendices, received on 25 November 2011 and drawing PI 2678/1A, received on 29 November 2011.

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## Agenda Item

<b>Bath &amp; North East Somerset Council</b>	
MEETING:	Development Control Committee
MEETING DATE:	29 April 2015
REPORT OF:	Lisa Bartlett, Divisional Director - Development
REPORT	ENFORCEMENT REPORT
ORIGINATOR	Richard Stott, Principal Planning/Enforcement Officer
TITLE:	43 Upper Oldfield Park, Bath, BA2 3LB
WARD:	Widcombe
<b>AN OPEN PUBLIC ITEM</b>	

**SITE DESCRIPTION**

The 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 east.

The site has a residential land use and was formerly occupied by a two storey dwelling of inter-war age known as Oakford House.

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 the Junction Road to the west of the site, directly adjacent to the GP surgery.

Following the grant of planning permission in January 2009 for the erection of 14no. residential apartments, works commenced on site in January 2012. The former two storey dwelling has been demolished, the unauthorised development appears externally, essentially complete.

## **RELEVANT HISTORY**

- 14/04547/FUL - Erection of 14no. residential apartments with parking and shared grounds (Revised Proposal) (Retrospective) – At the meeting of the Development Control Committee on 8<sup>th</sup> April 2015 it was resolved to refuse planning permission subject to no new planning issues being raised during the period that the application is being advertised as a Departure from the Development Plan.
- 14/04229/NMA - Non-Material Amendment to application 07/02461/FUL. (Erection of 14no. residential apartments with parking and shared grounds (Revised Application)) – Approved 01.10.2014 – Note, the NMA simply converted the plans set out in a footnote to 07/02461/FUL into a plans list condition requiring the development to be built in accordance with the approved plans, the NMA did not confirm or approve any aspect of the works that have actually been carried out on site.
- 12/00387/CA - Demolition of existing dwelling on site - Consent
- 11/05409/COND - Discharge of conditions 2,4,5,11,12,14,15,17,20,21,22,23 of application 07/02461/FUL - Discharged
- 10/00294/FUL - Erection of 13 no residential apartments with parking and shared grounds (Resubmission) – Refused 11.06.2010
- 07/02461/FUL - Erection of 14no. residential apartments with parking and shared grounds (Revised Application) – Permitted 26.01.2009
- 07/00653/FUL - Erection of 13 no residential apartments with parking and shared grounds (Resubmission) – Refused 15.06.2007
- 06/02075/CA – Demolition of 43 Upper Oldfield Park – Consented 19.07.2006
- 06/02073/FUL - Erection of 14 No residential apartments and parking following demolition of existing dwelling – Refused 02.11.2006

## **BACKGROUND**

### **Matters Which Appear To Be Breaches Of Planning Control**

The development as constructed does not accord with the plans approved under planning permission 07/02461/FUL (Erection of 14no. residential apartments). The deviation from the approved plans is substantial and the building which has been constructed is essentially a different building to that which was permitted. This means that the development has been constructed without planning permission and is therefore unauthorised.

### **The Granting of Planning Permission**

Planning permission was granted for the site on the 26<sup>th</sup> January 2009 under application reference 07/02461/FUL for the erection of 14no. residential apartments with parking and shared grounds.

In the approved application report, the Landscape Officer commented that the proposed development in comparison to the previously refused schemes:

*“more sensitively reflects the roof pattern of the two adjacent pairs of villas further up the road”* and as well as being of a similar height and proportions to the adjacent pairs of villas, the proposed development retained *“similar gaps between and pitched roofs...[which] supports the rhythm of the buildings in this part of the road and the way they appear to step down, sensitively reflecting their position on a sloping road.”* The Officer concluded that *“the inclusion of a pitched roof effectively reduces the mass of the building at high level.”* The views of the Landscape Officer were echoed by other consultees including the Conservation Officer who noted that *“the pitched roof may be argued to increase the prominence of the roof, but...this reflects those used on adjacent properties”*. The officer went on to state that *“the projecting wings reflect the wings on the adjacent taller Villas and also set some distance back from the front elevation of the building which will help break up the bulk of the building.”*

Turning to the officer report itself, this application was recommended for approval, and ultimately granted permission by the Development Control Committee on the basis that the *“revised proposal now reflects the architectural language, albeit it in a modern style, from both the front and rear, of much of the street, especially the buildings immediately to the east. This includes similarly proportioned elements, including the front facing bays, double gables and pitched slate roof. The previous application at this site was refused specifically because the building proposed a flat roof and it was considered that the lack of a pitched roof would result in the building appearing incongruous within its setting which would harm its surroundings and this part of the Bath Conservation Area and World Heritage Site. Whilst the pitched roof has resulted in an overall increase in height of the building compared to the previously refused scheme its overall size, bulk and mass is considered comparable with its immediate neighbour and would not have a detrimental impact on the streetscene or this part of the Bath Conservation Area and World Heritage Site. In essence the changes to the design are such that they are considered by Officers to overcome the reason for refusal on the previous application and the proposal is considered to be acceptable.”*

### The Development as Built

Works commenced on site in January 2012 however 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 is now taller and wider than approved, lacks the recessed balcony elements on the side elevations at roof level (which had been integral to the design approach that allowed the Council to grant permission), and features a far more disjointed roofscape with additional fenestration. The deviations from the approved plans have been assessed on site by Officers.

During the course of the investigation into the background of this case since the breach of planning control came to light, two relevant issues have emerged. Firstly, the applicant's Building Regulations application, which was submitted to the Local Authority Building Control department in January 2012, detailed a building that is different to the scheme that gained planning

permission. Secondly, the applicant's architect wrote to the Planning Department in May 2013 seeking an informal view as to the possibility of making some amendments to the roof of the building in order to accommodate the lift room. The plans submitted did not show the building in its entirety, nonetheless the Case Officer at the time made it clear that Planning Permission would be required for the desired changes and requested that an application be submitted. However what has been built differs even further from the details that were submitted for informal consideration.

In summary, the development as constructed does not accord with the plans as approved under planning application 07/02461/FUL. The deviations are substantial and effectively a different building to that permitted has been constructed.

#### Breach of Condition or Unauthorised Development

In assessing this case Officers have considered whether the breach is that the building is unauthorised outright or whether the permission has been implemented but has failed to follow the approved plans and therefore is a breach of condition. It is the view of officers that what has been constructed on site is so different to what was approved that it is simply a different building without planning permission at all. Although the deviations from the plans may only be limited individually, cumulatively the changes add up to a new and thus unauthorised building. It is therefore concluded that the enforcement case against this development should be based on the fact that the development as carried out does not benefit from planning permission and is therefore unauthorised.

#### Status of the Previous Permission

The correct approach to considering whether a planning permission has been implemented involves looking at what has been built as a whole and reaching a judgment as a matter of fact and degree upon that whole as to whether or not the planning permission has been implemented.

In this case, where there are numerous material differences between the planning permission and what has been built, officers' view is that the 2009 planning permission was not in fact implemented, meaning that it has now expired. This means that it is not capable of implementation and does not provide a fall-back position.

#### Action Taken So Far

When the breach of planning control first came to light, the decision was taken by the Council to serve a Temporary Stop Notice (TSN) on the site in order to halt all works and give the Council the opportunity to consider the extent of the works undertaken which had not been confirmed at that stage and were not readily visible and to consider what the most appropriate course of action should be having regard to the relevant legislation, policy and government guidance. The Notice was served on the site on the 12<sup>th</sup> September 2012 and

stopped all works for a period of 28 days. The Developer complied with the requirements of the Notice and no further works took place during the course of the TSN.

The Council utilised the 28 day period allowed by the TSN to explore all options available in order to address the breach of planning control. As a result Officers were able to determine the relative scale of harm and establish the facts.

Meetings were also held with the developer, architect, planning agent, building contractor and quantity surveyor. Officers listened to the justification given for the deviation in the building – which in essence stemmed from the decision to build around a steel frame and incorporate additional acoustic insulation in the building – and highlighted the planning issues particularly in respect of the visual impact of the development and the impact on both the World Heritage Site and Conservation Area.

Negotiations also took place to secure amendments to the roof and ultimately 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.

### Current Situation

On the 14<sup>th</sup> October 2014 a full planning application was validated seeking retrospective permission for the works carried out.

During the consideration of the application, as the development was still ongoing, the Applicant took the opportunity to physically address within the construction of the building, a number of the concerns raised by Officers since the stop notice was served, namely changes to the roof extensions, removal of roof level dormers and reconfiguration of solar panels to improve the visual appearance of the roofscape of the building from public viewpoints.

These changes resulted in the submission of amended plans and it was on this basis that it was concluded by Officers that, overall, the development was acceptable. It was acknowledged that limited concerns remained 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 was concluded on balance that the development preserved the Conservation Area and did not detrimentally harm the Outstanding Universal Value of the World Heritage Site or the street scene. Officers therefore recommended that retrospective permission was granted subject to the completion of a legal agreement and subject to conditions.

The application was considered by the Development Control Committee on 8 April 2014 where Members considered the Officer's views but took a different view and concluded that the application was unacceptable and resolved to refuse the application for the following reason:

The development, by reason of its excessive height, bulk and inappropriate design, incorporating enlargements of the side wings at fourth floor level, a predominance of flat roofed elements, and a cluttered roof, is incongruous in this prominent location and out of character within its prevailing context. The development is harmful to the character and appearance of the street scene, part of the Bath Conservation Area and to the setting of the wider World Heritage Site. The development is contrary to Policies BH.6, D.2 and D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies), 2007, which are saved Policies, contrary to Policies B4 and CP6 of the Bath & North East Somerset Core Strategy, 2014 and contrary to the National Planning Policy Framework, 2012

The application was subsequently refused on 17 April 2015.

As the Local Planning Authority have concluded that the development as built is unauthorised and harmful, enforcement action must be considered.

### **DECISION MAKING FRAMEWORK**

In preparing this report, due consideration has been given to the following Policies, Guidance and 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:

- 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:

- Policy SC.1: Settlement classification
- Policy SR.3: Provision of recreational facilities to meet the needs of new development
- Policy CF.3 Contributions from new development to community facilities
- Policy 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)
- Planning (Listed Buildings and Conservation Areas) Act 1990
- The Human Rights Act 1998
- The Equality Act 2010

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.

#### **SUPPLEMENTARY PLANNING GUIDANCE**

- Bath & North East Somerset Local Enforcement Plan, 2013
- City of Bath World Heritage Site Setting SPD, 2013

#### **NATIONAL PLANNING POLICY FRAMEWORK, 2012**

Full consideration has been given to the provisions and guidance set out in the NPPF particularly in respect of the provision of housing, issues relating to the Historic Environment and issues relating to Planning Enforcement.

## **NATIONAL PLANNING PRACTICE GUIDANCE, 2015**

Full consideration has been given to the guidance set out in the NPPG in respect of taking enforcement action.

### **EXPEDIENCY OF ENFORCEMENT ACTION**

#### The Policy Test

The LPA's view is that the development is contrary to policy as set out in the above reason for refusal.

#### The expediency of issuing an enforcement notice

In considering the appropriate course of action to remedy the breach of Planning Control, Officers have considered the guidance set out in the NPPG, particularly the following paragraphs:

1. (Para 003) Local planning authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations.
2. (Para 003 cont.) In considering any enforcement action, the local planning authority should have regard to the National Planning Policy Framework, in particular paragraph 207 where it states: *Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control.*
3. (Para 005) Effective enforcement is important to: (i) tackle breaches of planning control which would otherwise have an unacceptable impact on the amenity of the area; (ii) maintain the integrity of the decision-making process; and (iii) help ensure that public acceptance of the decision-making process is maintained.

With regard to the expediency of enforcement action, the approach is set out in section 172 of the Town and Country Planning Act 1990, namely whether it is expedient to issue an enforcement notice, having regard to the provisions of the development plan and to any other material considerations.

The LPA is of the view that the development as built is contrary to the development plan policies referred to above and harmful to the character and appearance of the street scene, this part of the Bath Conservation Area and to the setting of the wider World Heritage Site. Members did not consider that there were any material considerations which outweighed the harm. As such, it is considered to be expedient to issue an enforcement notice.

#### Requirements of the Enforcement Notice

Because the LPA has concluded that the entire building is unauthorised, it follows that the notice should require demolition of the building and the restoration of the land to its condition before the breach took place. Even if it were possible for the notice to require something less than complete demolition (which is considered below), members must bear in mind the consequences of under-enforcing in this way which is set out in s173(11) of the TCPA 1990:

(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.

### Lesser Measures

Notwithstanding s173(11), Officers have explored what alternative measures could be taken in order to resolve the breach of planning control without demolishing the building. Having met with the developer, however, it is clear that, to a large extent, the breach stems from the construction method used. The building has an internal steel frame and it is this which dictates the overall dimensions of the building.

The obstacle to altering the building to bring it in line with the previously approved plans is its steel frame which structurally supports the building as a whole. The developer's engineer has advised that it is structurally not possible to modify the steel frame without substantially demolishing what has already been built. Furthermore, the frame cannot be modified so as to address the most harmful element of the breach – the projecting sides at fourth floor level – without compromising the overall structural integrity of the building. Discussions with Building Control Officers confirm that the Local Planning Authority could not insist on changes to the building that would compromise the structural integrity and further confirm that it would be largely impossible to modify the steel frame without substantially demolishing the building.

Officers have therefore concluded that the only practical course of action available to remedy the breach is the total demolition of the building.

Officers recognise that this course of action is severe and will have significant financial implications for the developer; however, it would appear that there is no acceptable alternative solution.

Time for compliance with the Enforcement Notice

Officers suggest that 6 months is a reasonable timescale in which to demolish the building and restore the site.

### **HUMAN RIGHTS and EQUALITIES**

It is considered that Article 1 of the First Protocol (peaceful enjoyment of possessions) of the European Convention on Human Rights may apply in this matter. However, those rights must be weighed against the public interest in preserving the character and appearance of the street scene and the Conservation Area. Given that the unauthorised works have been found to be harmful and contrary to the Development Plan and given that there are no material considerations which outweigh the harm, it is considered that Enforcement Action would be a proportionate interference in the wider public interest.

The Council has also considered its duties under the Equality Act 2010. This is an unauthorised development being undertaken by a commercial developer and it is not considered that enforcement action would discriminate against people with protected characteristics, nor would it breach the Council's public sector equality duty.

### **CONCLUSION**

In light of the above report it is concluded that the Local Planning Authority should issue an Enforcement Notice accordingly.

### **RECOMMENDATION**

Delegate authority to Officers to issue an enforcement notice requiring the demolition of the building and the restoration of the site within 6 months.

<b>Bath &amp; North East Somerset Council</b>		
MEETING/ DECISION MAKER:	<b>Development Control Committee</b>	
MEETING/ DECISION DATE:	<b>29<sup>th</sup> April 2015</b>	AGENDA ITEM No.
TITLE:	<b>Members Planning Code of Conduct</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		

**1 THE ISSUE**

- 1.1 To consider an updated Members Planning Code of Conduct that takes account of recent Government advice.

**2 RECOMMENDATION**

- 2.1 To endorse the Members Planning Code and recommend that it be approved at full Council.

**3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

- 3.1 None

**4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

- 4.1 The current Code of Conduct was written some time ago and in light of the Localism Act 2011 it is considered necessary to update and rationalise the Code.

**5 PROPOSED MEMBERS PLANNING CODE OF CONDUCT**

- 5.1 The aim of this Code: to ensure that in the planning process there are no grounds for suggesting that a decision has been biased, partial or not well founded in any way. One of the key purposes of the planning system is to regulate the development and use of land in the public interest. Your role as a Member of the Development Control Committee is to make planning decisions openly, impartially, with sound judgement and for justifiable reasons. You are also a democratically accountable decision-taker who has been elected to provide and implement policies. You are entitled to be predisposed to make planning decisions in accordance with your political views and policies provided that you have considered all material considerations and have given fair consideration to relevant points raised. **The guiding principle is that you should always be fair to all parties including having, and being seen to have, an open mind.** When the Code applies: this

code applies to Members at all times when involving themselves in the planning process. (This includes when taking part in the decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings). It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.

**If you have any doubts about the application of this Code to your own circumstances you should seek advice early, from the Monitoring Officer or one of his or her staff, and preferably well before any meeting takes place.**

### **Relationship to the Code of Conduct for Members**

**Do** apply the rules in the Council's Code of Conduct for Members first, which must always be complied with. This is both the rules on interests and the general rules giving effect to the seven principles of public life: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

**Do** then apply the rules in this Members' Planning Code, which seek to explain and supplement the Code of Conduct for Members and the law on decision making for the purposes of planning control. If you do not abide by this Members' Planning Code, you may put:

- the Council at risk of proceedings on the legality of the related decision or maladministration; and
- yourself at risk of being named in a report made to the Council or, if the failure is also likely to be a breach of the interest provisions of the Localism Act 2011, a complaint being made to the police to consider criminal proceedings.

### **Development Proposals and Personal Interests**

**Do** disclose the existence and nature of your interest as required by the Code of Conduct for Members.

**Do** take into account when approaching a decision that the Principle of Integrity in the Code of Conduct for Members is defined in terms that "Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties."

It is therefore advisable that you:

**Don't** seek or accept any preferential treatment, or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Member. This would include, where you have a disclosable or other personal conflict of interest in a proposal, using your position to discuss that proposal with officers or Members when other members of the public would not have the same opportunity to do so.

**Do** note that you are not prevented from seeking to explain and justify a proposal in which you may have a conflict of interest to an appropriate officer, in person or in writing, but that your role as a Member may place additional limitations on you in representing the proposal in which you have a personal interest.

### **Fettering Discretion in the Planning Process**

(natural justice, predisposition and predetermination)

**Don't** fetter your discretion by approaching the decision with a closed mind.

**Do** be aware that in your role as an elected Member you are entitled, and are often expected, to have expressed views on planning issues and that these comments have an added measure of protection under the Localism Act 2011.

**Do** keep at the front of your mind that, when you come to make the decision, you are entitled to have and to have expressed your own views on the matter, provided you are prepared to reconsider your position in the light of all the evidence and arguments;

You must keep an open mind and hear all of the evidence before you, both the officers' presentation of the facts and their advice as well as the arguments from all sides;

You are not required to cast aside views on planning policy you held when seeking election or otherwise acting as a Member, in giving fair consideration to points raised;

You are only entitled to take account of material considerations and must disregard considerations irrelevant to the question and legal context at hand; and

You are to come to a decision after giving what you feel is the right weight to those material considerations and you must explain your planning reasons for doing so.

**Do** be aware that you can be biased where the Council is the landowner, developer or applicant if you have acted as, or could be perceived as being, a chief advocate for the proposal. (This is more than a matter of membership of both the proposing and planning determination committees, but that through your significant personal involvement in preparing or advocating the proposal you will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits.)

**Do** consider yourself able to take part in the debate on a proposal when you are also a member of a consultee body, for example the parish council, provided:

- the proposal does not substantially affect the well-being or financial standing of the consultee body;
- you make it clear to the consultee body that you must reserve judgement and the independence to make up your own mind as and when the application comes before the Development Control Committee and you hear all of the relevant information;
- you declare your position on the consultee body at the meeting of the Development Control Committee to determine the application AND consider whether your membership of the consultee body has in any way prejudiced your ability to determine the application. If it has then you should not vote on the application but you can consider exercising your right to speak as a local ward member.

**Do** take the opportunity to exercise your separate speaking rights as a Ward/Local Member where you have acted as an advocate for your views or those of local electors and fettered your discretion so that you no longer have an open mind; but you do not have a disclosable or other personal conflict of interest. Where you wish to do this, you should:

- advise the Chair and officers that you wish to speak in this capacity before commencement of the item; and

- remove yourself from the seating area for members of the Committee for the duration of that item.

### **Contact with Applicants, Developers and Objectors**

It is not necessary or practical for 'everyday' contact between Members and the public on planning matters to be documented. However, any significant meetings or correspondence should be subject to the provisions set out below. It is not possible in this code to define what is meant by 'everyday' and 'significant' as so many different situations could arise. Accordingly, Members must exercise their judgment. In cases of doubt, advice should be sought from the Monitoring Officer or his or her staff.

**Do** refer those who approach you for planning, procedural or technical advice to officers.

**Do** make written notes of any conversations with Applicants, Developers and Objectors and pass them to officers for inclusion on the planning file. The same applies to emails and letters.

**Don't** agree to any meeting with applicants, developers or groups of objectors without first consulting with officers. Where you feel that a formal meeting would be useful in clarifying the issues, you should seek to arrange that meeting yourself through a request to the Group Manager, Development Management who will organise it. He will ensure that an officer attends. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the authority to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee.

**Don't** participate in any negotiations on behalf of the Council; these should be carried out by officers who can update Members as necessary.

**Do** report to the Group Manager – Development Management any significant contact with the applicant and other parties, explaining the nature and purpose of the contacts and your involvement in them, and ensure that this is recorded on the planning file.

### **In addition in respect of presentations by applicants/developers:**

**Don't** attend a planning presentation without requesting an officer to be present.

**Do** ask relevant questions for the purposes of clarifying your understanding of the proposals. Where possible questions should be raised well in advance in the meeting and be directed to the Case Officer.

**Do** remember that the presentation is a fact finding exercise and is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the Planning Committee.

**Do** be aware that whilst you may express any view on the merits or otherwise of the proposal presented, you should always make it clear that any views are personal and provisional and do not bind the Council.

## **Development Proposals Submitted by Members and Officers**

Planning applications submitted by members, Council employees within Planning Services or someone who is privately employed in any capacity (e.g. as agent or consultant) who has direct links with the Planning Service will be considered by the Council's Development Control Committee. This ensures that the public can see that such applications are dealt with in a fair and transparent manner. Members and employees have the same rights as any other member of the public.

**Do** ensure that if you submit a planning application, you play no part in its consideration. If you are a member of the Development Control Committee then you should appoint an agent or representative to address the Committee on your behalf.

**Do** ensure that if you discuss your application with an officer, you do not seek to improperly influence their decision.

**Do** inform the Monitoring Officer in writing of your application.

**Do** treat proposals for the Council's own development with the same impartiality and transparency as those of private developers.

## **Lobbying of Members**

**Do** explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it may subsequently prejudice your impartiality, and therefore your ability to participate in the Committee's decision making, to make any sort of promise to vote one way or another or to give such a firm point of view that it amounts to the same thing.

**Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not improperly favour, or appear to improperly favour, any person, company, group or locality.

**Don't** accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible, including its addition to your register of interests where relevant.

**Do** copy or pass on any lobbying correspondence you receive to the Group Manager and Case Officer at the earliest opportunity and well in advance of a relevant Development Control Committee meeting.

**Do** promptly refer to the Group Manager any offers made to you of planning gain or constraint of development, through a proposed s.106 Planning Obligation or otherwise.

**Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

**Do** note that, unless you have a disclosable or overriding other personal conflict of interest, you will not have fettered your discretion or breached this Planning Code through:

- listening or receiving viewpoints from residents or other interested parties;

- making comments to residents, interested parties, other Members or appropriate officers (making clear that you must keep an open mind when it comes to making the decision);
- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion of others in your role as a Ward Member.

### **Lobbying by Members**

**Don't** become a member of, lead or represent an organisation whose primary purpose is to lobby to promote or oppose planning proposals unless it is your intention to openly campaign on the matter and therefore step away from the Committee when it comes to make its decision.

**Do** join general interest groups which reflect your areas of interest and which concentrate on issues beyond particular planning proposals (such as the Victorian Society, CPRE, Ramblers Association or a local civic society). However, you should normally seek to disclose that interest on the grounds of transparency where the organisation has made representations on a particular proposal.

**Don't** excessively lobby fellow Members regarding your concerns or views nor attempt to persuade them that they should decide how to vote in advance of the meeting at which any planning decision is to be taken.

**Don't** decide how to vote on any application at any political group meeting as this means that you will have made up your mind before you have heard all the competing arguments.

### **Site Visits/Inspections**

Most planning applications can be determined on the basis of the material presented at the Committee meeting and, as site visits are resource intensive, they should only be undertaken where there are exceptional or unusual circumstances.

**Do** try to attend site visits organised by the Council where possible.

**Don't** request a site visit unless you are available to attend it and you feel it is strictly necessary because, for example:

- it is difficult to make an informed judgment without seeing the site; or
- there are specific site factors which need to be carefully addressed.

**Do** ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

**Do** ask the officers at the site visit questions or seek clarification from them on matters which are relevant to the site inspection.

**Don't** hear representations from any party. Where you are approached by the applicant or a third party, advise them that they should make representations in writing to the authority and direct them to or inform the officer present.

**Don't** express opinions or views to the applicant or third parties.

**Don't** enter a site which is subject to a proposal other than as part of an official site visit, even in response to an invitation, as this may give the impression of bias. If you

wish to observe the site on your own, you should confine yourself to viewing it from public vantage points.

### **Public Speaking at Meetings**

**Don't** allow members of the public to communicate with you during the Committee's proceedings (orally or in writing) other than through the scheme for public speaking as this may give the appearance of bias.

**Do** ensure that you comply with the Council's procedures in respect of public speaking.

### **Officers**

**Don't** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Group Manager which may be incorporated into any committee report).

**Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council's and their own professional codes of conduct. As a result, planning officers' views, opinions and recommendations will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

### **Decision Making**

**Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that you provide planning reasons and that the request is made in time. Members who make such requests will be expected to attend the Committee meeting.

**Do** come to meetings with an open mind and demonstrate that you are open-minded.

**Do** comply with section 38 of the Planning and Compulsory Purchase Act 2004 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

**Do** come to your decision only after careful consideration of all of the relevant information. If you feel there is insufficient time to digest new information or that there is simply insufficient information before you, then request that further information is provided. If necessary, defer or refuse.

**Don't** vote or take part in the meeting's discussion on a proposal unless you have been present to hear the entire debate, including the officers' introduction to the matter.

**Don't** make criticisms about the professional conduct or competence of officers in public. Any concerns should be raised with the officer's manager.

**Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Where an officer recommendation is overturned, or Committee makes a decision which is contrary to policy, the mover and seconder of the motion must be prepared to give evidence at any appeal.

**Do** listen carefully to advice from officers concerning the prospects of successfully defending a planning decision at appeal or in Court. Where officers advise that there is a high risk of a costs award or legal challenge against the Council, members must give detailed reasons for departing from that advice which will be recorded.

## **Training**

**Don't** participate in decision making at meetings dealing with planning matters if you have not attended the mandatory planning training prescribed by the Council.

**Do** attend any other specialised training sessions provided, since these will be designed to extend your knowledge of planning law, regulations, procedures, Codes of Practice and the Development Plan beyond the minimum referred to above and thus assist you in carrying out your role properly and effectively. Attendance is compulsory and Members who are unable to attend must provide evidence of their unavailability to the Chair of the Development Control Committee.

## **Regular Reviews of Decisions**

**Do** participate in the annual review of and visit to completed developments, the purpose of which is to evaluate the quality of the development and decision making.

## **6 CONSULTATION**

6.1 Permanent and Substitute Members of the Development Control Committee have been consulted on the draft Code of Conduct. One Member has commented that 'a lot of issues, planning and otherwise, are debated on various social media, and councillors are approached constantly via these media, both as ward councillors, and members of DCC.' It is suggested that this warrants a separate section relating to a code of conduct online.

6.2 Having considered this comment it is considered that the proposed Code of Conduct applies equally to Members whether they are at a meeting, on line or using any form of written or electronic communication. Having a separate section relating to social media etc could not add anything that is not already within the draft Code.

## **7 RISK MANAGEMENT**

7.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

<b>Contact person</b>	<i>Mark Reynolds, Group Manager. 01225 477079</i>
<b>Background papers</b>	<i>Local Code of Conduct for Councillors and Officers Dealing with Planning Matters September 1998.</i>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

<b>Bath &amp; North East Somerset Council</b>		
	<b>Development Control Committee</b>	
	<b>29 April 2015</b>	
<b>TITLE:</b>	<b>Development Control Committee – Officer Delegations</b>	
<b>WARD:</b>	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
<b>Extract from Development Control Committee – Officer Delegations with proposed amendments</b>		

**1 THE ISSUE**

1.1 This report invites the Development Control Committee (“the Committee”) to approve the amended Scheme of Officer Delegations (“the Scheme”).

1.2 The amendments to the Scheme are required in order to:-

- a) reflect the Council’s powers and duties under the Community Infrastructure Levy Regulations 2010 (2010/948) (“the CIL Regulations”), and
- b) to update the Scheme in respect of planning obligations under s.106 of the Town and Country Planning Act 1990 (“the TCPA”).

**2 RECOMMENDATION**

2.1 That the Committee approve the amendments to the Scheme in the form attached to this report.

**3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)**

3.1 There are no resources implications arising from this report.

**4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL**

4.1 The current Scheme is made under the powers contained in Section 101 of the Local Government Act 1972, the Town and Country Planning Acts, the Localism Act 2011, the Council's Constitution and all other enabling powers.

## 5 THE REPORT

5.1 The Committee approved the Scheme on 15 April 2009. Since that date minor changes have been made to reflect changes in officer titles and which did not need to be approved by the Committee

5.2 The Council approved a Charging Schedule, in accordance with the CIL Regulations, on 17 February 2015 and its adoption on 6 April 2015. For developers this means that any applications approved after April 6th 2015 may be subject to the payment of a levy under the CIL Regulations. Where a developer is required to pay levy officers will collect the monies payable and take CIL enforcement action if a developer defaults. As such, the day to day operation of CIL would be unlikely to require involvement from the DC Committee.

5.3 The addition to the Scheme in respect of CIL therefore proposes that officers are authorised to carry out all functions in respect of CIL i.e.;

“To deal with all matters relating to the Community Infrastructure Levy”.

5.4 Secondly whilst the current Scheme contains general authorisations for officers to implement any decision of the authority, there is no specific delegation in the Scheme relating to s106 agreements. A specific delegation was agreed by the General Development Control Committee in 2004 but this is clearly very old and requires updating as a matter of good practice. The proposed amendment explicitly permits officers to carry out all functions in relation to s106 agreements i.e.;

“To enter into planning obligations including the modification, discharge, variation and release of planning obligations”.

## 6 RATIONALE

6.1 To continue to operate the Scheme in order to ensure transparency, openness of decision making and to facilitate the efficient administration of the Council's planning functions.

## 7 OTHER OPTIONS CONSIDERED

7.1 Leaving the scheme unamended would mean that officers would not have delegated authority to administer CIL and there would not be an up to date delegation in respect of s106 agreements.

<b>Contact person</b>	Mark Reynolds, Group Manager - Development ext. 7079
<b>Background papers</b>	Development Control Committee – Officer Delegations – available on the Council's website
<b>Please contact the report author if you need to access this report in an</b>	

**alternative format**

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20	To enter into planning obligations including the modification, discharge, variation and release of planning obligations.	<ul style="list-style-type: none"> <li>• Divisional Director, Development</li> <li>• Group Manager - Development Management</li> <li>• Team Managers; Development Management, Conservation and Planning, &amp; Enforcement and Planning</li> <li>• Principal Planning/Enforcement Officer</li> </ul>
21	<u>To deal with all matters relating to the Community Infrastructure Levy.</u>	<ul style="list-style-type: none"> <li>• Divisional Director, Development</li> <li>• Group Manager - Development Management</li> <li>• Team Managers; Development Management, Conservation and Planning, &amp; Enforcement and Planning</li> <li>• Principal Planning/Enforcement Officer</li> <li>CIL/s106 Monitoring Officer</li> </ul>

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<b>Bath &amp; North East Somerset Council</b>		
MEETING:	Development Management Committee	
MEETING DATE:	29 April 2015	AGENDA ITEM NUMBER
TITLE:	Quarterly Performance Report Jan - Mar 2015	
WARD:	ALL	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b>		
None		

## 1 THE ISSUE

*At the request of Members and as part of our on-going commitment to making service improvements, this report provides Members with performance information across a range of activities within the Development Management function. This report covers the period from 1 Jan – 31 March 2015.*

Bath & North East Somerset Development Management have reached the finals of the 2015 RPTI **Planning Excellence Awards** in 2 categories; Local Planning Authority **Team of the Year** and a specific **Project Award** for the Green Park House planning application. The winners will be announced on 6 July in London at a ceremony.

The Council implemented the **Community Infrastructure Levy (CIL)** on 6<sup>th</sup> April 2015. CIL is a new tariff system that will allow the council to raise funds from development to contribute to the costs of providing infrastructure like new or safer road schemes, education contributions or park improvements. Therefore CIL is expected to have a positive economic effect on communities and development across the area. This means that any applications approved from April 6<sup>th</sup> may be subject to CIL. Further information for applicants and developers can be found at [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil).

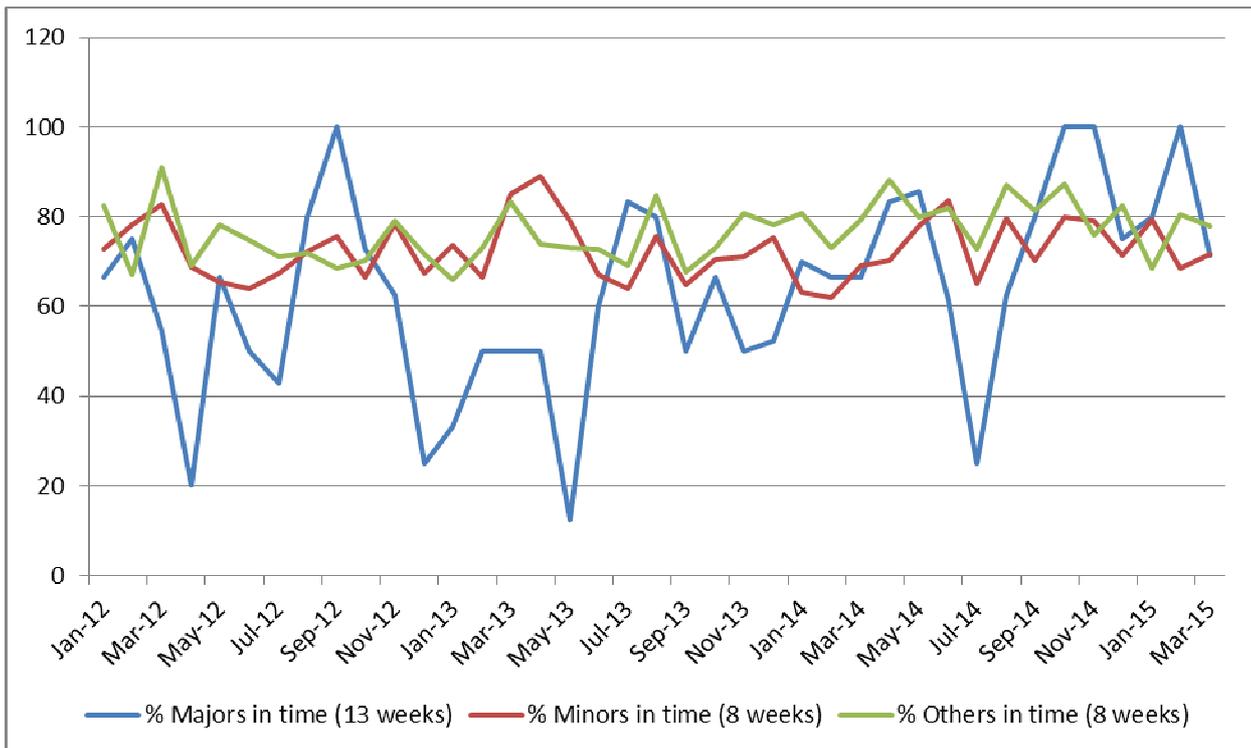
## 2 RECOMMENDATION

2.1 Members are asked to note the contents of the performance report.

## 3 THE REPORT

Tables, charts and commentary

**Table 1 - Comparison of applications determined within target times**



% of planning applications in time	2013/14				2014/15			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
% Majors in time	32%	77%	52%	68%	73%	64%	80%	83%
% Minors in time	78%	68%	75%	65%	77%	72%	77%	72%
% Others in time	73%	74%	78%	78%	83%	80%	82%	75%

**Table 2 highlights:**

- Good performance on planning applications in Jan – Mar 2015.
- There has been a marked improvement on Major performance over the last two quarters.

*Note: Major (10+ dwellings/0.5 hectares and over, 1000+ sqm/1 hectare and over); Minor (1-10 dwellings/less than 0.5 hectares, Up to 999 sqm/under 1 hectare); Other (changes of use, householder development, adverts, listed building consents, lawful development certificates, notifications, etc).*

**Table 2 - Recent planning application performance statistics**

Application nos.	2013/14				2014/15			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Received	650	600	614	650	645	589	605	700
Withdrawn	62	58	63	66	43	45	59	56
Delegated no. and %	538 (95%)	556 (96%)	528 (95%)	527 (95%)	532 (96%)	540 (95%)	443 (95%)	536 (95%)
Refused no. and %	71 (13%)	62 (11%)	60 (11%)	64 (12%)	52 (9%)	76 (13%)	42 (9%)	60 (11%)

**Table 2 highlights:**

- B&NES have shown a 1% rise in planning application numbers when compared to the previous financial year which is in line with the national trend.
- The current delegation rate is in line with the last published England average of 93% (Year to Dec 2014).
- Percentage of refusals on applications remains low when compared with the last published England average of 12% (Year ending Dec 2014).

**Table 3 – Dwelling numbers**

Dwelling numbers	2013/14				2014/15			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Major residential (10 or more dwellings) decisions	8	3	9	14	13	9	1	5
Major residential decisions granted	3	2	8	6	7	2	1	3
Number of dwellings applied for on Major schemes			617	698	543	463	982	391
Number of dwellings permitted on Major schemes			417	929	212	120	145	149
Number of dwellings refused on Major schemes			166	389	299	292	32	66

**Table 3 highlights:**

- Numbers of major residential decisions (10 or more dwellings) were down when compared to the same Jan – Mar quarter a year ago.

**Table 4 - Planning Appeals summary**

	Apr – Jun 2014	Jul – Sep 2014	Oct – Dec 2014	Jan – Mar 2015
Appeals lodged	30	24	22	18
Appeals decided	24	22	18	23
Appeals allowed	9 (45%)	6 (35%)	3 (19%)	6 (29%)
Appeals dismissed	11 (55%)	11 (65%)	13 (81%)	15 (71%)

**Highlights:**

- Recent appeal costs in association with applications overturned at committee amount to £44,329 for the last financial year. This was mainly spent on legal & consultants fees
- In the year to Mar 2015 there has been a 10% drop in appeal numbers
- Over the last 12 months our performance on appeals allowed is better than the national average at 32% (national average approx. 35%)

**Table 5 - Enforcement Investigations summary**

	Apr – Jun 2014	Jul – Sep 2014	Oct – Dec 2014	Jan – Mar 2015
Investigations launched	273	114	197	154
Investigations on hand	275	220	301	296
Investigations closed	253	150	154	178
Enforcement Notices issued	0	0	2	1
Planning Contravention Notices served	6	2	4	3
Breach of Condition Notices served	0	0	0	0

The figure shown in **Table 5** indicate a 22% decrease in the number of investigations received this quarter, when compared with the previous quarter. However, this volume is now more in line with quarterly 2013 figures. The increases early in 2014 were due to the new process to licence more HMOs which required an investigation by our enforcement team. This was a one-off exercise which skewed the figures for the first half of 2014. 4 notices have been served during this quarter. 18 legal notices were served in the last financial year.

**Table 6 – Other areas of work (application handled but not included in national returns)**

The service also has formal procedures in place to deal with pre-application advice, householder development planning questionnaires, discharging conditions on planning permissions, prior approvals, prior notifications and non-material amendments to list a few. **Table 6** below shows the total number of these types of procedures that require resource to action and determine.

During the last quarter the volume of these procedures received in the service is up 8% on the previous quarter.

**Table 6**

	Jul – Sep 2014	Oct – Dec 2014	Jan – Mar 2015
Other types of work	547	527	570

**Table 7 – Works to Trees**

**Table 7** below shows the number and percentage of tree applications and notifications determined.

**Table 7**

	Jul – Sep 2014	Oct – Dec 2014	Jan – Mar 2015
Number of applications for works to trees subject to a Tree Preservation Order (TPO)	17	25	16
Percentage of applications	100%	96%	94%

for works to trees subject to a TPO determined within 8 weeks			
Number of notifications for works to trees within a Conservation Area (CA)	173	206	144
Percentage of notifications for works to trees within a Conservation Area (CA) determined within 6 weeks	98%	92%	97%

**Table 7 highlights:**

- There has been a drop in the number of TPOs and Notifications in the last quarter after the seasonal rise during Autumn
- Performance on determining applications for works to trees subject to Tree Preservation Orders and on dealing with notifications for works to trees within a Conservation Area remains excellent

**Table 8 - Customer transactions using telephone**

**Table 8** below details the number of incoming calls to the service for the Development Management function. Calls to service as a whole have seen an increase during the last quarter.

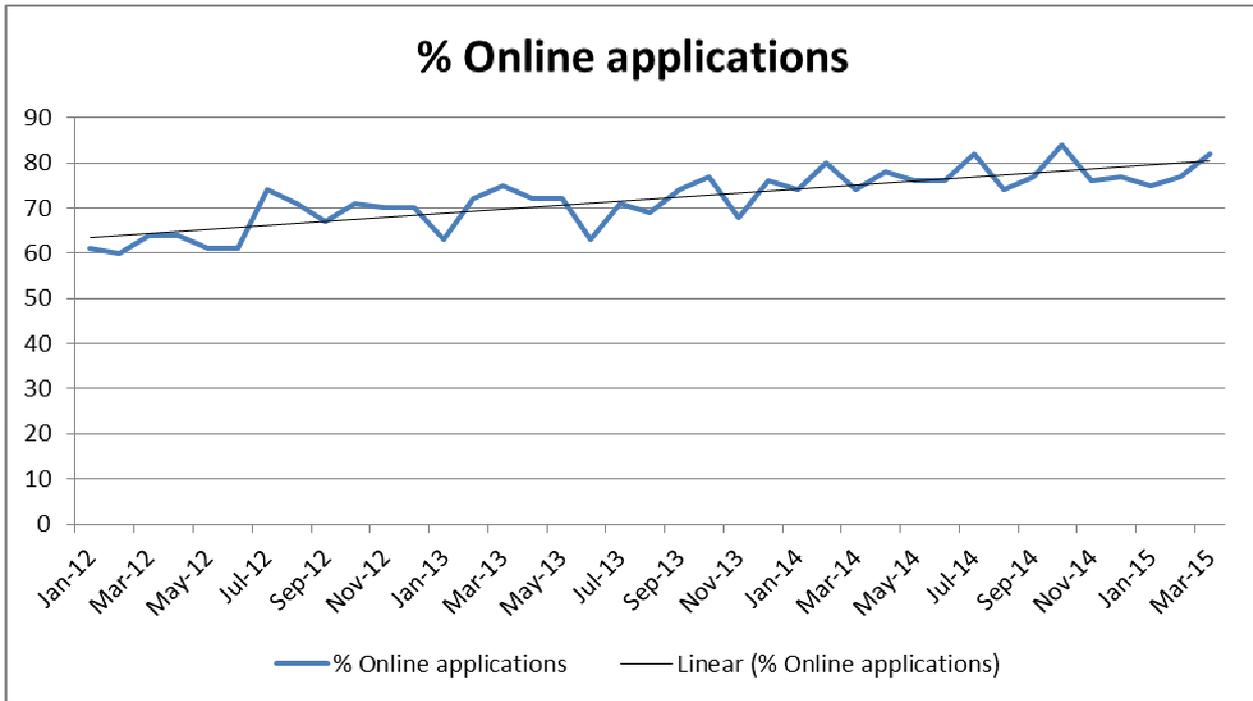
**Table 8**

	Jul – Sep 2014	Oct – Dec 2014	Jan – Mar 2015
Planning Information Officers	2724	1987	2284
Planning Officers	2061	1720	1662
Planning Administration	927	1099	1584
Planning & Conservation Team	295	418	614
Enforcement Team	495	588	716

**Table 9 - Electronic transactions**

The Planning Services web pages continue to be amongst the most popular across the whole Council website, particularly '[View and Comment on Planning Applications](#)' (an average of 15,000 hits per month) and '[Apply for Planning Permission](#)' (average of 1,200 hits per month). The former is the most popular web page after the council's home page.

**Table 9** below shows a continuing upward trend in online submissions via the [Planning Portal](#). The benefits to agents and applicants include an online help function, immediate delivery and acknowledgement, and savings on printing and postage costs. Secure fee payments can also be made online through the Planning Portal facility.



**Table 10 - Customer Feedback**

The number of complaints **not** upheld still remains good.

**Table 10**

Customer Feedback	Jul – Sep 2014	Oct – Dec 2014	Jan – Mar 2015
Compliments received	5	10	11
Complaints received	12	12	17
Complaints upheld	0	1	0
Complaints Not upheld	12	3	10
Complaints Partly upheld	1	4	0

**Table 11 - Ombudsman Complaints**

When a customer remains dissatisfied with the outcome of the Corporate Complaints investigation they can take their complaint to the **Local Government Ombudsman** for an independent view. There has been one upheld complaint in the last year.

**Table 11**

Ombudsman Complaints	Apr – Jun 14	Jul – Sep 14	Oct – Dec 14	Jan – Mar 15
Complaints received	2	1	2	4
Complaints upheld	0	1	0	0
Complaints Not upheld	1	1	1	2

**Table 12 – Section 106 Agreements**

Members will be aware of the Planning Obligations SPD was first published July 2009. Planning Services have spent the last few years compiling a database of Section 106 Agreements. This is still in progress, but does enable the S106 Monitoring Officer to actively monitor the delivery of agreed obligations.

**Table 12** (note all figures are for guidance only because of the further work still being undertaken in S106 monitoring)

Section 106 Agreements	Apr – Jun 2014	Jul – Sep 2014	Oct – Dec 2014	Jan – Mar 2015
Funds agreed	£175,000.00	£136,076.09	£88,863.10	£3,003,884.11
Funds received (may include monies received for agreements made prior to Jul '09)	£169,684.06	£28,700.61	£157,844.33	£707,225.78
Outstanding funds balance (Jul '09 – Dec '14)	£17,933,575.36	£17,593,552.42	£17,400,200.91	£20,461,257.26

**Table 13 – Accredited Agents**

A list of current Accredited Agents is displayed on the [council website](#). These agents have shown they fully understand how to submit a properly prepared planning application which means they are quicker for us to process and so reduces delays for the customer.

**Table 13**

	Apr – Jun 2014	Jul – Sep 2014	Oct – Dec 2014	Jan – Mar 2015
Numbers of Accredited Agents	23	23	24	24
Numbers of householder applications submitted by Accredited Agents	40	28	44	34

<b>Contact person</b>	John Theobald, Project/Technical and Management Support Officer, Development 01225 477519
<b>Background papers</b>	CLG General Development Control statistical returns PS1 and PS2 + Planning applications statistics on the DCLG website: <a href="https://www.gov.uk/government/collections/planning-applications-statistics">https://www.gov.uk/government/collections/planning-applications-statistics</a>
<b>Please contact the report author if you need to access this report in an alternative format</b>	

<b>Bath &amp; North East Somerset Council</b>	
<b>MEETING:</b>	<b>Development Control Committee</b>
<b>MEETING DATE:</b>	
<b>RESPONSIBLE OFFICER:</b>	Mark Reynolds, Group Manager, Development Management (Telephone: 01225 477079)
<b>TITLE:</b>	<b>NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES</b>
<b>WARD:</b>	ALL
<b>BACKGROUND PAPERS:</b>	None
<b>AN OPEN PUBLIC ITEM</b>	

**APPEALS LODGED**

**App. Ref:** 14/04771/FUL  
**Location:** Birchwood Lodge Wells Road Pensford Bristol BS39 4NE  
**Proposal:** Erection of detached double garage. (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 15 January 2015  
**Decision Level:** Delegated  
**Appeal Lodged:** 27 March 2015

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**App. Ref:** 13/00658/FUL  
**Location:** Mirage Inks Ltd Coombend Radstock Bath And North East Somerset BA3 3AW  
**Proposal:** Conversion of former colliery winding house and erection of new apartment block to provide 14no. 2-bedroom dwellings with ancillary parking and new site access from Coombend following demolition of redundant industrial buildings and structures  
**Decision:** REFUSE  
**Decision Date:** 29 July 2014  
**Decision Level:** Delegated  
**Appeal Lodged:** 14 April 2015

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**App. Ref:** 14/00672/OUT  
**Location:** Land Between Abbey Rose House And Former Railway Line  
Northmead Road Midsomer Norton  
**Proposal:** Outline planning application for a residential development of up to  
44 dwellings and associated infrastructure. (Access to be  
determined all other matters reserved)  
**Decision:** REFUSE  
**Decision Date:** 6 August 2014  
**Decision Level:** Delegated  
**Appeal Lodged:** 15 April 2015

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**App. Ref:** 14/01237/FUL  
**Location:** Land Between Cyclepath And Roundabout London Road East  
Batheaston Bath Bath And North East Somerset  
**Proposal:** Change of use of existing building to residential including external  
alterations.  
**Decision:** REFUSE  
**Decision Date:** 4 September 2014  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 15 April 2015

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**App. Ref:** 14/04414/OUT  
**Location:** Land To Rear Of 41 To 46 Waterloo Road Waldegrave Terrace  
Radstock  
**Proposal:** Erection of a detached house. (Outline application with all matters  
reserved)  
**Decision:** REFUSE  
**Decision Date:** 4 December 2014  
**Decision Level:** Delegated  
**Appeal Lodged:** 15 April 2015

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**App. Ref:** 14/05409/OUT  
**Location:** Moret Hursley Hill Publow Bristol Bath And North East Somerset  
**Proposal:** Erection of 1 no. new dwelling. (Outline application with all matters  
reserved) (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 19 January 2015  
**Decision Level:** Delegated  
**Appeal Lodged:** 15 April 2015

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**App. Ref:** 14/03606/FUL  
**Location:** 15 Station Road Keynsham BS31 2BH  
**Proposal:** Erection of an extension to form 3no. 2 bed and 1no. 3 bed town houses.  
**Decision:** REFUSE  
**Decision Date:** 19 December 2014  
**Decision Level:** Delegated  
**Appeal Lodged:** 16 April 2015

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## APPEALS DECIDED

**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 24<sup>th</sup> March 2015.

Click [here](#) for Inspector's Decision

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**App. Ref:** 14/03894/ODCOU  
**Location:** Town Mills Mill Road Radstock Bath And North East Somerset BA3 3PB  
**Proposal:** Prior approval request for change of use from Use Class B1 to Use Class C3 (2 no. self contained flats).  
**Decision:** REFUSE  
**Decision Date:** 14 October 2014  
**Decision Level:** Delegated  
**Appeal Lodged:** 8 December 2014

**Appeal Decision:** Appeal dismissed on 26<sup>th</sup> March 2015.

Click [here](#) for Inspector's Decision

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**App. Ref:** 14/03641/AR  
**Location:** Town Hall The Centre Keynsham  
**Proposal:** Display of 1no internally illuminated LED screen.  
**Decision:** REFUSE  
**Decision Date:** 9 October 2014  
**Decision Level:** Delegated  
**Appeal Lodged:** 4 February 2015

**Appeal Decision:** Appeal dismissed on 31st March 2015.

Click [here](#) for Inspector's Decision

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**App. Ref:** 14/04060/FUL  
**Location:** 12 The Tyning 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

**Appeal Decision:** Appeal dismissed on 9<sup>th</sup> April 2015.

Click [here](#) for Inspector's Decision

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**App. Ref:** 14/02874/FUL  
**Location:** 6 Ashley Road Bathford Bath Bath And North East Somerset  
BA1 7TT  
**Proposal:** Erection of a new timber fence on top of an existing stone wall  
adjacent to a highway. (Retrospective)  
**Decision:** REFUSE  
**Decision Date:** 3 September 2014  
**Decision Level:** Delegated  
**Appeal Lodged:** 13 January 2015

**Appeal Decision:** Appeal dismissed on 16<sup>th</sup> April 2015.

Click [here](#) for Inspector's Decision

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**App. Ref:** 14/02875/LBA  
**Location:** 6 Ashley Road Bathford Bath Bath And North East Somerset BA1 7TT  
**Proposal:** External alterations for the erection of a new timber fence on top of an existing stone wall adjacent to a highway. (Retrospective)  
**Decision:** REFUSE  
**Decision Date:** 3 September 2014  
**Decision Level:** Delegated  
**Appeal Lodged:** 13 January 2015

**Appeal Decision:** Appeal dismissed on 16<sup>th</sup> April 2015.

Click [here](#) for Inspector's Decision

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**App. Ref:** 14/04155/LBA  
**Location:** 4 Cambridge Place Widcombe Hill Widcombe Bath Bath And North East Somerset  
**Proposal:** Internal and external alterations to include installation of new doorway at existing window on front elevation of side extension, removal of modern metal work and replacement of existing modern casement doors and fan light with French doors. Relocation of gas metre to side of front elevation.  
**Decision:** REFUSE  
**Decision Date:** 6 November 2014  
**Decision Level:** Delegated  
**Appeal Lodged:** 14 January 2015

**Appeal Decision:** Appeal dismissed on 16<sup>th</sup> April 2015.

Click [here](#) for Inspector's Decision

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