

# Development Management Committee

**Date: Wednesday, 26th July, 2017**

**Time: 2.00 pm**

**Venue: Brunswick Room - Guildhall, Bath**

## **Agenda**

To: All Members of the Development Management Committee

**Councillors:-** Sally Davis (Chair), Rob Appleyard, Jasper Becker, Paul Crossley, Matthew Davies, Eleanor Jackson, Les Kew, Bryan Organ, Caroline Roberts and David Veale

**Permanent Substitutes:-** Councillors: Neil Butters, Ian Gilchrist, Liz Hardman, Will Sandry, Vic Pritchard, Martin Veal and Karen Warrington

Chief Executive and other appropriate officers  
Press and Public

The agenda is set out overleaf.



**Marie Todd**

**Democratic Services**

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## NOTES:

1. **Inspection of Papers:** Papers are available for inspection as follows:

Council's website: <https://democracy.bathnes.gov.uk/ieDocHome.aspx?bcr=1>

Paper copies are available for inspection at the **Public Access points:-** Reception: Civic Centre - Keynsham, Guildhall - Bath, The Hollies - Midsomer Norton. Bath Central and Midsomer Norton public libraries.

2. **Details of decisions taken at this meeting** can be found in the minutes which will be circulated with the agenda for the next meeting. In the meantime, details can be obtained by contacting as above.

### 3. **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.

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### 4. **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. They may also ask a question to which a written answer will be given. **Advance notice is required not less than two full working days before the meeting. This means that for meetings held on Thursdays notice must be received in Democratic Services by 5.00pm the previous Monday.** Further details of the scheme:

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=12942>

### 5. **Emergency Evacuation Procedure**

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### 6. **Supplementary information for meetings**

Additional information and Protocols and procedures relating to meetings

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**Development Management Committee - Wednesday, 26th July, 2017**

**at 2.00 pm in the Brunswick Room - Guildhall, Bath**

**A G E N D A**

**1. EMERGENCY EVACUATION PROCEDURE**

The Chairman will ask the Committee Administrator to draw attention to the emergency evacuation procedure as set out under Note 7

**2. ELECTION OF VICE CHAIRMAN (IF DESIRED)**

**3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

**4. DECLARATIONS OF INTEREST**

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

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

(b) The nature of their interest.

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

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

**5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

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

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

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

**7. ITEMS FROM COUNCILLORS OR CO-OPTED MEMBERS**

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

8. MINUTES OF THE PREVIOUS MEETING (Pages 5 - 46)

To confirm the minutes of the meeting held on 28 June 2017.

9. SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 47 - 72)

10. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 73 - 152)

11. PLANNING ENFORCEMENT REPORT (Pages 153 - 164)

12. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 165 - 170)

To note the report

The Committee Administrator for this meeting is Marie Todd who can be contacted on 01225 394414.

## **DEVELOPMENT MANAGEMENT COMMITTEE**

### **Minutes of the Meeting held**

Wednesday, 28th June, 2017, 2.00 pm

**Councillors:** Sally Davis (Chair), Jasper Becker, Neil Butters (Reserve) (in place of Rob Appleyard), Paul Crossley, Matthew Davies, Eleanor Jackson, Les Kew, Bryan Organ, Caroline Roberts and David Veale

#### **12 EMERGENCY EVACUATION PROCEDURE**

The Democratic Services Officer read out the emergency evacuation procedure.

#### **13 ELECTION OF VICE CHAIRMAN (IF DESIRED)**

A Vice Chairman was not required on this occasion.

#### **14 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

Apologies for absence were received from Cllr Rob Appleyard - substitute Cllr Neil Butters.

#### **15 DECLARATIONS OF INTEREST**

Cllr David Veale declared an interest in application number 17/00299/OUT – Land between Homelands and 10 Camerton Hill, Camerton - as he is a Camerton School governor and the school is adjacent to the site. He remained in the meeting but took no part in the debate and did not vote.

#### **16 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN**

There was no urgent business.

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

The Democratic Services Officer informed the meeting that there were a number of people wishing to make statements on planning applications and that they would be able to do so when these items were discussed.

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

There were no items from Councillors or Co-Opted Members.

#### **19 MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 31 May 2017 were confirmed and signed as a correct record.

## 20 **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 various planning applications.
- An update report by the Group Manager (Development Management) attached as *Appendix 1* to these minutes.
- Oral statements by members of the public and representatives. A copy of the speakers' list is attached as *Appendix 2* to these minutes.

**RESOLVED** that in accordance with the Committee's delegated powers, the applications be determined as set out in the decisions list attached as *Appendix 3* to these minutes.

### **Item No. 1**

#### **Application No. 17/01208/FUL**

#### **Site Location: Avonlea House, Station Road, Freshford, Bath – Erection of single storey side extension**

The Case Officer reported on the application and her recommendation to permit.

The registered speaker spoke against the application.

Cllr Butters noted that the Parish Council had objected to the application. He then asked a question regarding building up to the boundary of the property and the Case Officer explained that this was permissible and that there was no encroachment onto the neighbouring property.

Officers explained that the issue of maintenance within the void area between the fence and the wall was not a planning consideration.

Cllr Roberts stated that the extension would be overbearing and would have an adverse effect on the neighbouring property. She felt that a volume increase of 28% was too large. She then moved that the application be refused due to the overbearing nature of the extension, the adverse impact on the neighbouring property and the adverse impact upon the character of the Conservation Area. This was seconded by Cllr Butters.

Cllr Jackson supported the motion stating that the general layout including the courtyard garden should be preserved within the Conservation Area. She also felt that a flat roof was out of keeping with the area. There would be loss of amenity to the neighbouring property.

Cllr Kew did not feel that this application would have a great impact, particularly if the floor level was reduced so that the roof would not be higher than the existing.

Members discussed the floor level, suggesting that it would be better if it were lower, which would reduce the impact and suggested adding a condition to that effect. The Team Manager – Development Management explained that the Committee had to consider the application before it and that if members wished the floor level to be lowered then they should defer the application to enable officers to discuss this further with the applicant.

The motion was then put to the vote and it was RESOLVED by 6 votes in favour and 4 votes against to REFUSE the application due to the overbearing nature of the extension, the adverse impact on the neighbouring property and the adverse impact upon the character of the Conservation Area.

## **Item No. 2**

### **Application No. 17/00299/OUT**

**Site Location: Land between Homelands and 10 Camerton Hill, Camerton, Bath – Outline planning application for the erection of 1 single storey dwelling (Resubmission)**

The Case Officer reported on the application and her recommendation for approval.

The registered speakers spoke for and against the application.

In response to a question from Cllr Jackson the Case Officer confirmed that the site was not within the green belt. She also confirmed that the application was for one single storey dwelling.

Cllr Jackson queried whether this was a sustainable location as local bus services in the area had recently been substantially reduced.

Cllr Kew noted that there had been a great deal of correspondence from neighbours objecting to the proposal, however, he could see no planning reasons to refuse the application. He noted that the speed limit had now been reduced on Camerton Hill. He then moved that the application be approved subject to conditions. This was seconded by Cllr Organ.

In response to a query from Cllr Butters regarding access to the site, the Legal Team Leader explained that any access disputes should be resolved outside of the planning process – the committee was advised to concentrate on the planning merits of the application.

The motion was put to the vote and it was RESOLVED by 7 votes for, 2 votes against and 1 abstention to APPROVE the application subject to the conditions set out in the report.

## **Item No. 3**

### **Application No. 16/05845/FUL**

**Site Location: East Barn, Whitecross Farm, Bristol Road, West Harptree – Conversion of an existing barn to office accommodation (Use Class B1)**

The Case Officer reported on the application and her recommendation to permit.

The registered speakers spoke for and against the application. A statement from

West Harptree Parish Council against the application was also read out.

In response to a question the Case Officer explained that 3 parking spaces would be provided at the front of the property.

Cllr Jackson did not feel that the application would have a significant highways impact and noted that the highways officer had raised no objection.

Cllr Kew felt that this was a good building which fitted in well with the local environment. The access road, although on a bend, was not too problematic for one building. He then moved that the application be permitted. This was seconded by Cllr Becker.

Cllr Organ was opposed to this application. He felt that the access road was dangerous as it was located on a bend and there was inadequate turning space. The site was also outside the village boundary and within an Area of Outstanding Natural Beauty. He also stated that if the application were permitted then the hours of occupation should be specified. He felt that a mixed occupation of business and residential property was not a good idea.

The Team Manager – Development Management confirmed that there were conditions proposed to specify the basis upon which permission was recommended to be granted. She also confirmed that Condition 11 referred to specific site opening times.

The motion was put to the vote and it was RESOLVED by 8 votes in favour and 2 against to PERMIT the application subject to the conditions set out in the report.

## 21 **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 various planning applications.
- An update report by the Group Manager (Development Management) attached as *Appendix 1* to these minutes.
- Oral statements by members of the public and representatives. A copy of the speakers' list is attached as *Appendix 2* to these minutes.

**RESOLVED** that in accordance with the delegated powers, the applications be determined as set out in the decisions list attached as *Appendix 4* to these minutes.

### **Item No. 1**

#### **Application No. 17/01453/FUL**

**Site Location: Parcel 5400, Fosseway South, Midsomer Norton – Erection of 20 dwellings, associated infrastructure, vehicular access points from existing estate road network, parking and landscaping**



The Case Officer reported on the application and his recommendation for approval.

The registered speaker spoke for the application.

Cllr Jackson explained that Westfield Parish Council had objected to this application with the main objection being road safety. If the application were approved then the Parish Council would like a contribution from the developer towards the provision of a crossing and road safety measures. She also felt that the design of the houses were out of keeping with the area as they were three storey. More modest homes were needed in this area. It was unfortunate that no care home provider could be found for the site.

Councillor Crossley pointed out that a large site was usually required to ensure the viability of a care home development. He felt that the application was suitable for the area and moved that the Committee delegate to permit the application. This was seconded by Councillor Kew.

The Highways Officer explained that this proposal would generate less traffic than the previous one. She also pointed out that a developer contribution of £87k had already been made towards the provision of a toucan crossing in this area.

The motion was put to the vote and it was RESOLVED unanimously to DELEGATE TO PERMIT the application subject to the conditions set out in the report and the prior completion of a Section 106 Agreement to secure the matters set out in the officer's report.

## **Item No. 2**

### **Application No. 17/00847/RES**

**Site Location: Land at Rear of 161 to 171 Englishcombe Lane, Southdown, Bath – Approval of reserved matters in relation to outline application 16/01018/OUT (Erection of a maximum of 8 dwellings at Land to Rear of 1610171 Englishcombe Lane) regarding scale, layout, appearance and landscaping of the site**

The Case Officer reported on the application and her recommendation for approval. She informed the Committee that since the agenda was published there had been one further objection relating to access, the increase in traffic, overlooking and being detrimental to the World Heritage Site. She informed the Committee that officers suggested that members could include an additional condition to prevent the flat roofs being used as terraces.

The registered speakers spoke for and against the application.

Cllr Dine Romero spoke against the application on behalf of the local ward member, Cllr Will Sandry.

In response to a question the Case Officer explained that the Committee's decision was limited to the reserved matters listed above and that this did not include the access arrangements. She also informed members that conditions relating to wildlife and conservation issues had been included in the original consent. It was advised that the properties ranged from 3 to 5 bedrooms.

Cllr Crossley stated that this was important green space in an urban community. He noted that the original consent had been granted under officer delegated powers. He felt that the proposal was unacceptable being on a busy road, of poor design and with poor access. He moved that the application be refused for reasons of overdevelopment, poor design and materials, and the impact on the World Heritage Site. The Team Manager – Development Management advised the committee that a decision by officers or members was a Council decision and there was no difference between the two. As there was an outline approval granted, matters of principal and the access could not form reasons for refusal, and any reasons put forward should relate to the reserved matters application under consideration.

Cllr Jackson seconded the motion, agreeing that the design was poor and that the materials were inappropriate.

Cllr Becker stated that he felt the design was inappropriate and out of keeping with the neighbouring properties.

The motion was then put to the vote and it was RESOLVED unanimously to REFUSE the application due to overdevelopment, poor design and materials and the adverse impact of the development on the World Heritage Site.

(Note: At this point Cllr Roberts left the meeting).

### **Item No. 3**

#### **Application No. 16/06140/FUL**

**Site Location: 30 Flatwoods Road, Claverton Down, Bath, BA2 7AQ – Erection of 2 dwellings, internal access drive and landscaping at rear of existing dwelling**

The Case Officer reported on the application and her recommendation to permit.

The registered speakers spoke for and against the application.

Cllr Bob Goodman, local ward member, spoke against the application.

In response to a question the Highways Officer explained that there was space for two vehicles to pass at the driveway entrance and that there was also a passing bay. She was satisfied that emergency vehicles would be able to gain access.

In response to a question regarding one of the trees on the site the Case Officer explained that tree T6 was on the applicants' land and would be removed and showed the trees on the plan. Any land dispute was a civil matter and not a planning matter.

Councillor Organ moved that a decision be deferred pending a site visit to allow members to understand the context of the site. This was seconded by Cllr Kew.

The motion was then put to the vote and it was RESOLVED to DEFER consideration of the application pending a SITE VISIT.

(At this point Cllr Roberts returned to the meeting).

**Item No. 4****Application No. 17/01031/OUT**

**Site Location: Chris Madden Cars, 85 Bristol Road, Whitchurch, BS14 0PS – Outline application for the erection of 4 terraced 3 storey town houses and 6 semi-detached 2.5 storey houses following demolition of existing car showroom**

The Case Officer reported on the application and his recommendation for approval. He informed the Committee that he had received a further objection from a neighbouring business owner raising concerns about the inadequate parking provision on the site which he felt was likely to lead to an increase in on street parking in neighbouring side roads. He also raised health and safety concerns due to the possibility of emergency vehicles having problems with access in the future due to this development.

Cllr Kew then moved that permission be granted subject to conditions. This was seconded by Cllr Crossley.

The motion was put to the vote and it was RESOLVED by 9 votes in favour and 1 against to PERMIT the application subject to the conditions set out in the report.

**Item No. 5****Application No. 17/01581/FUL**

**Site Location: 22 Uplands Road, Saltford, BS31 3JJ – Erection of a single storey dwelling and garage**

The Case Officer reported on the application and her recommendation to refuse permission.

The registered speaker spoke in favour of the application.

Cllr Francine Haeberling, local ward member, spoke in favour of the application.

Cllr Butters noted that the Parish Council had raised no objection to the proposals.

Cllr Organ felt that the site was large and that there was adequate space for the dwelling. He moved that consideration of the application be deferred pending a site visit. This motion was not seconded.

Cllr Matthew Davis moved that permission be granted subject to conditions as the development was not out of character with the local area and would not be detrimental to neighbouring properties. This was seconded by Cllr Organ.

The motion was put to the vote and it was RESOLVED by 8 votes in favour and 2 abstentions to DELEGATE TO PERMIT the application subject to conditions.

**Item No. 6****Application No. 17/01411/FUL**

**Site Location: 10 Stonehouse Lane, Combe Down, Bath, BA2 5DW – Three storey side extension and garage to include demolition of existing single storey side extension, partial demolition of existing garage, minor changes to rear ground floor fenestration of existing main house and front landscaping**

The Case Officer reported on the application and her recommendation for approval.

The registered speaker spoke for the application.

Cllr Bob Goodman, local ward member, spoke in favour of the application.

In response to a question the Case Officer confirmed that the proposal would mean that the property would have 6 bedrooms.

Cllr Kew stated that he found the plans confusing and moved that consideration of the application be deferred pending a site visit to enable the Committee to better understand the street scene in this location. This was seconded by Cllr Jackson.

The motion was put to the vote and it was RESOLVED by 7 votes in favour, 1 against and 2 abstentions to DEFER consideration of the application pending a SITE VISIT.

**Item No. 7**

**Application No. 17/01316/FUL**

**Site Location: Willow Glade, 17 Scobell Rise, High Littleton, BS39 6JY –  
Erection of detached bungalow on land at 17 Scobell Rise and erection of  
detached garage for existing dwelling (Revised Scheme)**

The Case Officer reported on the application and her recommendation to refuse the application.

Cllr Kew stated that this application would be in keeping with the area as there was already a mixture of different types of housing. The plot was large and was located within the housing development boundary. He moved that permission be granted subject to conditions. This was seconded by Cllr Matthew Davies.

The motion was put to the vote and it was RESOLVED unanimously to DELEGATE TO PERMIT the application subject to conditions.

**Item No. 8**

**Application No. 17/00163/FUL**

**Site Location: Stonedge Cottage, Stoneage Lane, Tunley, Bath – Alterations to  
raise the wall to the same level as the neighbour's wall, including the existing  
panel fence (Resubmission)**

The Case Officer reported on the application and her recommendation for refusal.

The registered speaker spoke in favour of the application.

In response to a question the Case Officer explained that the site was not within a Conservation Area but was within the greenbelt.

Cllr Kew felt that the wall made a positive impact on the village aspect and was not out of place. Cllr Crossley and Cllr Organ also felt that the wall enhanced the area.

The Team Manager, Development Management explained that according to the

NPPF the development did not comprise appropriate development in the greenbelt as it was disproportionate. If members wished to permit the application they should be clear about any special circumstances that apply. She explained that the Committee could make a judgement on the proportionality of the proposal as the application would constitute a 50% volume increase which is normally far above the increases usually permitted.

Cllr Crossley then moved that consideration of the application be deferred pending a site visit to enable the Committee to fully view the impact of the proposal in the greenbelt. Cllr Kew seconded the motion.

The motion was then put to the vote and it was RESOLVED by 9 votes in favour and 1 abstention to DEFER consideration of the application pending a SITE VISIT.

#### **Item No. 9**

##### **Application No. 17/01436/FUL**

**Site Location: Manor House, Battle Lane, Chew Magna, BS40 8PT – Erection of new security fence on western boundary**

The Case Officer reported on the application and her recommendation to refuse.

The registered speaker spoke in favour of the application.

Cllr Liz Richardson, local ward member, spoke in favour of the application.

In response to a question the Case Officer explained that the application was for temporary permission to be ongoing until there was a resolution to the problems with the derelict former school buildings adjacent to the site. These buildings had been subject to vandalism, fires and decay. A condition could be put in place to ensure that permission expired within three years or when the derelict buildings were demolished, whichever is the sooner.

Cllr Organ noted that the reasons for the request to put up a security fence were security, health and safety and to protect the Grade II\* listed building.

Cllr Kew moved that officers be delegated to confirm that the fence proposed was structurally sound and to negotiate planting arrangements and then permit the application for a temporary period of three years, or when the school buildings are demolished whichever is the sooner, in accordance with the condition suggested by the Case Officer, and any other necessary conditions. This was seconded by Cllr Jackson.

The motion was put to the vote and it was RESOLVED unanimously to DELEGATE TO PERMIT the application subject to conditions.

#### **Item No. 10**

##### **Application No. 17/01965/FUL**

**Site Location: 1 Wellow Lane, Peasedown St John, Bath, BA2 8JQ – Erection of single storey side extension with replacement garage and widened driveway access following demolition of existing garage**

The Case Officer reported on the application and her recommendation to refuse.

Councillor Karen Walker had submitted a statement in support of the application which was read out at the meeting.

In response to questions the Case Officer informed the Committee that the property was a Grade II listed building and that a mix of materials were proposed in the construction that did not match the existing building.

Cllr Kew moved that permission be refused for the reasons set out in the report. This was seconded by Cllr Organ.

The motion was then put to the vote and it was RESOLVED unanimously to REFUSE the application for the reasons set out in the report.

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

The Committee considered the appeals report.

**RESOLVED** to **NOTE** the report.

The meeting ended at 6.05 pm

Chair .....

Date Confirmed and Signed .....

**Prepared by Democratic Services**

**BATH AND NORTH EAST SOMERSET COUNCIL**

**Development Management Committee**

**Date**

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

**ITEM**

**ITEMS FOR PLANNING PERMISSION**

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
003	16/05845/FUL	East Barn,Whitecross Farm

An additional letter has been received from a neighbour of the development discussing the proposed conditions attached to the report.

The main points raised were:

- Wording and scope of conditions
- The need for additional conditions.

The concerns of the neighbour in regard of the proposed conditions have already been addressed in the report that is before committee.

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
01	17/01453/FUL	Parcel 5400, Fosseyway South, Midsomer Norton

A verification report for remediation works that have already been undertaken on the site has been submitted and reviewed by the Contaminated Land Officer. They have accepted the findings of the report and as a result there is no longer a requirement for the submission of a verification report.

**Condition 4** is therefore removed from the recommendation.

A construction management plan has also been submitted and reviewed. The submitted construction management plan is acceptable and will ensure the safe operation of the highway and protect residential amenity during construction.

**Condition 2** is therefore amended to the following:

## **2. Construction Management Plan (Compliance)**

The development hereby approved shall be undertaken in accordance with the 'Environmental Management System and Construction Management Plan' (Barratt Bristol, Issue date: March 2017).

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policies T.24 and D.2 of the Bath and North East Somerset Local Plan and policy ST7 of the Placemaking Plan.

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
01	17/01208/FUL	Avonlea House, Station Road, Freshford, Bath, BA2 7WQ

Updated volume calculations have been provided:

Existing property:  
West Wing - 262.42cu.m  
East Wing - 182.58cu.m  
Outbuilding - 73.92cu.m  
**Total** - 518.92cu.m

Proposed extension - 144.64cu.m

This gives a volume increase of 28%

Previously it was thought that the original property was 449.5cu.m with the proposal being 135.85cu.m (a 30% increase). Whilst the volume has altered slightly the result is that the extension is still considered an appropriate addition within the Greenbelt and is in line with planning policy.

<b>Item No.</b>	<b>Application No.</b>	<b>Address</b>
02	17/00299/OUT	Land Between Homelands and 10 Camerton Hill, Camerton, Bath

Multiple correspondences have been received from a neighbour and previous objector to the application following the deferral from the May committee. No additional issues have been raised that have not already been addressed in the officer report. The main issues raised again are questioning the land ownership, right of access and the correct application certificate. As outlined in the officer report the access is acceptable in planning terms, land ownership and legal right to use it is a legal matter that is for the applicant to ascertain. In this respect it is not for the council to adjudicate over the legal use of land, the LPA is concerned with the planning merits of the case.



<b>Item No.</b>	<b>Application No.</b>	<b>Address:</b>
<b>09</b>	<b>17/01436/FUL</b>	<b>Manor House, Battle Lane, Chew Magna, Bristol, BS40 8PT</b>

The very special circumstances put forward and referred to in the main committee report have been considered in detail but it is considered that safety reasons could apply to many other cases where people wish to erect fences within the Green Belt and therefore cannot be regarded as very special in this case. It must also be highlighted that there is no evidence that the Manor House itself has been broken into or vandalised. Therefore the security fence is proposed in response to a perceived threat which again is not considered to be a very special circumstance.

It should also be emphasised that whilst there is a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding conservation area, there is also a duty placed on the Council under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 when considering whether to grant listed building consent for any works to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possess.

Whilst it is considered that the proposal would have harm to the character and appearance of the listed building and the conservation area, this harm is considered to be less than substantial. Therefore, in accordance with Paragraph 134 of the NPPF this harm must be weighed against the public benefits of the scheme. In this case the aim of the proposal is to provide security fencing along the western boundary. Whilst the poor state of the buildings is acknowledged, the perceived security threat has been considered and it has been concluded that this would not comprise public benefits required to justify the harm to the setting of the listed building and the conservation area. Evidence has been submitted of a number of occasions when the school buildings have been broken into and vandalised. However, it is considered that as the fencing is only proposed around the western boundary of the site, the increased security of the site and therefore public benefit would be negligible.

Therefore the proposal harms the setting of the grade II\* listed building and this part of the Chew Magna Conservation Area. The justification of the proposal in terms of very special circumstances and public benefit is deemed insufficient and therefore the proposal is considered contrary to paragraphs 132 and 134 of the NPPF (2014), Policies BH.2 and BH.6 of the Bath and North East Somerset Local Plan (2007) and Policy HE.1 of the draft Placemaking Plan.

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## BATH AND NORTH EAST SOMERSET COUNCIL

### MEMBERS OF THE PUBLIC AND REPRESENTATIVES WISHING TO MAKE A STATEMENT AT THE MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE ON WEDNESDAY 28 JUNE 2017

A. SITE VISIT LIST			
ITEM NO.	SITE NAME	SPEAKER	FOR/AGAINST
1	Avonlea House, Station Road, Freshford, Bath	Mr Arbaney	Against
2.	Land between Homelands and 10 Camerton Hill, Camerton, Bath	Cllr Tony Fry (Camerton Parish Council)	Against
		Graeme Mellis	Against
		Owen Pike (Agent)	For
3.	East Barn, Whitecross Farm, West Harptree	West Harptree Parish Council (Statement submitted)	Against
		Jon Mitchell	Against
		Karen Howe (Agent)	For

B. MAIN PLANS LIST			
ITEM NO.	SITE NAME	SPEAKER	FOR/AGAINST
1.	Parcel 5400, Fosseyway South, Midsomer Norton	Kate Holden (Barratt Homes)	For
2.	Land at Rear of 161 to 171 Englishcombe Lane, Southdown, Bath	Leilani Lea	Against
		Simon Ellis (Applicant)	For
		Cllr Dine Romero (on behalf of Cllr Will Sandry)	Against
3.	30 Flatwoods Road, Claverton Down, Bath, BA2 7AQ	Shelia Brewis	Against

		Chris Beaver (Agent)	For
		Cllr Bob Goodman	Against
5.	22 Uplands Road, Saltford, BS31 3JJ	Tom Rocke (Agent)	For
		Cllr Francine Haeberling	For
6.	10 Stonehouse Lane, Combe Down, Bath, BA2 5DW	David Mills (Agent)	For
		Cllr Bob Goodman	For
8.	Stonedge Cottage, Stoneage Lane, Tunley, Bath	Chris Bramwell-Pearson (Applicant)	For
9.	Manor House, Battle Lane, Chew Magna, BS40 8PT	Chris Beaver (Agent)	For
		Cllr Heather Montague (Chew Magna Parish Council)	For
		Cllr Liz Richardson	For

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

**28th June 2017**

**SITE VISIT DECISIONS**

<b>Item No:</b>	001		
<b>Application No:</b>	17/01208/FUL		
<b>Site Location:</b>	Avonlea House, Station Road, Freshford, Bath		
<b>Ward:</b> Bathavon South	<b>Parish:</b> Freshford	<b>LB Grade:</b> N/A	
<b>Application Type:</b>	Full Application		
<b>Proposal:</b>	Erection of single storey side extension		
<b>Constraints:</b>	Affordable Housing, Agric Land Class 3b,4,5, Area of Outstanding Natural Beauty, Conservation Area, Greenbelt, Housing Development Boundary, MOD Safeguarded Areas, Neighbourhood Plan, SSSI - Impact Risk Zones,		
<b>Applicant:</b>	Ms Sarah Lynott		
<b>Expiry Date:</b>	2nd June 2017		
<b>Case Officer:</b>	Samantha Mason		

**DECISION REFUSE**

1 The proximity of the proposal to the neighbouring boundaries and the height of the extension above the boundary walls is considered to result in an overbearing impact on the neighbours residential amenity and is contrary to policy D.2 of the Bath and North East Somerset Local Plan (including Minerals and Waste policies) adopted October 2007 and Draft Placemaking Plan policy D6.

2 The proposed extension by reason of its size and location would fail to preserve or enhance the character of the Conservation Area. This would be contrary to Policy BH.6 of the Bath and North East Somerset Local Plan (including Minerals and Waste policies) adopted October 2007 and Draft Placemaking Plan policy HE.1.

**PLANS LIST:**

This decision relates to the following plans:

13 Mar 2017 Ah.3. Site Location Plan  
13 Mar 2017 Ah.5. Block Plan  
13 Mar 2017 Ah.4. Proposed Plans

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The application was considered by the Development Management Committee, who voted to refuse the application. In considering whether to prepare a further application the applicant's attention is drawn to the reasons for refusal.

<b>Item No:</b>	002	
<b>Application No:</b>	17/00299/OUT	
<b>Site Location:</b>	Land Between Homelands And 10, Camerton Hill, Camerton, Bath	
<b>Ward:</b> Bathavon West	<b>Parish:</b> Camerton	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Outline Application	
<b>Proposal:</b>	Outline Planning Application for the erection of 1no. single storey dwelling (Resubmission).	
<b>Constraints:</b>	Affordable Housing, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary, Primary School Purpose, Public Right of Way, SSSI - Impact Risk Zones,	
<b>Applicant:</b>	Mrs Brenda Sandy-Miles	
<b>Expiry Date:</b>	2nd June 2017	
<b>Case Officer:</b>	Samantha Mason	

## **DECISION    APPROVE**

### **1 Outline Time Limit (Compliance)**

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 Reserved Matters (Pre-commencement)**

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

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

### **3 Reserved Matters Time Limit (Compliance)**

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

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

### **4 Plans List (Compliance)**

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.

### **5 Levels and Heights (Pre-commencement)**

No development shall commence until details, including elevations, of the proposed ridge heights/finished floor levels/eaves heights/slab levels in relation to Homelands, Camerton Hill have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: For the avoidance of doubt and to clarify the finished height of the development to accord with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan. This is a condition precedent because the ridge heights/finished floor levels/eaves heights/slab levels have the potential to affect the overall appearance of the development in the street scene. Therefore these details need to be agreed before work commences as they could not easily be amended after.

### **6 Hard and Soft Landscaping (Pre-occupation)**

No occupation shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed walls, fences, other boundary treatment and surface treatment of the open parts of the site, and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan.

### **7 Hard and Soft Landscaping (Compliance)**

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

Reason: To ensure that the landscape scheme is implemented and maintained in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan.

### **8 Materials - Submission of Schedule and Samples (Bespoke Trigger)**

No construction of the external walls of the 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 approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.

### **9 Water Efficiency (Compliance)**

The approved dwelling shall be constructed to meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day.

Reason: In the interests of water efficiency in accordance with Policy SCR5 of the draft Placemaking Plan.

### **10 Water Efficiency - Rainwater Harvesting (Pre-occupation)**

No occupation of the approved dwelling shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (eg. Water butts) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of water efficiency in accordance with Policy SCR5 of the Placemaking Plan.

### **11 Highways - Construction Management Plan (Pre-commencement)**

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management, working hours, site opening times, wheel wash facilities and site compound arrangements. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policies T.24 and D.2 of the Bath and North East Somerset Local Plan. This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

### **12 Wildlife Protection and Enhancement (Pre-occupation)**

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme produced by a suitably experienced ecologist have been submitted to and approved in writing by the local planning authority. These details shall include mapped findings of an ecological survey, and findings of any necessary other further surveys for example reptile survey findings; detailed proposals and specifications for all necessary wildlife protection and mitigation measures, to include, as applicable, provision of fenced exclusion zones around retained habitat; proposed precautionary methods of working; method statement to avoid harm to reptiles, as applicable; details of all proposed habitat provision and specifications for provision of additional features, habitats and native species planting, to benefit wildlife. All works within the scheme shall be carried out in accordance with the approved details prior to the occupation of the development.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with saved policies NE.10 and NE.11 of the Bath and North East Somerset Local Plan.

### **PLANS LIST:**

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.

This decision relates to the following plans/documents:



### **Condition Categories**

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

**Compliance** - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

**Pre-commencement** - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

**Pre-occupation** - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

**Bespoke Trigger** - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, details of the fee can be found on the "what happens after permission" pages of the Council's Website. You can submit your conditions application via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or send it direct to [planning\\_registration@bathnes.gov.uk](mailto:planning_registration@bathnes.gov.uk). Alternatively this can be sent by post to The Planning Registration Team, Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

The Public Rights of Way Team requests that the following be applied:

1) The Applicant must be able to demonstrate that the proposed vehicular access to the development will be lawful. Without this, any purchasers of the proposed properties may be committing an offence every time they drive along the footpath.

2) Care must be taken when using mechanically-propelled vehicles on a footpath. Motorists must give way to pedestrians.

<b>Item No:</b>	003	
<b>Application No:</b>	16/05845/FUL	
<b>Site Location:</b>	East Barn, Whitecross Farm, Bristol Road, West Harptree	
<b>Ward:</b> Mendip	<b>Parish:</b> West Harptree	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Conversion of an existing barn to office accommodation (Use Class B1)	
<b>Constraints:</b>	Affordable Housing, Airport Safeguarding Zones, Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Flood Zone 2, Greenbelt, LLFA - Flood Risk Management, SSSI - Impact Risk Zones, Water Source Areas,	
<b>Applicant:</b>	Mr Clive Setter	
<b>Expiry Date:</b>	30th June 2017	
<b>Case Officer:</b>	Martin Almond	

## **DECISION PERMIT**

### **1 Standard Time Limit (Compliance)**

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

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

### **2 Personal Permission (Compliance)**

The planning permission hereby approved is for the sole benefit of Mr Clive Setter and the building shall only be used as an office within Use Class B1a. If the use hereby approved ceases the use of the building shall revert to its former lawful use (barn, Class Sui Generis).

Reason: The development hereby approved is only acceptable in this location because of the nature of the business undertaken by the applicant. Further consideration of any new or alternative business would be required by the Local Planning Authority due to potential impact on residential amenity and highway safety.

### **3 Highways - Parking (Compliance)**

The areas allocated for parking and turning on the submitted plan (6198-101E dated as received 23 March 2017) 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: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

### **4 Wildlife Protection and Enhancement (Pre-occupation)**

Within 6 months of the date of this permission full details of a Wildlife Compensation and Enhancement Scheme shall be submitted to and approved in writing by the local planning authority. These details shall include:

- (i) proposals for provision of bat habitat and roosting provision to re-instate bat roosting opportunities to the site,
- (ii) nesting provision as recommended in section 4.6 of the approved Bat and Bird Scoping Survey dated March 2017 by Crossman Associates; and (iii) other features to benefit wildlife, including new planting, where opportunities exist.

The scheme shall be produced by a suitably experienced ecologist and shall show all proposed measures, and specifications for their numbers, positions, heights, materials and fixings, as applicable, to scale on a plan. All works within the scheme shall be carried out in accordance with the approved details, unless otherwise approved in writing by the local planning authority. The works shall be carried out prior to the occupation of any part of the development.

All works within the scheme shall be carried out in accordance with the approved details prior to the occupation of the development.

Reason: To avoid net loss of biodiversity and to provide biodiversity gain in accordance with NPPF and policies NE.10 and NE.11 of the Bath and North East Somerset Local Plan.

#### **5 Implementation of Wildlife Scheme (Pre-occupation)**

Within 2 months of the implementation of the recommendations of the Wildlife Protection and Enhancement Scheme a report shall be produced by a suitably experienced ecologist confirming and demonstrating, using photographs where appropriate, and submitted to the Local Planning Authority for approval.

Reason: To ensure that the implementation and success of the Wildlife Protection and Enhancement Scheme to prevent ecological harm and to provide biodiversity gain in accordance with policies NE.10 and NE.11 of the Bath and North East Somerset Local Plan.

#### **6 Delivery Hours (Compliance)**

No vehicular deliveries shall arrive, be received or despatched from the site outside the hours of:

Monday to Friday 08:00 - 18:30  
Saturday 09:00 - 13:00

No vehicular deliveries shall arrive, be received or despatched on Sundays or Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers in accordance with Policy D.2 of the Bath and North East Somerset Local Plan.

#### **7 Obscure Glazing (Compliance)**

The proposed rooflights in the roof of the south-west elevation of the building shall be obscurely glazed. Thereafter the rooflights shall be permanently retained as such.

Reason: To safeguard the residential amenities of adjoining occupiers from overlooking and loss of privacy in accordance with Policy D.2 of the Bath and North East Somerset Local Plan.

#### **8 Obscure Glazing and Non-opening Window(s) (Compliance)**

The proposed window in the south elevation of the building shall be obscurely glazed and non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed. Thereafter the window shall be permanently retained as such.

Reason: To safeguard the residential amenities of adjoining occupiers from overlooking and loss of privacy in accordance with Policy D.2 of the Bath and North East Somerset Local Plan.

#### **9 Restriction on access lane parking (Compliance)**

The passing place/field entrance located at the northern end of the access road (between the gardens of Stratford House and Stratford Cottage) and the access road shall not be used for vehicle parking and shall be kept clear of obstruction at all times.

Reason: To ensure access to the site and adjoining residents is unimpeded in the interests of amenity and highways safety in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

#### **10 Removal of permitted development rights (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, (or any order revoking and re-enacting that Order with or without modification), and notwithstanding the Town and Country Planning (General Permitted Development Order) 2015 as amended, (or any order revoking and re-enacting that Order with or without modification) the premises shall be used only for B1a (Office) and for no other purpose in Class B of the schedule to that Order.

Reason: The approved use only has been found to be acceptable in this location and other uses within the same use class may require further detailed consideration by the Local Planning Authority.

#### **11 Removal of Permitted Development Rights - No extensions or alterations (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the building hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority because of the possible impact upon Green Belt, Area of Outstanding Natural Beauty, residential amenity and highway safety.

## **12 No Residential Occupation (Compliance)**

There shall be no residential occupation within the building or on any part of the site at any time.

Reason: Residential occupation could have an adverse impact on the amenities of adjoining residents and would require planning permission in its own right.

## **13 Plans List (Compliance)**

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

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

### **PLANS LIST:**

This decision relates to drawings 6198-102C and site location plan dated as received 30th November 2017 and drawings 6198-101E and 6198-103B dated as received 23rd March 2017.

### **Condition Categories**

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, details of the fee can be found on the "what happens after permission" pages of the Council's Website. You can submit your conditions application via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or send it direct to [planning\\_registration@bathnes.gov.uk](mailto:planning_registration@bathnes.gov.uk). Alternatively this can be sent by post to The Planning Registration Team, Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

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.

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

**28th June 2017**

**DECISIONS**

<b>Item No:</b>	01		
<b>Application No:</b>	17/01453/FUL		
<b>Site Location:</b>	Parcel 5400, Fosseway South, Midsomer Norton,		
<b>Ward:</b> Midsomer Norton Redfield	<b>Parish:</b> Midsomer Norton	<b>LB Grade:</b> N/A	
<b>Application Type:</b>	Full Application		
<b>Proposal:</b>	Erection of 20 no. dwellings, associated infrastructure, vehicular access points from existing estate road network, parking and landscaping		
<b>Constraints:</b>	Affordable Housing, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenfield site, Neighbourhood Plan, SSSI - Impact Risk Zones,		
<b>Applicant:</b>	BDW Trading Ltd		
<b>Expiry Date:</b>	28th September 2017		
<b>Case Officer:</b>	Chris Griggs-Trevarthen		

**DECISION** Delegate to PERMIT subject to applicant entering into S106 agreement.

<b>Item No:</b>	02	
<b>Application No:</b>	17/00847/RES	
<b>Site Location:</b>	Land At Rear Of 161 To 171, Englishcombe Lane, Southdown, Bath	
<b>Ward:</b> Oldfield	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Application Type:</b>	PI Permission (ApprovalReserved Matters)	
<b>Proposal:</b>	Approval of reserved matters in relation to outline application 16/01018/OUT (Erection of a maximum of 8no. dwellings at Land to Rear of 161-171 Englishcombe Lane) regarding scale, layout, appearance and landscaping of the site.	
<b>Constraints:</b>	Affordable Housing, Agric Land Class 3b,4,5, Article 4, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,	
<b>Applicant:</b>	Crossman Land Ltd	
<b>Expiry Date:</b>	30th June 2017	
<b>Case Officer:</b>	Alice Barnes	

**DECISION** REFUSE

1 The proposed development by reason of its height, scale and mass is considered to result in a visually cramped development which is considered to be overdevelopment of the plot. The proposed development is therefore contrary to policy D.2 and D.4 of the Bath and North East Somerset Local plan and policies D.2 and D.5 of the emerging placemaking plan

2 The proposed development by reason of siting, scale and materials will result in a design which does not accord with the character of the surrounding area. The proposed development will encroach into an existing green hillside which is harmful to the character of the World Heritage Site. The proposed development is therefore contrary to Policy B1 of the Core Strategy policies D.2 and D.4 Bath and North East Somerset Local plan and policies D.2, D.5 and HE1 of the emerging placemaking plan

#### **PLANS LIST:**

Site location plan P300  
Detailed Access Plan P301  
Site layout plan 1000 rev B  
Existing site sections P1001 rev B  
Plot 1 P1010 rev D  
Plot 2 1020 rev D  
Plot 3 1030 rev F  
Plot 4 1040 rev D  
Plot 5 1050 rev D  
Plot 6 1060 rev D  
Plot 7 and 8 rev D  
Topographical survey  
Landscape plan P1003 rev C  
Existing and proposed site section 1004 rev A  
Existing and proposed layout plan 1005 rev A

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. The proposal was considered unacceptable by the members of the development management committee for the reasons given and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.



<b>Item No:</b>	03		
<b>Application No:</b>	16/06140/FUL		
<b>Site Location:</b>	30 Flatwoods Road, Claverton Down, Bath, Bath And North East Somerset		
<b>Ward:</b> Combe Down	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A	
<b>Application Type:</b>	Full Application		
<b>Proposal:</b>	Erection of 2 no. dwellings, internal access drive and landscaping at rear of existing dwelling.		
<b>Constraints:</b>	Affordable Housing, Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Article 4, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, Water Source Areas, World Heritage Site,		
<b>Applicant:</b>	Ashford Homes (South Western) Ltd.		
<b>Expiry Date:</b>	28th July 2017		
<b>Case Officer:</b>	Alice Barnes		

**Defer for site visit - to allow Members to understand the context of the site**

<b>Item No:</b>	04		
<b>Application No:</b>	17/01031/OUT		
<b>Site Location:</b>	Chris Madden Cars, 85 Bristol Road, Whitchurch, Bristol		
<b>Ward:</b> Publow And Whitchurch	<b>Parish:</b> Whitchurch	<b>LB Grade:</b> N/A	
<b>Application Type:</b>	Outline Application		
<b>Proposal:</b>	Outline application for the erection of 4no terraced 3 storey town houses and 6no semi-detached 2.5 storey houses following demolition of existing car showroom.		
<b>Constraints:</b>	Affordable Housing, Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary, Local Shops, SSSI - Impact Risk Zones,		
<b>Applicant:</b>	Tradex Development Ltd		
<b>Expiry Date:</b>	2nd June 2017		
<b>Case Officer:</b>	Chris Gomm		

**DECISION PERMIT**

#### **1 Outline Time Limit (Compliance)**

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 Reserved Matters Time Limit (Compliance)**

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

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

## **3 Reserved Matters (Pre-commencement)**

Approval of the details of the landscaping of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Parts 1 and 3 of the Development Management Procedure Order 2015.

4 Notwithstanding the approved plans, revised details in respect of the colour applied to the render facing the dwelling houses hereby approved shall be submitted to and approved in writing by the local planning authority prior to the application of any external render to the development hereby approved. The development shall be undertaken in accordance with the details so approved.

Reason: The application of multi-coloured render is not appropriate in this location.

## **5 Parking (Compliance)**

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

Reason: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

## **6 Dwelling Access (Compliance)**

Each dwelling shall not be occupied until it is served by a properly bound and compacted footpath and carriageway to at least base course level between the dwelling and the existing adopted highway.

Reason: To ensure that the development is served by an adequate means of access in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

7 No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management, working hours, site opening times, wheel wash facilities and site compound arrangements. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policies T.24 and D.2 of the Bath and North East Somerset Local Plan. This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

8 Works must proceed only in accordance with the following measures for the protection of bats and birds:

- o a careful visual check for signs of active bird nests and bats shall be made of the interior and exterior of the building and its roof, and any crevices and concealed spaces, prior to any works affecting these areas
- o active nests shall be protected undisturbed until the young have fledged
- o works to the roof and any areas with concealed spaces or crevices shall be carried out by hand, lifting tiles (not sliding) to remove them, and checking beneath each one.
- o If bats are encountered works shall cease and the Bat Helpline (Tel 0345 1300 228) or a licenced bat worker shall be contacted for advice before proceeding.

Reason: to avoid harm to protected species (bats and nesting birds)

9 No development shall commence until an investigation and risk assessment of the nature and extent of contamination on site and its findings has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. The assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall include:

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

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover harmful contamination. Therefore these details need to be agreed before work commences.

10 No development shall commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human

health, buildings and other property and the natural and historical environment, has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required. The scheme shall include:

- (i) all works to be undertaken;
- (ii) proposed remediation objectives and remediation criteria;
- (iii) timetable of works and site management procedures; and,
- (iv) where required, a monitoring and maintenance scheme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.

The remediation scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme shall be carried out prior to the commencement of development, other than that required to carry out remediation, or in accordance with the approved timetable of works.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover harmful contamination. Therefore these details need to be agreed before work commences

11 No occupation shall commence until a verification report (that demonstrates the effectiveness of the remediation carried out) has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required.

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

12 In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority.

Thereafter an investigation and risk assessment shall be undertaken, and where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme, a verification report (that demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers,

neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

13 On completion of the development but prior to any occupation of the approved development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise. The following levels shall be achieved: Maximum internal noise levels of 35dBLAeq,16hr and 30dBLAeq,8hr for living rooms and bedrooms during the daytime and night time respectively. For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax.

Reason: To minimise the impact of noise on future occupants.

14 Prior to the installation of any surface water infrastructure within the development site the following information shall be submitted to and approved in writing by the local planning authority:

- o Assessment of infiltration rates ideally from onsite testing to BRE Digest 365 standards. Alternatively an estimate based on desktop study can be used but will need to be proven by onsite testing to BRE Digest 365 standard prior to construction;
- o Soakaway calculations demonstrating the required surface water attenuation volume to accommodate the 1in100+climate change event. If soakaways are designed to the CIRIA standards then an appropriate factor of safety is to be used;
- o Plans showing full details of drainage design demonstrating that the required attenuation volume can be accommodated within the development;
- o Maintenance details (covering the lifetime of the development)

The surface water drainage system shall be installed and subsequently maintained in accordance with the details so approved.

Reason: To ensure that the site is served by an adequate system of surface water drainage.

15 The approved dwellings shall be constructed to meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day.

Reason: In the interests of water efficiency in accordance with Policy SCR5 of the Placemaking Plan

16 No occupation of the approved dwellings shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (eg. Water butts) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of water efficiency in accordance with Policy SCR5 of the Placemaking Plan.

17 Prior to first occupation, all of the dwellings hereby approved shall be provided with superfast broadband (24Mbps+) infrastructure to enable superfast broadband provision. In the event that the provision of such infrastructure would render the development unviable, evidence to that effect shall be submitted to and approved in writing by the local planning authority prior to first occupation. Should that viability evidence be approved in writing by the local planning authority no superfast broadband infrastructure will subsequently be required. Furthermore should said viability evidence be approved in writing by the local planning authority, alternative solutions shall instead be provided in accordance with details which shall be submitted to and approved in writing by the local planning authority prior to first occupation.

Reason: To facilitate the provision of superfast broadband in accordance with Policy LCR7B of the Placemaking Plan. Alternative solutions may include for example mobile broadband infrastructure or Wi-Fi infrastructure.

18 The development hereby approved shall incorporate sufficient renewable energy generation such that carbon emissions from anticipated (regulated) energy use in the development shall be reduced by at least 10%, unless it can be demonstrated to the local planning authority's satisfaction that meeting this requirement would render the development unviable. Should it be accepted by the local planning authority that meeting the 10% reduction is unviable, the maximum percentage that is viable shall instead be achieved.

Details shall be submitted to and approved in writing by the local planning authority, prior to first occupation, demonstrating how the 10% reduction (or agreed lower percentage) will be achieved. The approved renewable energy infrastructure shall be installed and shall be fully operational prior to first occupation of the development hereby approved. Where renewable energy installations will materially affect the external appearance of the development/building, the details submitted pursuant to this condition shall include drawings of said installations.

Reason: To ensure that the development's carbon emissions (from anticipated regulated energy use) are reduced by at least 10% by means of sufficient renewable energy generation, in accordance with Policy SCR1 of the Bath & North East Somerset Placemaking Plan.

### **19 Plans List (Compliance)**

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

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

### **PLANS LIST:**

The following are the plans hereby approved:

- o Proposed Site Plan: Drawing No. 899/101 Revision R03
- o Proposed Ground Floor Plans (Plots 1-6): Drawing No. 899/102 Revision R01
- o Proposed First Floor Plans (Plots 1-6): Drawing No. 899/103 Revision R01
- o Proposed Second Floor Plans (Plots 1-6): Drawing No. 899/104 Revision R01

- o Proposed Roof Plans (Plots 1-6): Drawing No. 899/105 Revision R01
- o Proposed Front Elevations (Plots 1-6): Drawing No. 899/105 Revision R01
- o Proposed Rear Elevations (Plots 1-6): Drawing No. 899/107 Revision R01
- o Proposed Side Elevations (Plots 1-6): Drawing No. 899/108 Revision R01
- o Proposed Ground Floor Plans (Plots 7-10): Drawing No. 899/109 Rev R02
- o Proposed First & Second Floor Plans (Plots 7-10): Drawing No. 899/110 Rev R03
- o Proposed Roof Plan (Plots 7-10): Drawing No. 899/111 Rev R02
- o Proposed Front & Side Elevations (Plots 7-10): Drawing No. 899/112 Rev R03
- o Proposed Rear & Side Elevations (Plots 7-10): Drawing No. 899/113 Rev R03
- o Proposed Street View from Bristol Road: Drawing No. 899/114/ Rev R03

### **Condition Categories**

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

**Compliance** - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

**Pre-commencement** - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

**Pre-occupation** - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

**Bespoke Trigger** - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, details of the fee can be found on the "what happens after permission" pages of the Council's Website. You can submit your conditions application via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or send it direct to [planning\\_registration@bathnes.gov.uk](mailto:planning_registration@bathnes.gov.uk). Alternatively this can be sent by post to The Planning Registration Team, Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

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.

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil)

<b>Item No:</b>	05	
<b>Application No:</b>	17/01581/FUL	
<b>Site Location:</b>	22 Uplands Road, Saltford, Bristol, Bath And North East Somerset	
<b>Ward:</b> Saltford	<b>Parish:</b> Saltford	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of a single storey dwelling & garage	
<b>Constraints:</b>	Affordable Housing, Agric Land Class 1,2,3a, Forest of Avon, Housing Development Boundary, MOD Safeguarded Areas, Neighbourhood Plan, SSSI - Impact Risk Zones,	
<b>Applicant:</b>	Mr David Lamb	
<b>Expiry Date:</b>	30th June 2017	
<b>Case Officer:</b>	Emma Hardy	

## **DECISION PERMIT**

### **1 Standard Time Limit (Compliance)**

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

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

### **2 Plans List (Compliance)**

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

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

### **3 Tree Protection Plan (Pre-commencement)**

No development shall commence until an annotated Tree Protection Plan following the recommendations contained within BS 5837:2012 identifying measures (fencing and/or ground protection measures) to protect the trees and other vegetation to be retained has been submitted to and approved in writing by the Local Planning Authority. The plan shall include the design of proposed fencing and take into account the control of potentially harmful operations such as the position of service runs, storage, handling and mixing of materials on site, burning, and movement of people and machinery. No development or other operations shall thereafter take place except in complete accordance with the approved details.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy NE.4 of the Bath and North East Somerset Local Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

### **4 Highways - Bound/Compacted Vehicle Access (Pre-occupation)**



No occupation of the development shall commence until the vehicular access has been constructed with a bound and compacted surfacing material (not loose stone or gravel).

Reason: To prevent loose material spilling onto the highway in the interests of highways safety in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

#### **PLANS LIST:**

This decision is based on the following drawings and information: 1:2500 Site Location Plan, 01 Proposed Plan and Elevations, 01 Existing and Proposed Block Plans and Design and Access Statement received 3/4/2017.

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil)

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.

<b>Item No:</b>	06		
<b>Application No:</b>	17/01411/FUL		
<b>Site Location:</b>	10 Stonehouse Lane, Combe Down, Bath, Bath And North East Somerset		
<b>Ward:</b>	Combe Down	<b>Parish:</b>	N/A
		<b>LB Grade:</b>	N/A
<b>Application Type:</b>	Full Application		
<b>Proposal:</b>	Three storey side extension and garage to include demolition of existing single story side extension, partial demolition of existing garage, minor changes to rear ground floor fenestration of existing main house and front landscaping.		
<b>Constraints:</b>	Affordable Housing, Agric Land Class 3b,4,5, Article 4, Forest of Avon, Hotspring Protection, SSSI - Impact Risk Zones, Water Source Areas, World Heritage Site,		
<b>Applicant:</b>	Mr & Mrs Cunningham		
<b>Expiry Date:</b>	24th May 2017		
<b>Case Officer:</b>	Rae Mephram		

**Defer for site visit - to allow Members to understand the context of the site**

<b>Item No:</b>	07	
<b>Application No:</b>	17/01316/FUL	
<b>Site Location:</b>	Willow Glade , 17 Scobell Rise, High Littleton, Bristol	
<b>Ward:</b> High Littleton	<b>Parish:</b> High Littleton	<b>LB Grade:</b> N/A
<b>Application Type:</b>	Full Application	
<b>Proposal:</b>	Erection of detached bungalow on land at 17 Scobell Rise and erection of detached garage for existing dwelling. (Revised Scheme)	
<b>Constraints:</b>	Affordable Housing, Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary, SSSI - Impact Risk Zones,	
<b>Applicant:</b>	Mr & Mrs D Hamblin	
<b>Expiry Date:</b>	13th May 2017	
<b>Case Officer:</b>	Chloe Buckingham	

## DECISION PERMIT

### 1 Standard Time Limit (Compliance)

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

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

### 2 Hard and Soft Landscaping (Pre-occupation)

No occupation shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed walls, fences, other boundary treatment and surface treatment of the open parts of the site, and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan.

### 3 Removal of Permitted Development Rights - No Windows (Compliance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (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 side elevations 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 in accordance with Policy D.2 of the Bath and North East Somerset Local Plan.

### 4 Removal of Permitted Development Rights - No extensions or alterations (Compliance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority because the site has a reduced plot size when compared to the other dwellings within the street and any further extension would reduce the amenity space for the dwelling further which would need considering in terms of residential amenity.

#### **5 Removal of Permitted Development Rights - No roof extensions/enlargements (Compliance)**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of any part of any roof of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.

#### **6 Highways - Garages (Compliance)**

The garage hereby approved shall be retained for the garaging of private motor vehicles associated with no.17 and ancillary domestic storage and for no other purpose.

Reason: To ensure adequate off-street parking provision is retained in accordance with Policy T.26 of the Bath and North East Somerset Local Plan.

#### **7 Plans List (Compliance)**

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

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

#### **PLANS LIST:**

This decision relates to;

Location Plan and Block Plan (01), Proposed Site Plan (02), Proposed Plans (03), Proposed Sections (04), Proposed Elevations (05), Garage Plans (06) and Streetscene Elevations (07) received 18th March 2017.

#### **DECISION TAKING STATEMENT:**

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

## Condition Categories

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

**Compliance** - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

**Pre-commencement** - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

**Pre-occupation** - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

**Bespoke Trigger** - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, details of the fee can be found on the "what happens after permission" pages of the Council's Website. You can submit your conditions application via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or send it direct to [planning\\_registration@bathnes.gov.uk](mailto:planning_registration@bathnes.gov.uk). Alternatively this can be sent by post to The Planning Registration Team, Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

<b>Item No:</b>	08
<b>Application No:</b>	17/00163/FUL
<b>Site Location:</b>	Stonedge Cottage, Stoneage Lane, Tunley, Bath
<b>Ward:</b> Bathavon West	<b>Parish:</b> Dunkerton & Tunley Parish Council
<b>LB Grade:</b>	N/A
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Alterations to raise the wall to the same level as the neighbour's wall, including the existing panel fence (Resubmission)
<b>Constraints:</b>	Affordable Housing, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Flood Zone 2, Forest of Avon, Greenbelt, LLFA - Flood Risk Management, SSSI - Impact Risk Zones,
<b>Applicant:</b>	Mr Christopher Bramwell-Pearson
<b>Expiry Date:</b>	2nd June 2017
<b>Case Officer:</b>	Chloe Buckingham

**Defer for site visit - to allow Members to understand the context of the site**

<b>Item No:</b>	09		
<b>Application No:</b>	17/01436/FUL		
<b>Site Location:</b>	Manor House, Battle Lane, Chew Magna, Bristol		
<b>Ward:</b> Chew Valley North	<b>Parish:</b> Chew Magna	<b>LB Grade:</b> II	
<b>Application Type:</b>	Full Application		
<b>Proposal:</b>	Erection of new security fence on western boundary		
<b>Constraints:</b>	Affordable Housing, Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Conservation Area, Forest of Avon, Greenbelt, Listed Building, Neighbourhood Plan, SSSI - Impact Risk Zones,		
<b>Applicant:</b>	Dr & Mrs M Watts		
<b>Expiry Date:</b>	29th June 2017		
<b>Case Officer:</b>	Chloe Buckingham		

**DECISION** Permit with conditions.

<b>Item No:</b>	10		
<b>Application No:</b>	17/01965/FUL		
<b>Site Location:</b>	1 Wellow Lane, Peasedown St. John, Bath, Bath And North East Somerset		
<b>Ward:</b> Peasedown St John	<b>Parish:</b> Peasedown St John	<b>LB</b>	
<b>Grade:</b> N/A			
<b>Application Type:</b>	Full Application		
<b>Proposal:</b>	Erection of single storey side extension with replacement garage and widened driveway access following demolition of existing garage.		
<b>Constraints:</b>	Affordable Housing, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary, SSSI - Impact Risk Zones,		
<b>Applicant:</b>	Mr P Keating		
<b>Expiry Date:</b>	20th June 2017		
<b>Case Officer:</b>	Samantha Mason		

**DECISION** REFUSE

1 The proposed development of a single storey side extension following demolition of the existing garage is considered to have a detrimental impact on the character and appearance of the host dwelling and locality due to its location, size, and design contrary to Saved Policy D.4 of the Bath and North East Somerset Local Plan including minerals and waste policies adopted 2007, D.2 of the draft Placemaking Plan and section 7 of the National Planning Policy Framework.

**PLANS LIST:**

This decision relates to the following plans:

25 Apr 2017 2016-Keating-07 Location and Block Plan  
25 Apr 2017 2017-Keating-03 Proposed Plans  
25 Apr 2017 2017-Keating-04 Sections and Notes  
25 Apr 2017 2017-Keating-05 Roof Plans  
25 Apr 2017 2017-Keating-06 Proposed Elevations

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Bath & North East Somerset Council		
MEETING:	Development Management Committee	AGENDA ITEM NUMBER
MEETING DATE:	26th July 2017	
RESPONSIBLE OFFICER:	Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)	
TITLE:	APPLICATIONS FOR PLANNING PERMISSION	
WARDS:	ALL	
BACKGROUND PAPERS:		
AN OPEN PUBLIC ITEM		

## BACKGROUND PAPERS

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

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

### **The following notes are for information only:-**

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

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

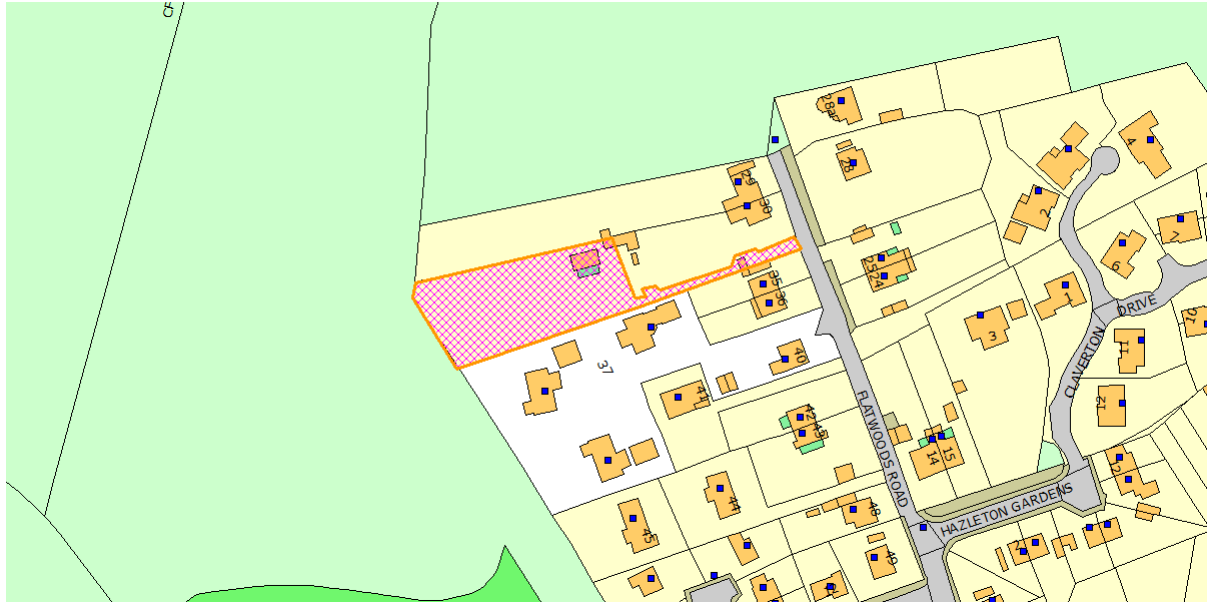
## INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	16/06140/FUL 28 July 2017	Ashford Homes (South Western) Ltd. 30 Flatwoods Road, Claverton Down, Bath, Bath And North East Somerset, BA2 7AQ Erection of 2 no. dwellings, internal access drive and landscaping at rear of existing dwelling.	Combe Down	Alice Barnes	PERMIT
002	17/01411/FUL 24 May 2017	Mr & Mrs Cunningham 10 Stonehouse Lane, Combe Down, Bath, Bath And North East Somerset, BA2 5DW Three storey side extension and garage to include demolition of existing single story side extension, partial demolition of existing garage, minor changes to rear ground floor fenestration of existing main house and front landscaping.	Combe Down	Rae Mepham	REFUSE
003	17/00163/FUL 2 June 2017	Mr Christopher Bramwell-Pearson Stonedge Cottage, Stoneage Lane, Tunley, Bath, Bath And North East Somerset Alterations to raise the wall to the same level as the neighbour's wall, including the existing panel fence (Resubmission)	Bathavon West	Chloe Buckingham	REFUSE



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

**Item No:** 001  
**Application No:** 16/06140/FUL  
**Site Location:** 30 Flatwoods Road Claverton Down Bath Bath And North East Somerset BA2 7AQ



**Ward:** Combe Down      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Cherry Beath      Councillor Bob Goodman  
**Application Type:** Full Application  
**Proposal:** Erection of 2 no. dwellings, internal access drive and landscaping at rear of existing dwelling.  
**Constraints:** Affordable Housing, Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Article 4, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, Water Source Areas, World Heritage Site,  
**Applicant:** Ashford Homes (South Western) Ltd.  
**Expiry Date:** 28th July 2017  
**Case Officer:** Alice Barnes

### **REPORT**

Reason for calling the application to the committee

The application has been referred to the committee at the request of Councillor Bob Goodman.

The application has been referred to the chair of the committee who has agreed that the application should be considered by the committee.

At the meeting of the 28th June the committee resolved to defer the application for a site visit on the 17th July. The application will now be considered at the meeting of the 26th July.

#### Description of site and application

Flatwoods Road is located on the southern edge of Bath. The site is located outside of the Conservation Area but within the World Heritage Site. It is located within the Area of Outstanding Natural Beauty and adjacent to the Green Belt.

This is an application for the construction of two new dwellings within the garden at number 30. Number 30 includes a large rear garden measuring 100m in length. The site sits adjacent to the open countryside and the western boundary is surrounded by tree cover. The site is adjacent to the Bath skyline path but will not encroach onto the right of way.

The applicant is proposing to construct two detached houses within the rear garden. The proposed dwellings will be two storey properties and are of a similar design to the dwellings constructed to the south of the site on a neighbouring plot. Parking will be provided on site.

#### Relevant history

DC - 11/02809/FUL - RF - 19 October 2011 - Erection of a single storey rear/side extension

DC - 12/00567/FUL - PERMIT - 3 May 2012 - Erection of a two storey side/single storey rear extension

#### Neighbouring site, numbers 37-39

DC - 06/03686/OUT - WD - 22 December 2006 - Construction of 5no. detached dwellings with associated

parking, highway works and landscaping, after demolition of no.37 Flatwoods Road, and alterations to no.40 Flatwoods Road

DC - 07/02131/OUT - RF - 14 November 2007 - Erection of 4 no. dwellings and associated car parking,

highways works and landscaping, following demolition of existing dwelling (Resubmission)

DC - 08/03979/FUL - PERMIT - 16 April 2009 - Erection of three dwellings following demolition of no. 37

Flatwoods Road and alterations to no. 40 Flatwoods Road

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

Arboriculture: The revised drawing titled Site Plan (drawing FLR-XX-0001 rev K) has significantly increased the distance between the proposed property in plot 2 and the offsite Beech (identified as T11) and protected Oak (identified as T13). I withdraw my objection.

I have no objection to the tree removals shown. T6 (Beech) has suffered significant squirrel damage so was not considered a suitable candidate for a Tree Preservation Order. However, I note that an objection response from the neighbour indicates that this tree may be under shared ownership.

The offsite Ash identified as T8 is further to the west than shown, however, the external patio area extends into the rooting environment where precautionary measures will be required such as no dig construction methods which will need to tie in with the final floor levels within the building.

The tree work proposals will require revision and can be incorporated within a detailed Arboricultural Method Statement (AMS) which will also need to take into account surface water drainage.

The AMS and Tree Protection Plan should incorporate protection measures for the retained hedge along the southern boundary.

Highways: There is no objection to the principle of the development at this location. It is noted that the section of Flatwoods Road that serves the site is not adopted highway, however, the application red line boundary extends to the adopted highway and it is for the applicant to ensure that the appropriate access rights exist.

Whilst there are no segregated pedestrian facilities along part of Flatwoods Road, there is no reason why this could not operate as a "shared space" and the nature of the unadopted road would ensure that vehicles travel slowly. Segregated pedestrian facilities exist further to the south.

The proposed site layout arrangements are broadly considered to be appropriate, and sufficient parking for the proposed dwellings would be provided. It is noted that the driveway would be provided with a hard surface and there would be an opportunity to pass other vehicles.

Finally, it is recommended that the refuse collection strategy for the site is clarified as part of the application process. This should ensure that suitable storage and collection areas are included within the proposals at this stage.

Ecology: Revised plans have been submitted which indicate retention of existing boundary vegetation, with additional / new hedgerow planting.

Subject to these features being secured within the scheme by condition no further information regarding these hedgerows is required at this stage and I do not consider the proposal to be ecologically unacceptable. Relevant conditions should be attached.

National Trust: Object. The site is located adjacent to the skyline footpath. There is double garage proposed close to a beech tree. Trees and their root systems should be protected. The proposed dwellings are larger than the ones permitted to the south. The level of development should be reduced and the height of the buildings should be no higher than the dwellings at the neighbouring sites. The garage at plot 2 should be reduced.

Councillor Bob Goodman: This is a most unsatisfactory application which will have adverse affect on the residents in the area.

There is a parking area for number 30 which will be harmful to the occupants of number 37.

The development is overbearing to the surrounding countryside and residential accommodation.

The significantly higher ground level of the application site does have a dramatic effect on number 37 and number 38 Flatwoods Road in particular.

Representations: 26 representations have been received objecting to the application for the following reasons:

The traffic within the access road will be for visitors and waste services as well as residents.

The access road is located close to gardens at adjoining properties which will result in an increase in noise and fumes to existing properties.

The access is narrow and will not be able to accommodate delivery vans and waste trucks. If vehicles drive over the edge of the access they will destroy neighbouring boundary treatments.

There will be disruption from construction traffic.

No thought has been given to the visual impact to the skyline walk.

The planning application does not adequately consider the existing trees on and near the property.

The proposed development will result in overlooking to the neighbouring garden at number 29.

The dwellings will result in a loss of light to the garden at number 29.

The site is accessed from an unadopted road which is in a poor state of repair.

Fencing is needed to retain privacy between properties.

The site is within an area of outstanding natural beauty and the proposed materials are unclear.

The access road is narrow and cannot accommodate larger vehicles.

The woodland play area has resulted in an increase of parking within the road.

The potential to overload the existing sewers running down the centre of road from two extra homes has not been considered.

The potential to overload the electrical supply to the road has not been considered.

The potential to reduce the main water pressure has not been considered.

The development will result in additional surface run off.

Number 30 may be divided into two properties.

The height of the buildings will impact on the wildlife habitat, Area of Outstanding Natural Beauty and Skyline Walk.

Broadband is poor in this area.

The site has a rural character.

The three parking spaces for number 30 within the rear garden will be in addition to parking for three cars at the front which is excessive.

The application in 2008 was moved away from the skyline walk

The properties proposed will be higher than the neighbouring dwelling resulting in overlooking into number 37 and 38.

The garage at plot 2 will harm the setting of the skyline walk.

The garage at plot 2 is adjacent to a protected oak tree.

The proposed houses should be set down within the plot.

There will be additional traffic within the road.

The development will impact on the adjacent green belt.

The development does not take into account the future growth of trees.

The developer has stated the ground cannot be lowered due to the bedrock underneath, but no geological survey has been carried out.

The site plan is incorrect and the owner has stated work on the parking area at number 30.

A gravel driveway will increase noise from parking cars.

The proposed access road will result in unwanted noise and car fumes to numbers 35 and 37

## **POLICIES/LEGISLATION**

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

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

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

CP6 - Environmental Quality

B4 - The World Heritage Site and its Setting

B1 - Bath Spatial Strategy

CP8 - Green Belt

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

D.2: General design and public realm considerations

D.4: Townscape considerations

T.24: General development control and access policy

T.26: On-site parking and servicing provision

Ne.2: Area of Outstanding Natural Beauty

GB.2: Visual amenities of the green belt.

Ne.4: Trees and woodland conservation

Ne.10: Nationally important species and habitats

Ne.11: Locally important species and habitats

### **National Policy**

The National Planning Policy Framework adopted March 2012

National Planning Practice Guidance 2014

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. Following the Examination hearings the Inspector has now issued her final report and has found the plan sound subject to main modifications (that have already been consulted on). The following policies can now be given substantial weight:

D.2 - Local character and distinctiveness

D.3 - Urban Fabric

D.5 - Building design

D.6 - Amenity

GB.1- Visual amenities of the green belt

NE2 - Conserving and enhancing the landscape and landscape character

NE6 - Trees and woodland conservation

The following policy is given significant weight

ST.7- Transport, access and development management

## **OFFICER ASSESSMENT**

This is an application for the construction of two new dwellings within the garden of number 30 Flatwoods Road. The site is located within the Area of Outstanding Natural Beauty and the Green Belt boundary runs along the western boundary of the site. The existing property is a semi-detached dwelling with a large rear garden which is 100m in length. The proposed development would comprise of two detached properties to be constructed within the rear garden. The site would be accessed from an access road which would run between number 30 and 35 and would run along the south boundary of the site.

The main issues to be considered are:

Principle of development

Design

Impact on the adjacent Green Belt

Impact on the Area of Outstanding Natural Beauty

Ecology

Arboriculture

Highways

Amenity

Other matters

Planning history

The adjacent plot was granted permission in 2008 for the construction of numbers 37, 38 and 39. These properties are of a similar appearance to the proposed application.

Principle

The application site is located within the Bath city boundary and forms part of a built up area. Policy B1 of the Core Strategy allows for small scale intensification within the urban area. The proposed development of housing at this site is considered to comply with policy B1.

The proposed dwelling will be located within the rear garden of number 30 creating a separate layer of development behind the properties that front the road. Numbers 37, 38 and 39 have been constructed behind the properties which front the road. To construct a property within the rear of a plot is not uncharacteristic of the grain of development in the surrounding area.

The principle of development is accepted.

## Design

The proposed buildings have been designed as large detached dwellings of a similar aesthetic to the dwellings constructed to the south of the site. Plot 1 is an L shaped building with a single storey attached garage to the front of the property. The building includes a shallow pitched roof with hip ends and the built form is considered to complement the appearance of the surrounding area. The building will be constructed using render, rubble stone and slate which is considered to be appropriate to the surrounding area.

The proposed building at plot 2 has a square shaped footprint and includes an integral garage. As with plot 1 the building has been designed with a pitched roof and hip ends and the built form is similar to the dwellings constructed as the properties to the south. The proposed design is considered to be appropriate to the surrounding area.

A condition can be attached to require the submission of samples of the proposed materials prior to the construction of any external walls.

The proposed dwelling will sit on land which is higher than the plot to the south of the site by less than 1m. The proposed dwelling will be viewed as part of the wider built up area and therefore the height difference between the proposed and neighbouring properties is not considered to be visually harmful. A condition should be attached requiring a levels plan of the proposed development to ensure that the finished land levels are correct.

## Impact on the adjacent Green Belt

The green belt boundary runs to the west of the existing site. The application site is not located within the green belt and therefore the principle of whether the development is appropriate development in the green belt does not need to be considered, only the impact of the development on the openness of the adjacent green belt should be considered.

The existing Flatwoods Road area is a built up area and the development to the south of the site is a dense development. The proposed development would be viewed as part of the existing built up area and is not considered to result in harm to the openness of the adjacent Green Belt.

## Impact on the Area of Outstanding Natural Beauty

Concern has been raised that the land at number 30 is higher than the adjoining properties and the proposed dwellings will sit at a higher level and will therefore will be more visible from within the AONB. The proposed development will appear as part of the existing built area of the site. The dwelling will be set at a maximum of 23m from the western boundary at the north west corner of plot 2 and a minimum of 18m from the western boundary at the south west corner of plot 2. In this respect the development has a similar set back similar to other properties within the estate. Therefore the building is not considered to impact negatively on the adjoining AONB. Furthermore the applicant intends to retain the existing trees on the western boundary within the site which contribute positively to the surrounding area.

Objections have been received stating that the proposed development will impact on views from the adjacent skyline path. Flatwoods Road is viewed as being a built up area and the site is visible but viewed through tree cover from the skyline path. Given that the tree cover will remain there would be no harm the setting of the adjacent skyline path and surrounding Area of Outstanding Natural Beauty.

## Ecology

The ecology officer originally raised concern that the natural features which surround the site would be removed. The revised plans will maintain the existing hedgerows and trees.

The ecology officer has advised that conditions should be attached that a wildlife protection and enhancement scheme should be submitted and external lighting controlled.

## Arboriculture

There are a number of trees which surround the site which are considered to be an important feature of the setting of the site. The applicant has re sited the building at plot 2 to avoid the root protection areas of the surrounding trees. The revised drawing titled Site Plan has significantly increased the distance between the proposed property in plot 2 and the offsite Beech (identified as T11) and protected Oak (identified as T13).

No objection is raised to the proposed tree removals shown. T6 (Beech) has suffered significant squirrel damage so was not considered a suitable candidate for a Tree Preservation Order. The offsite Ash identified as T8 is further to the west than shown, however, the external patio area extends into the rooting environment where precautionary measures will be required such as no dig construction methods which will need to tie in with the final floor levels within the building.

The tree work proposals can be incorporated within a detailed Arboricultural Method Statement (AMS) which can be required by condition.

A landscape condition should also be attached to ensure that the landscaping works will retain the existing tree cover.

## Highways

This section of Flatwoods Road that serves the site is not adopted highway, however, the application red line boundary extends to the adopted highway. The correct ownership certificate has been signed. Whilst there are no segregated pedestrian facilities along part of Flatwoods Road segregated pedestrian facilities exist further to the south.

The proposed site layout arrangements are broadly considered to be appropriate, and sufficient parking for the proposed dwellings would be provided on site for both dwellings. It is noted that the driveway would be provided with a hard surface and there would be an opportunity to pass other vehicles. Vehicles will be able to enter and leave the site in forward gear.



The highways officer recommended that the refuse collection strategy for the site is clarified as part of the application process. Details of refuse collection can be secured by condition.

### Amenity

The proposed development will result in two additional dwellings within the rear garden of number 30. The dwelling will sit between the rear gardens of number 29 and numbers 37 and 38.

Concern has been raised that the development will result in increased overlooking and overshadowing to number 29. Plot 2 will be located 5m from the boundary with number 29. However the proposed dwelling will be located adjacent to the rear of the number 29's land rather than to the land close to the dwelling. It is sited over 70m from the rear of number 29. The dwelling at plot 2 would not be located adjacent to the private space to the rear of the house so this is not considered to warrant refusal of the application. Plot 1 includes three windows at first floor level two of which will be obscure glazed as they provide light to a bathroom. As with plot 2 the dwelling will be located over 40m from the rear of number 29 so the provision of the dwelling is not considered to result in harm to amenity that will warrant refusal of the application.

Concern has been raised that the provision of the proposed driveway would result in noise and disturbance to the occupiers of number 35. The side elevation and garden of number 35 sits adjacent to the proposed access road. The applicant is proposing to site a fence along the proposed boundary which would mitigate against disruption from vehicle movements. This can be secured as part of the landscaping scheme.

Concern has been raised that the provision of a gravel surface will increase the noise from moving vehicles. The highways officer has requested that the parking area is surfaced in a bound and compacted surface and that this is secured by condition. The plans show that block pavements will be used on the parking area with tarmac on the driveway.

Concern has been raised that the position of the parking area would result in noise and disruption to the neighbouring property of number 37. Currently the hedge along the boundary between the application site and number 37 has been pruned and there is currently inter visibility between the two sites. The applicant has proposed erecting a two metre fence along the boundary between the sites. This can be secured by condition and as part of the landscape scheme.

Concern has been raised that the proposed dwellings will result in increased overlooking of the neighbouring properties of number 37 and 38. The front elevation of plot 1 includes one window at first floor level which provides light to the double height entrance space. Given that at first floor level this would provide light to a landing and the distance from number 37 being 15m at a minimum the proposed building at plot 1 is not considered to result in increased overlooking that would warrant refusal of the application. Other first floor windows on plot 1 are located on the side and rear elevations so do not result in increased overlooking of number 37.

The proposed first floor windows at plot 2 have been set 13m from the side elevation of number 38. The elevation of number 38 facing plot 2 does not include glazing and the proposed development is not considered to result in increased overlooking of number 38.

Concern has been raised that since the land at the application site is higher than the properties at 37 and 38 then overlooking will occur from the ground floor windows. The applicant has proposed to install a boundary fence and there is mature hedgerow between number 38 and the application site. The provision of a fence would prevent any overlooking from the ground floor, this can be secured and retained by condition.

#### Other matters

Concern has been raised that the proposed development will overload sewerage system. The applicant would need to make a separate application to Wessex Water to secure connection to the services. This is not a material consideration of the application.

Concern has been raised that the provision of further dwellings will overload the existing electrical supply and that broadband is poor in the area. The applicant will have to apply to utilities companies to connect to existing services and this is not a material consideration of the application.

#### Conclusion

The principle of residential development is accepted and the design of the proposed dwellings is considered to be appropriate. Adequate on site parking has been provided. The revised plans have moved the proposed dwellings out of the root protection areas nearby trees so that existing tree cover can remain. The proposed development is not considered to harm the amenity of neighbouring occupiers.

### **RECOMMENDATION**

PERMIT

### **CONDITIONS**

#### **1 Standard Time Limit (Compliance)**

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

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

#### **2 Parking (Compliance)**

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: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

### **3 Construction Management Plan (Pre-commencement)**

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management, working hours, site opening times, wheel wash facilities and site compound arrangements. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policies T.24 and D.2 of the Bath and North East Somerset Local Plan. This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

### **4 Materials - Submission of Schedule and Samples (Bespoke Trigger)**

No construction of the external walls of the 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 approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.

### **5 Arboriculture (Pre-commencement)**

No development shall take place until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority and details within the approved document implemented as appropriate. The final method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion to the local planning authority. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, location of site office, service run locations including soakaway locations and movement of people and machinery.

Reason: To ensure that no excavation, tipping, burning, storing of materials or any other activity takes place which would adversely affect the trees to be retained in accordance with policy NE.6 of the Placemaking Plan and CP7 of the Core Strategy. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

### **6 Arboriculture (Compliance)**

No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement. A signed certificate of compliance shall be provided by the appointed arboriculturalist to the local planning authority on completion and prior to the first occupation of the dwelling.

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

## **7 Wildlife Protection and Enhancement (Pre-commencement)**

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall include all necessary measures to avoid harm to wildlife including nesting birds; a method statement for the protection of retained hedgerows to include fencing specifications and a scale of showing fenced exclusion zones around retained vegetation including hedgerows; specifications for provision of new wildlife-friendly planting and hedgerows; and specifications including numbers heights and positions of features such as hedgehog, bird, and bat boxes to provide biodiversity enhancement. All works within the scheme shall be carried out in accordance with the approved details prior to the occupation of the development.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with policies NE.10 and NE.11 of the Bath and North East Somerset Local Plan.

## **8 Hard and Soft Landscaping (Pre-occupation)**

No occupation shall commence until a hard and soft landscape scheme has been submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; a planting specification to include numbers, size, species and positions of all new trees and shrubs, details of existing and proposed walls, fences, other boundary treatment and surface treatment of the open parts of the site, and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan.

## **9 Hard and Soft Landscaping (Compliance)**

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

Reason: To ensure that the landscape scheme is implemented and maintained in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan.

#### **10 Sensitive lighting (Compliance)**

No new external lighting shall be installed without full details of proposed lighting design being first submitted and approved in writing by the LPA; details to include lamp specifications, positions, numbers and heights; and details of all necessary measures to limit use of lights when not required and to prevent light spill onto bat roost access points, bat flight routes, vegetation and adjacent land; and to avoid harm to bat activity and other wildlife. The lighting shall be installed and operated thereafter in accordance with the approved details.

Reason: to avoid harm to bats and other wildlife

#### **11 Refuse Collection (Prior to occupation)**

Prior to the occupation of the development details of the proposed refuse collection must be submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the details approved.

Reason: In the interests of highway safety.

#### **12 Boundary treatments (Prior to occupation)**

Prior to occupation of the development the applicant shall submit details of the proposed boundary treatments to be constructed. The development shall then be carried out in accordance with the details approved.

Reason: In the interests of residential amenity

#### **13 Boundary treatments (Prior to commencement)**

Prior to occupation of the development hereby approved the applicant shall submit details of the proposed boundary treatments to be constructed. The proposed boundary treatments shall be constructed on site in accordance with the approved details before development is occupied and retained for the lifetime of the development. Should boundary treatments be replaced then it shall be to a height and design which has first been agreed in writing with the Local Planning Authority.

Reason: In the interests of residential amenity in accordance with policy D.2 of the Bath and North East Somerset Local Plan.

#### **14 Bound/Compacted Vehicle Access (Pre-occupation)**

No occupation of the development shall commence until the vehicular access has been constructed with a bound and compacted surfacing material (not loose stone or gravel).

Reason: To prevent loose material spilling onto the highway in the interests of highways safety in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

## **15 Existing and Proposed Levels (Pre-commencement)**

No development shall commence until details of the existing and proposed ground levels have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details.

Reason: For the avoidance of doubt and to clarify the finished ground levels of the development to accord with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan. This is a condition precedent because the ground levels have the potential to affect the overall impact of the development. Therefore these details need to be agreed before work commences as they could not easily be amended after.

## **16 Plans List (Compliance)**

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:**

Location plan 0009 rev A  
Existing site plan 0013  
Site plan 0001 rev K  
Plot 1 Ground Floor Plan 0002 rev B  
Plot 1 First Floor Plan 0003 rev B  
Plot 1 External Elevations 0008-1 rev B  
Plot 1 External Elevations 0008-2 rev B  
Plot 2 Ground Floor Plan 004 rev C  
Plot 2 First Floor Plan 00005 rev C  
Plot 2 External elevations 0007-1 rev C  
Plot 2 External Elevations 0007-2 rev C  
Tree management plan 0011 rev G  
Site street scene 0010 rev C

### **Condition Categories**

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

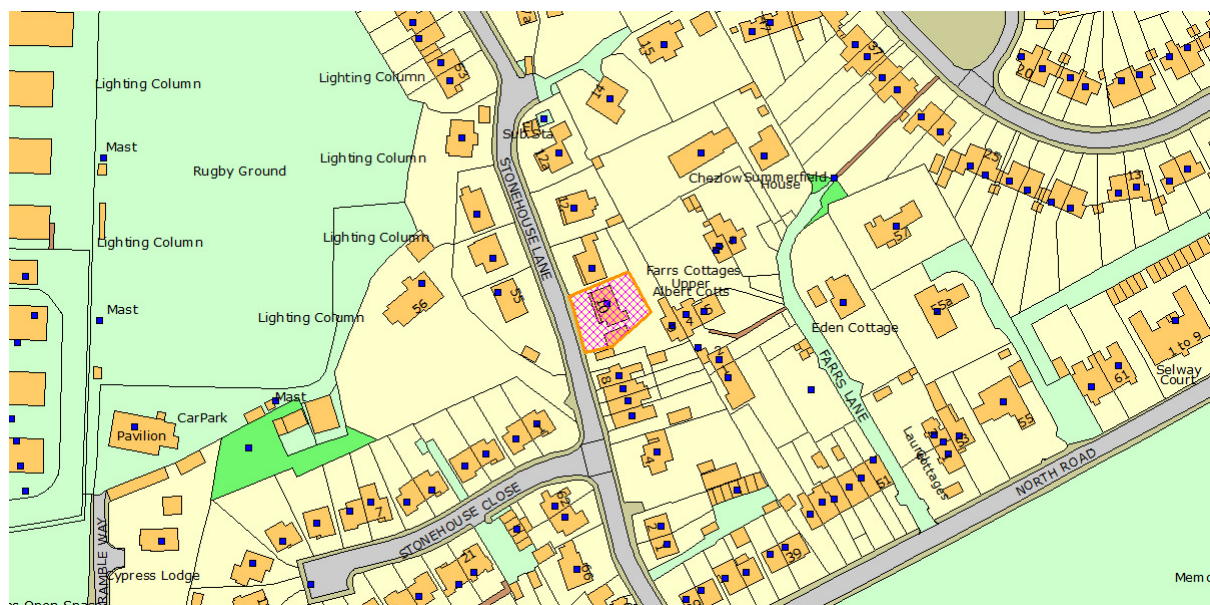
Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, details of the fee can be found on the "what happens after permission" pages of the Council's Website. You can submit your conditions application via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or send it direct to [planning\\_registration@bathnes.gov.uk](mailto:planning_registration@bathnes.gov.uk). Alternatively this can be sent by post to The Planning Registration Team, Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil)

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.

**Item No:** 002  
**Application No:** 17/01411/FUL  
**Site Location:** 10 Stonehouse Lane Combe Down Bath Bath And North East Somerset BA2 5DW



**Ward:** Combe Down

**Parish:** N/A

**LB Grade:** N/A

<b>Ward Members:</b>	Councillor Cherry Beath    Councillor Bob Goodman
<b>Application Type:</b>	Full Application
<b>Proposal:</b>	Three storey side extension and garage to include demolition of existing single story side extension, partial demolition of existing garage, minor changes to rear ground floor fenestration of existing main house and front landscaping.
<b>Constraints:</b>	Affordable Housing, Agric Land Class 3b,4,5, Article 4, Forest of Avon, Hotspring Protection, SSSI - Impact Risk Zones, Water Source Areas, World Heritage Site,
<b>Applicant:</b>	Mr & Mrs Cunningham
<b>Expiry Date:</b>	24th May 2017
<b>Case Officer:</b>	Rae Mephram

## REPORT

### REASON APPLICATION BEING REFERRED TO COMMITTEE

Cllr Goodman - "The design compliments the adjoining property and area. The extra floor allows a stepping down with the adjoining property. There is already some consent for an extension which this replaces , the previous design I believe is poor and this is a huge improvement"

10 Stonehouse Lane is a dormer bungalow located within the Bath World Heritage Site. This application is for the erection of a three storey side extension and garage following the demolition of an existing single storey extension and partial demolition of an existing garage, minor changes to rear ground floor fenestration of existing main house and front landscaping.

At the meeting of the 28th June the committee resolved to defer the application for a site visit on the 17th July. The application will now be considered at the meeting of the 26th July.

### Relevant history

DC - 10/03028/FUL - PERMIT - 5 October 2010 - Erection of a two storey house following demolition of existing bungalow

DC - 11/00247/FUL - PERMIT - 25 March 2011 - Erection of a two storey house following demolition of existing bungalow (revised proposal).

DC - 11/02027/FUL - PERMIT - 20 July 2011 - Erection of 1no two-storey house following demolition of existing bungalow

DC - 13/01084/FUL - PERMIT - 9 May 2013 - Alterations and extension to existing house and construction of new double garage with studio flat above

## SUMMARY OF CONSULTATIONS/REPRESENTATIONS

### Consultation responses

None received.

### Third party representations



None received.

## **POLICIES/LEGISLATION**

The main planning policies that will be considered relevant to your proposal are listed below. Please be aware that the policies listed below are a guide and are based on the information you have submitted, additional policies may become relevant depending on any additional material submitted.

The Council's Development Plan comprises:

- Core Strategy, 2014
- Saved Policies in the B&NES Local Plan (2007)\*
- Joint Waste Core Strategy

The following Core Strategy policies would be applicable:

DW1 - District Wide Spatial Strategy

B4 - The World Heritage Site and its Setting

\*The B&NES Local Plan policies that are replaced by policies in the Core Strategy are outlined in Appendix 1 of the Core Strategy. Those B&NES Local Plan policies that are not replaced and remain saved are listed in Appendix 2 of the Core Strategy.

The relevant saved Bath and North East Somerset Local Plan policies are:

D.2 - General design and public realm considerations

D.4 - Townscape considerations

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. Following the Examination hearings the Inspector has now issued her final report and has found the plan sound subject to main modifications (that have already been consulted on). The following policies can now be given substantial weight:

D.1 General Urban Design Principles

D.2 Local Character & Distinctiveness

D.6 Amenity

D.10 Public Realm

HE.1 Safeguarding Heritage Assets

The National Planning Policy Framework (NPPF) was published in March 2012 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

## **OFFICER ASSESSMENT**

### **Character and appearance**

Stonehouse Lane has a variety of housing types, ranging from small bungalows to larger two storey dwellings. 10 Stonehouse Lane was originally a bungalow with similar form to 11 Stonehouse Lane, but was given permission to enlarge the roof and incorporate

dormer windows to create a dormer bungalow. Part of this permission was the erection of a two storey side extension, which remains extant.

This proposal would be in the same location as the two storey side extension, but is for the erection of a three storey gable ended addition. The addition of a gable end is not characteristic of a dormer bungalow. It would sit higher than the existing dwelling and forward of the principle elevation. This dominant and bulky addition would effectively become the principle characteristic of the property, whereas an extension should respect and compliment the host building.

In addition, the provision of render on the front elevation is not considered to be characteristic of the streetscene, and the window arrangement has no relationship with the existing property, nor the surrounding properties.

The principle of providing a subservient extension is accepted, however the current proposals do not constitute a subservient addition, and are recommended for refusal.

#### Residential amenity

The proposals are not considered to cause significant harm to residential amenity due to having there being no significant overbearing impact or overlooking issues.

#### Highways

The proposals are not considered to cause significant harm to the wider highway network.

### **RECOMMENDATION**

REFUSE

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

1 The proposed extension does not respect the character and appearance of the host dwelling in terms of the proposed design, size and scale, and fails to respond to the local context in terms of materials and fenestration details. The proposal would therefore be contrary to saved Policy D.4 of the Bath & North East Somerset Local Plan (including Minerals and Waste Policies) adopted October 2007, Policies D2 and D5 of the draft Placemaking Plan and the provisions of the National Planning Policy Framework (2015).

### **PLANS LIST:**

This decision relates to:

23 Mar 2017 02 PROPOSED ELEVATIONS AND PLANS  
23 Mar 2017 03 SITE LOCATION PLAN

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The Local Planning Authority acknowledges the approach outlined in paragraphs 188-192 in favour of front loading and operates a pre-application advice service. Notwithstanding active encouragement for pre-application dialogue the applicant did not seek to enter into

correspondence with the Local Planning Authority. The proposal was considered unacceptable for the reasons given and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application, and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

**Item No:** 003  
**Application No:** 17/00163/FUL  
**Site Location:** Stonedge Cottage Stoneage Lane Tunley Bath Bath And North East Somerset



**Ward:** Bathavon West  
**LB Grade:** N/A  
**Parish:** Dunkerton & Tunley Parish Council

**Ward Members:** Councillor David Veale

**Application Type:** Full Application

**Proposal:** Alterations to raise the wall to the same level as the neighbour's wall, including the existing panel fence (Resubmission)

**Constraints:** Affordable Housing, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Flood Zone 2, Forest of Avon, Greenbelt, LLFA - Flood Risk Management, SSSI - Impact Risk Zones,

**Applicant:** Mr Christopher Bramwell-Pearson

**Expiry Date:** 2nd June 2017

**Case Officer:** Chloe Buckingham

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE:

Dunkerton and Tunley Parish Council have supported the application and the chair of committee has agreed to this request for the following reason:

I note the Parish Council support comment and the officer's assessment in line with Green Belt policy. However, this is controversial as is evident from the parish council reasons for unanimously supporting the proposal.

#### REASON APPLICATION DEFERRED FROM ORIGINAL COMMITTEE:

The application was deferred from the original committee date at the applicant's request for the applicant to submit more information. The applicant submitted a plan of the existing wall which was not included in the original application. At the meeting of the Committee in June Members deferred consideration of this application in order to visit the site.

#### DESCRIPTION OF SITE AND APPLICATION:

This application relates to a detached house located within a residential area and Green Belt land in Tunley.

The application seeks planning permission to raise the front boundary wall to the same level as the neighbour's wall, including the existing panel fence.

#### Relevant Planning History:

DC - 96/02056/FUL - PER - 5 June 1996 - Provision of pitched roof over garage  
DC - 07/02230/FUL - RF - 6 September 2007 - Erection of an extension over existing garage to form pool house/shower  
DC - 07/02231/FUL - RF - 6 September 2007 - Erection of a side and rear extension to existing dwelling  
DC - 08/02280/FUL - PERMIT - 30 September 2008 - Alterations to driveway and front wall  
DC - 09/00685/FUL - PERMIT - 7 May 2009 - Erection of a dual pitch first floor side extension over existing mono-pitched single storey side extension  
DC - 09/02042/FUL - PERMIT - 18 August 2009 - Provision of tennis court to the north east corner of the garden with associated surrounding fencing and new retaining walls.  
DC - 09/04580/NMA - APP - 8 January 2010 - Non-Material Amendment to application 09/00685/FUL (Erection of a dual pitch first floor side extension over existing mono-pitched single storey side extension)

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

Dunkerton and Tunley Parish Council- Support with reasons given - subject to conditions

Highways- No objection subject to an informative.

#### OTHER REPRESENTATIONS / THIRD PARTIES

None received

#### **POLICIES/LEGISLATION**

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

#### Core Strategy

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

The B&NES Local Plan policies that are replaced by policies in the Core Strategy are outlined in Appendix 1 of the Core Strategy. Those B&NES Local Plan policies that are not replaced and remain saved are listed in Appendix 2 of the Core Strategy.

#### Relevant Local Plan Policies:

D2 - General Design and public realm considerations  
D4 - Townscape considerations  
T24 - General development control and access policy  
T26 - Parking

#### Relevant Core Strategy Policies:

CP6 - Environmental Quality  
CP2 - Sustainable construction  
CP8 - Green Belt

Supplementary Planning Documents: Existing Dwellings in the Green Belt SPD (October 2008)

The draft Placemaking Plan was submitted to the Planning Inspectorate on 12th April 2016 for independent examination. Those policies not subject to representations at Draft Plan stage (or only subject of supporting representations) are considered to be capable of being given substantial weight. Policies still subject to outstanding/unresolved representations can only be given limited weight at this stage until the Inspector's Final Report is received.

The following policies are relevant for this application and have substantial weight:

D1 General urban design principles  
D2 Local character and distinctiveness  
D3 Urban Fabric  
D6 Amenity  
ST1 Promoting sustainable travel  
GB1 Visual Amenities of the Green Belt  
GB2 Development in Green Belt Villages

The following policies are relevant and have significant weight:

ST7 Transport Access and Development Management  
GB3 Extensions and Alterations to buildings in the Green Belt

#### LEGAL FRAMEWORK

Town and Country Planning Act, 1990

## NATIONAL PLANNING POLICY FRAMEWORK, MARCH 2014

The NPPF has been considered in light of this application but does not raise any issues that conflict with the aforementioned local policies which remain extant.

## NATIONAL PLANNING PRACTICE GUIDANCE

Due consideration has been given to the recently published NPPG

## OFFICER ASSESSMENT

### PRINCIPLE OF PROPOSED USE:

The proposed wall can be described as a building. For example, the term 'building' is defined in s336 TCPA 1990 as follows:

"building" includes any structure or erection, and any part of a building, as so defined, but does not include plant or machinery comprised in a building;

S55 of the Act states (so far as relevant):

(1A) For the purposes of this Act "building operations" includes-

- (a) demolition of buildings;
- (b) rebuilding;
- (c) structural alterations of or additions to buildings; and
- (d) other operations normally undertaken by a person carrying on business as a builder.

The existing wall and the proposed wall are substantial and therefore there is reason to consider that the wall can be defined as a building.

Paragraph 89 of the NPPF (2012) states that appropriate development in the Green Belt would consist (amongst other things) of the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building. However there is no detailed guidance within the NPPF of what can be described as a disproportionate addition. Within the Green Belt SPD (2008) it states that well-designed extensions of about a third of a volume increase of the original dwelling will be acceptable. However, the Council's Green Belt SPD is not compliant with the NPPF. The Green Belt SPD specifies disproportionate additions to a 'dwelling' whereas the NPPF uses the more general term of a 'building'. Nevertheless from a visual assessment it is clear that the proposed wall will be an approximate 50% increase and so is considered to be disproportionate. Therefore as a consequence the proposal is contrary to Policy CP8 of the Bath and North East Somerset Council Core Strategy (2014), Policy GB3 of the draft Placemaking Plan and the provisions of the National Planning Policy Framework (2012).

As the scheme will provide for an enclosure to a two-storey property which is in relatively close proximity to the highway the proposal is not considered to have any adverse impact on the openness of the immediate area.

### DESIGN OF THE DEVELOPMENT AND IMPACT ON THE STREET SCENE AND SURROUNDING AREA:

The new wall will be increased in height to the same height as the neighbouring wall with matching natural stone proposed to be laid to follow a similar pattern to the host dwelling. Three recessed gothic windows and a gothic doorway are proposed with natural stone surrounds and a hardwood door. Overall the design of the proposed wall is considered to be in-keeping with the existing dwelling and wider streetscene. However, as the wall is an approximate 50% increase in the volume of the existing wall the proposal is considered to be a disproportionate volume increase and therefore the proposal is contrary to policy CP8 of the Core Strategy (2014) and policy GB3 of the draft Placemaking Plan and the proposal is recommended for refusal.

The applicant has put forward the following "very special circumstances" in support of the application:

- o The wall is in a poor state of repair and this design will enhance the area.
- o The wall offers stability for the dwelling which is prone to 'slippage'.
- o The wall is dangerous as it is low lying and fronting a highway and so particularly dangerous for children
- o The wall will offer security from the potential of being burgled.

The very special circumstances put forward have been considered in detail by officers but it is considered that these reasons could apply to many other cases where people wish to erect walls within the Green Belt and therefore cannot be regarded as very special in this case.

#### IMPACT ON RESIDENTIAL AMENITY:

The proposal is not considered to create any significant negative residential amenity impacts for the host dwelling or surrounding occupiers.

#### PLANNING OFFICER ASSESSMENT OF HIGHWAY ISSUES:

The proposal is similar to the scheme that was promoted within application 08/02280/FUL, and it is noted that this earlier scheme was granted permission. The previous decision considered that the loss of the parking area was not considered to be significant as other adequate parking opportunities existed. There are no obvious reasons to change this previous recommendation.

The construction of the wall and the removal of the existing access will require works to be undertaken on the highway. So although there is no highway objection, the applicant will need to be made aware of the following informative and no works should be undertaken before the appropriate licence is secured.

#### CONCLUSION:

The scheme is a disproportionate volume increase to a building in the green belt and the positive design, residential amenity and highways assessments are not considered to overcome the in principle objection.

When planning permission was granted for alterations to the driveway and front wall in 2008 at this site it was judged that the raising of an existing wall and the infill of sections of

that wall was not considered as an alteration or extension to the dwelling and therefore the argument of allowing only limited extension was not relevant in this case. However, since the arrival of the NPPF paragraph 89 explains that disproportionate additions to a building would not be seen as appropriate development in the green belt. As a wall can be described as a building and the proposal shows a visual increase of about 50% the proposal can now be described as disproportionate and is therefore not seen as appropriate development in the green belt.

## **RECOMMENDATION**

REFUSE

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

1 The proposal represents an approximate 50% volume increase of the original wall which is a disproportionate volume increase to a building in the Green Belt contrary to Policy CP8 of the Bath and North East Somerset Council Core Strategy (2014), Policy GB3 of the draft Placemaking Plan and the provisions of the National Planning Policy Framework (2012).

## **PLANS LIST:**

This decision relates to;

Site Location Plan (no reference) and Front Garden Concept Layout (16 C) received 18th January 2017.

New Boundary Wall Details (16 B) received 23rd January 2017).

## **DECISION TAKING STATEMENT:**

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The applicant was advised that the application was to be recommended for refusal. Having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.



Bath & North East Somerset Council		
MEETING:	Development Management Committee	AGENDA ITEM NUMBER
MEETING DATE:	26th July 2017	
RESPONSIBLE OFFICER:	Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)	
TITLE:	APPLICATIONS FOR PLANNING PERMISSION	
WARDS:	ALL	
BACKGROUND PAPERS:		
AN OPEN PUBLIC ITEM		

## **BACKGROUND PAPERS**

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

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

## **The following notes are for information only:-**

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

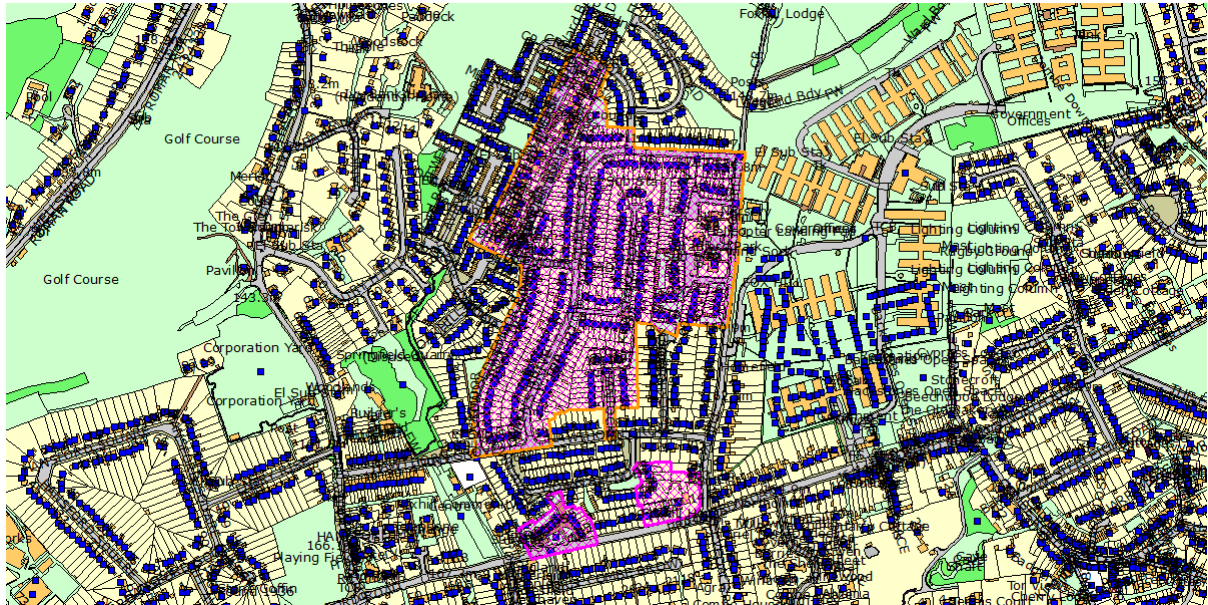
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting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

## INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	16/05219/EOUT 14 February 2017	Curo Places Ltd Street Record, Fox Hill, Combe Down, Bath, Application for Outline planning permission for the redevelopment of the Foxhill Estate comprising: - the demolition of up to 542 dwellings; - the re-provision of up to 700 dwellings; - demolition and re-provision of the local centre to include up to 560 sq m of A1, A3, A4, A5 uses - all associated access roads, infrastructure, landscaping, open space and cycle/footways. (All matters reserved).	Combe Down	Simon Metcalf	Delegate to PERMIT
02	17/02383/FUL 27 July 2017	Mr Peter Gray 2 Ivy Villas, Ivy Avenue, Southdown, Bath, Bath And North East Somerset Change of use from 3 bed dwelling house (use class C3) to a 4 bed house in multiple occupation (use class C4)	Westmoreland	Nikki Honan	PERMIT
03	17/02214/FUL 28 July 2017	Steve George 10 Berkeley Place, Walcot, Bath, Bath And North East Somerset, BA1 5JH Erection of garden building	Lansdown	Laura Batham	PERMIT

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

**Item No:** 01  
**Application No:** 16/05219/EOUT  
**Site Location:** Street Record Fox Hill Combe Down Bath



**Ward:** Combe Down      **Parish:** N/A      **LB Grade:** N/A

**Ward Members:** Councillor Cherry Beath Councillor Bob Goodman

**Application Type:** Outline Application with an EIA attached

**Proposal:** Application for Outline planning permission for the redevelopment of the Foxhill Estate comprising:

- the demolition of up to 542 dwellings;
- the re-provision of up to 700 dwellings;
- demolition and re-provision of the local centre to include up to 560 sq m of A1, A3, A4, A5 uses
- all associated access roads, infrastructure, landscaping, open space and cycle/footways.

(All matters reserved).

**Constraints:** Affordable Housing, Agric Land Class 3b,4,5, Article 4, Forest of Avon, Hotspring Protection, LLFA - Flood Risk Management, Local Shops, MOD Safeguarded Areas, SSSI - Impact Risk Zones, Water Source Areas, World Heritage Site,

**Applicant:** Curo Places Ltd

**Expiry Date:** 14th February 2017

**Case Officer:** Simon Metcalf

## **REPORT**

This application has been reported to the Planning Committee by the Group Manager owing to its strategic nature and the considerable level of public interest.

## **APPLICATION SITE**

The application site, as identified in the plan above, consists of three parcels of land within the Foxhill Estate. Combined these have an area in the order of 12.13 ha.

The Foxhill Estate is located to the south of the city centre and directly west of the former MOD Foxhill site (now known as Mulberry Park), which is being redeveloped for the provision of up to 700 new houses. To the north of the estate lies Springfield Park, to the east is the Entry Hill residential area and to the south is Bradford Road and Combe Down.

The site includes the following streets or parts of them:

- o Fox Hill;
- o Bradford Park;
- o Down Avenue
- o Meare Road;
- o Dunster Terrace;
- o Sedgemoor Road;
- o Selworthy House;
- o Sedgemoor Terrace;
- o Selworthy Terrace;
- o Kewstoke Road;
- o Quantocks; and
- o Hawthorn Grove.

The core of the Foxhill Estate included within the application site is located to the west of Fox Hill, it includes much of Queens Drive and is bordered to the south by Hawthorn Grove and to the west by Sedgemoor Road, Meare Road and Drake Avenue.

The two smaller development areas of the application site consist of:

- o Bradford Road shops, flats and garage courts located on the northern side of Bradford Road.
- o Foxhill House and adjacent properties on Bradford Road and Down Avenue located on the junction of Bradford Road and Fox Hill.

The application site is classified as previously developed land consisting of residential properties and gardens, limited commercial floorspace and open spaces. The areas of the Foxhill Estate within the application site provide a variety of housing forms including:

- o Flats (in blocks up to 4 storeys in scale).
- o Terraced housing (generally 2 storey in scale).
- o Semi-detached properties including some bungalows.

The areas of existing open space in the application site, are generally small scale grassed areas, with some tree and landscape planting.

There are numerous large trees across the Foxhill Estate, these are provided in areas of open space, in the communal areas around the blocks of flats and in private gardens. Mature trees towards the north of the site, notably those close to Bradford Park, Fox Hill and Axbridge Road are of some size and maturity. Similarly, there are larger trees on the southern extent of the site on Bradford Road.

Vehicular access to the Foxhill estate is generally taken off Fox Hill in the east and Hawthorn Grove to the south (via Entry Hill). Queens Drive acts as a main distributor road and bus route through the estate. Roads through the estate are in the main generous in width. Footpaths are provided between blocks of flats and between dwellings, these are often narrow and lack natural surveillance and appropriate lighting. On street parking is commonplace within the estate, with more limited provision of garages, parking courts and other off-street parking provision.

In terms of pedestrian and cycle links, other than Perrymead to the north of the estate which provides a pedestrian and cycle link towards the city, there are few other links to surrounding areas. Thus, the estate feels enclosed and separated from the surrounding areas, particularly to the east and west by Fox Hill and Entry Hill respectively.

Topography is a key feature of the site. The application site sits on the plateau above the city. The southern edge of the site alongside Bradford Road is the high point of the site and is prominent in views from the south. The levels across the site then gently fall from approximately 164m AOD to 158m AOD when midway through the site. Beyond this the site plateaus then towards the north-western edge of the site, the levels reduce more markedly reflecting the sites approach to the edge of the escarpment. The north-western extent of the site sits at approximately 151m AOD. The north-eastern edge of the site sits at approximately 155m AOD.

The application site is located within the Bath World Heritage Site (WHS); the Bath Conservation Area is located to the north beyond the Foxhill estate, to the south beyond Bradford Road and also to the east further along Bradford Road. The Cotswolds AONB and Green Belt is located to the north of the wider Foxhill Estate, with the AONB also wrapping around Combe Down to the south of the site. The parade of shops on Bradford Road within the application site is identified as a Local Centre in the Core Strategy (Policy CP12).

## **PLANNING HISTORY**

There are several householder scale planning applications relating to individual properties on the estate. These have not been separately identified here, but reflect alterations and enlargements to properties or subdivision of houses to create flats.

Recent planning or related applications on the site include:

- o 16/02440/SCOPE EIA Scoping Opinion request and response of the Council relating to the proposed redevelopment of the Foxhill Estate.

There are no Tree Preservation Orders within the application site.

## **PROPOSAL**

Outline planning permission is sought for the redevelopment comprising:

- o The demolition of up to 542 dwellings.
- o The re-provision of up to 700 dwellings.
- o Demolition and re-provision of the local centre to include 560 sq m of A1, A3, A4, A5 uses.
- o All associated access roads, infrastructure, landscaping, open space and cycle/footways.

All matters are reserved for future approval. Details of vehicular access to the site were originally provided by the applicant and included a new vehicular access from Bradford Road to link through to Down Avenue and onward to Hawthorn Grove. However, this matter has now been withdrawn and is reserved for future approval along with the matters of appearance, landscaping, layout and scale.

The outline planning application includes a set of 'parameter' plans which in effect set the extent of the 'in principle' decision the applicant is seeking in redeveloping the identified area of the Foxhill Estate. The parameter plans are also accompanied by indicative illustrative plans showing a potential form of the redeveloped estate within the parameters sought by the applicant. These illustrative plans are not submitted for approval; they have been provided by the applicant to assist in visualisation of the potential results of implementation of the proposed redevelopment. The illustrative plans indicate a layout based primarily around the existing road network in the estate and a redistribution of apartments, houses and open spaces within that layout. The parameter plans submitted for approval include:

- o Amount - Drawing EXX-0100 Rev D, clarifies the proposed distribution of land uses across the site:
  - o residential (Use Class C2/C3);
  - o 'retail' (Use Classes A1, A3, A4 & A5); and,
  - o areas of open space totalling 0.688ha
- o Heights - Drawing EXX-0102 Rev O identifying the maximum heights for development across the application site.

The planning application is supported by a variety of documents including:

- o Technical Evidence for Regeneration;
- o Design and Access Statement;
- o Statement of Community Involvement;
- o Environmental Statement (ES);
- o Public Open Space Statement;
- o Affordable Housing Statement;
- o Regeneration Statement;
- o Flood Risk Assessment, Foul Sewerage and Drainage Strategy;
- o Utilities Strategy;
- o Ecological Impact Assessment;
- o Transport Assessment;

- o Arboricultural Impact Assessment;
- o Sustainability Statement; and
- o Site Waste Management Strategy.

### Amendments

The proposal has been revised during the application. The amendments and additional information provided follow lengthy discussions with the applicant. The amendments include:

- o Additional evidence to justify the proposal, particularly having regard to the requirements of Policy H8 of the emerging Placemaking Plan.
- o Reduction to the heights parameter expressed in the application so to minimise the effects on the WHS, AONB and Conservation Area.
- o Updates to the Design and Access Statement to provide further clarity on design quality.
- o Further assessment of assumptions made in the Transport Assessment so to consider the effects on immediate junctions.
- o Withdrawal of matters of access at this stage.

Additional information has also been provided by the applicant in the form of an Addendum to the submitted Environmental Statement (ES). The Addendum submitted provides additional information formally requested by officers pursuant to the EIA Regulations to ensure that the potential environmental effects of the proposal could be fully assessed and to take account of the amendments made to the maximum parameters of the development.

The parameters set out above and based on the 'illustrative Masterplan' could potentially deliver:

- o up to 700 new homes on the site with an overall gross density of 58 dwellings per hectare;
- o a new local centre of up to 560sq m;
- o 0.688ha of open space within the site in 5 identified areas; and,
- o 848 car parking spaces (ratio of 1.2 spaces per home)

The maximum height of the development is fixed by the height parameter plan, dwg no. EXX-0102 Rev O. This clearly identifies maximum parameter heights based on AOD levels which are designed to reflect the varying topography across the site. The maximum AOD height proposed is 179m AOD, this is on the southern edge of the site in the vicinity of the existing Bradford Road shops. Maximum AOD heights have been reduced in areas across the site as part of amendments made during the planning application and in response to concerns of officers and other stakeholders. To assist with the visualisation of the type of development which could be proposed up to the maximum AOD height, the parameter plan shows the scale of development in number of storeys; this shows indicatively the majority of the site for 2 or 3 storeys and part up to a maximum of 4 storeys. This is a reduction from the 6 storeys indicatively shown with the original application submission.

The submitted illustrative Masterplan also indicates several key design features which the applicant aspires to deliver through the proposed regeneration. These are reflected in the submitted Design & Access Statement. Such features include:

- o Completion of the crescent adjoining the Mulberry Park development.
- o Creation of a central square within Foxhill.
- o Identification of key character areas in Foxhill.
- o Provision of a modern local centre on Bradford Road.

The proposed redevelopment of the site is residential, interspersed with areas of open space. The only other land use proposed is the re-provision of the local centre on Bradford Road.

As one would expect given the considerable scale and nature of the proposal, the applicant is suggesting that development (if approved) would be delivered in a phased manner over approximately 10 years. Each phase would include demolition and subsequent redevelopment of that part of the site. The phasing of development would in part facilitate the rehousing strategy for existing residents in conjunction with the adjacent Mulberry Park development.

#### Environmental Impact Assessment (EIA)

The proposal has been subject to EIA Screening and Scoping in accord with the Town and Country Planning (EIA) Regulations 2015. The development was assessed to be Schedule 2 development and owing to the potential for significant environmental effects arising from the development, was found to be EIA development. An EIA has been undertaken and an ES prepared to accompany the application. The submission of the ES was publicised as required.

The scope of the ES was agreed with the Council prior to submission to allow assessment of the likely significant environmental effects arising from the proposed development. The assessment of the environmental effects resulting from the proposed development is considered, as relevant, with the main planning issues identified below.

Further information relating to the ES was formally requested by the Council in January 2017. The applicant submitted an addendum ES in May 2017. The information requested by the Council was sought as it was considered that the ES, as originally submitted, failed to accord with the EIA scoping opinion. The amended ES was subject to re-advertisement in accord with the EIA Regulations.

The topics addressed in the ES are:

- o Landscape and Visual Effects;
- o Cultural Heritage;
- o Air Quality;
- o Noise & Vibration;
- o Land Contamination; and,
- o Socio Economics.



The ES considers the likely significant effects of the development having regard to these topics and also assesses the potential cumulative significant effects of the development when combined with other major development in the area. In this regard the only other major development assessed cumulatively with the proposal is the committed mixed use development at Mulberry Park immediately to the east of the application site.

The EIA Regulations require the applicant within the ES to consider the main alternatives to the proposed development, identifying the reasons for these alternatives taking into account the potential environmental effects.

The evidence submitted in the Environmental Statement, including the cumulative impacts, consideration of alternatives and proposed mitigation, has been taken into consideration in assessing the proposed development.

### Pre-application Engagement and Consultation

The applicant has submitted a Statement of Community Involvement (SCI) which sets out the engagement that the applicant has undertaken with residents of the estate, the wider community and stakeholders. The level of engagement from one-to-one consultations, exhibitions and workshops has been extensive. The applicant has advised that this engagement has informed the evolution of the proposals for the Foxhill Estate and is reflected in the planning application submitted.

The applicant also sought pre-application advice from the Council in 2016 regarding the redevelopment of the estate. In summary, the advice given at that stage was that the general principle of redeveloping and regenerating the estate was supported but that there were concerns regarding the significant net loss of affordable homes (referencing Policy H8 of the emerging Placemaking Plan). Concerns were also raised regarding the potential effects of 6 storey development on the World Heritage Site.

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

A summary of consultations responses and representations received is provided below, the full representations can be inspected on the Council's website.

#### Historic England

Confirm the site sits outside the Bath Conservation Area, but within the Bath World Heritage Site. Historic England do not object to the principle of redevelopment of the site for residential use, but suggested that the proposal could result in visual intrusion on the "green bowl" setting of the WHS. They wish to prevent any negative impact of the proposal on the outstanding universal value of the WHS. In this regard, they draw attention to paragraph 137 of the NPPF, in particular that proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably.

Concern was raised in respect of the proposed 6 storey development in the north east of the site and 4 storey developments to the far north, these being the areas closest to the "green bowl" setting. Historic England identify that it must be established that taller development will be beyond the "visual horizon" and ridge line of the plateau, so that it should not be seen from the city. They identify that four storey development may be

hidden from views within the basin, but they are not convinced anything above this will be deliverable without compromise to the WHS outstanding universal values.

The latest comments from Historic England on the application as amended welcome the reduction in heights now proposed across the site, but identify they remain concerned about one plot identified for 5 storey development towards the north of the site. They confirm that if this was to be reduced they would be satisfied.

It should be noted that the reference to 5 storey development for the single plot to the north was an error on the drawing issued by the applicant and has subsequently been corrected. The plot in question has a maximum building height of 16m (AOD of max 174m) which is indicatively up to 4 storeys. Historic England have been advised of this, but no updated comments have yet been received. On the basis that the development as now proposed does not include any development over 4 storey, it would suggest that they would now be satisfied.

#### Environment Agency

Consider that planning permission could be granted to the proposed development as submitted subject to the imposition of a number of planning conditions. Without such conditions, they consider the proposed development poses an unacceptable risk to the environment and they would object to the application. Proposed conditions relate to undertaking assessments for contamination on the site and consideration of potential effects of specified below ground works on ground water.

No additional comments following the amendments to the application and ES addendum.

#### Natural England

Raise no formal objection to the proposal but provide comments on ecological and landscape matters.

In respect of ecological matters, they advise it is necessary to have regard to any potential impacts of the development on the nearby Bradford on Avon Bat Special Area of Conservation (SAC) which is a European designated site.

Advise that the Council, as competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that the proposal may have. Natural England in advising on the requirements relating to Habitats Regulations Assessment, consider the proposal 'is not necessary for the management of the European site'. But the Council should determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out.

Notes that that the ecological assessment undertaken has not covered the boundaries of the wider Foxhill site (beyond the planning application site).

Natural England has welcomed the ecological mitigation recommendations in the applicants Bat Briefing Note and suggests the inclusion of the additional requirements:

- A lighting strategy will need to demonstrate that lightspill from the development will not adversely impact any boundary habitats, (particularly the northern boundary of the wider vision site);
- The Briefing Note refers to "pockets of darker areas" (below 1 lux) which are to be designed into the development. I would expect the Northern boundary and the boundary with Springfield Quarry within the wider vision to be included as dark areas.
- External lighting used throughout the application site must have no Ultra Violet content: insects are attracted to UV light and therefore away from the habitats where light-sensitive Horseshoe bats are foraging;
- Welcome the recommendation to include native species in landscape planting. In relation to the wider vision and would expect additional planting of native species along the northern boundary of the development in order to strengthen its value as a wildlife corridor and to provide a barrier to lightspill.

In respect of landscape matters Natural England confirm the site is in close proximity to the Cotswold AONB and refer to paragraphs 115 and 116 of the NPPF. We are also reminded of the statutory duty to 'have regard' to the potential for significant impact on or harm to the statutory purpose of the AONB, to conserve and enhance the area's natural beauty.

In providing comments to the amended proposal Natural England welcome the additional information provided by the applicant in relation to lighting principles, particularly the use of LED lights. They recommend a condition is imposed to seek a detailed lighting strategy for any phase of development located adjacent to the northern or western extremities of the site.

#### Wessex Water

No objections subject to the imposition of a condition in respect of foul water. They confirm that the site will need to be served by separate systems to adoptable standards. The expectation is that flows from foul sewage will increase as a result of the development. Wessex identify that some existing onsite surface water is discharged into the foul sewer network, they seek no increase in peak flows through the interception and attenuation of surface water discharges to the public sewer system.

Wessex clarify that in relation to surface water the Lead Local Flood Authority will need to approve a system and that there should be no connections to the public foul water system.

Finally Wessex confirm that in terms of infrastructure, there is current spare capacity within the local supply network to accommodate the development proposed.

#### Wales and West Utilities

Confirm that they have pipes in the area and identify that they may be at risk from the development particularly during construction works. They advise that in the event of planning permission being granted the applicant would need to contact them directly before commencing any works on site.

#### The Coal Authority

No observations on the planning application.

### Sport England

Suggest that given the current under supply of playing pitches in the area, at least one playing pitch be considered appropriate to be sought through on-site provision. This provision is being sought on the basis of the net gain in dwellings on the site.

On the basis that no on-site sport provision is made, Sport England has confirmed they are unable to support the proposals. They have confirmed that this is a 'no support' response, rather than an objection.

### Avon & Somerset Constabulary

Raise no objections, identifying that Sections 58 and 69 of the NPPF both require crime and disorder and the fear of crime to be considered in the design stage of a development. The response confirms that at this early outline stage it is very difficult from a crime reduction/prevention point of view to give detailed comments as the areas to be addressed such as the building security, access control methods to be used, as detailed design would normally be decided upon at Reserved Matters stage. They advise it would be beneficial for the applicant to liaise with the Crime Prevention Advisor at the earliest opportunity.

## **BATH AND NORTH EAST SOMERSET COUNCIL**

### Arboriculture

Object to the application. Consider that the value of some groups of trees assessed has been under estimated given their contribution to the site. Considers that a number of trees and groups of trees proposed to be removed should be retained in the development given the positive contribution they make.

Identifies that existing tree planting in the Quantocks area of the site is a good example of spacing and provision of planting in a development. Disappointed that these trees are indicated to be lost to provide parking (in the illustrative proposals).

Identifies that the two areas of the site adjacent to Bradford Road should provide space for meaningful tree planting.

Recommends that off site tree planting should be secured where on site provision cannot be provided. Costs for this are set out in the Planning Obligations SPD (2015).

Outlines that planning conditions are required in the event of an approval and should include securing an Arboricultural Method Statement with Tree Protection Plan and a requirement to implement the development in accord with such a statement.

Arboricultural objection maintained to the proposal as amended.

### Archaeology

Recommends that that archaeological conditions are attached to any planning consent, to ensure (1) a field evaluation of the site, (2) a subsequent programme of archaeological work or mitigation, and (3) publication of the results.

Comments repeated in respect of amended proposal.

### Contaminated Land

No objections subject to conditions requiring, investigation and risk assessment to establish the extent of any contamination on the site has been undertaken, provision of a remediation scheme, undertaking approved remediation, provision of a verification report and provision of measures to deal with any unexpected contamination found.

Comments repeated in respect of amended proposal.

### Drainage and Flooding (LLFA)

No objection subject to conditions - LLFA identify that drainage of surface water by means of infiltration would be the most sustainable method of drainage and their preferred option. Soakaways should be designed to be able to accommodate the 1 in 100 year plus 30% for climate change event.

Identify that crated soakaways for Highways drainage would not be adopted.

### Ecology

Identify that the proposal is not acceptable in its current form. Accept that a phased approach to future bat surveying is acceptable and that the results of surveying to date identify limited bat activity around the site. A precautionary approach is recommended for all areas where there is potentially suitable bat habitat.

The additional mitigation measures identified by Natural England are supported. Details in respect of sensitive lighting treatment are necessary to ensure the proposal is not capable of a "likely significant effect" on the SAC. Indicative proposals to secure these measures would be acceptable at this stage.

In respect of Green Infrastructure there is concern that the current provision is not sufficiently connected. Green routes should have the potential to also function as wildlife corridors and bat flight routes, with areas of sensitive lighting and increased native species planting and habitat provision.

Following receipt of the amended plans it is noted that the proposed lighting principles are broadly acceptable although improvements could be made at the detailed design stage. At this stage the ecologist confirms that the proposal and any associated light level increases arising from it are not considered to be capable of a 'likely significant effect' on the nearby SAC in terms of the HRA.

Green infrastructure and planting is still considered to be limited and should be considered further particularly along the western and northern boundaries.

Considers the development remains unacceptable in its current form due to insufficient green infrastructure and 'dark corridors' through the site. Requires details of lighting to be approved for each phase of the development and details of updated bat surveys and other ecological mitigation and enhancement if the development is to be approved.

### Economic Development

Support the application, identifying that a S106 contribution of £40,150 is required for Site Specific Targeted Recruitment and Training in Construction (Planning Obligations SPD - 2015).

### Environmental Monitoring (Air Quality)

No objections - confirming the methodology adopted for the air quality assessment is acceptable. Identifies that there are unlikely to be any significant environmental effects on air quality resulting from the development at the operational phase of the development. Best practice measures and mitigation should be employed to minimise impact during the construction phase. Recommends the imposition of a condition requiring submission of a Construction Environmental Management Plan.

### Highways

Concerns were initially raised about the additional link road between Bradford Road and Down Avenue and the accuracy of the submitted Transport Assessment in respect of the junction assessments and consideration of traffic growth. Highways have had direct dialogue with the applicant regarding the modelling of the likely highways impact, in particular, the modelling of the traffic flows and the consideration of the additional vehicular access linking Bradford Road directly to Down Avenue. The proposals have been updated and the link road now omitted from consideration at this stage. An addendum to the Transport Assessment has been issued to reflect the amendments made. Highways have now confirmed that they are satisfied that the addendum has addressed all previous highway concerns. The assessment of the likely impact on the estate and immediate highway network is robust, reasonable growth rates have now been applied to forecasting future growth and the assessment demonstrates that the key junctions affected by the scheme at Foxhill/Bradford Road and Entry Hill/Bradford Road will operate within design capacity. Taking account of the permeable nature of the site and the fact the site is well served by public transport it is assessed that there the proposal will not give rise to any unacceptable highway impacts. As such there are no high objection to the application as amended.

### Landscape

The conclusions of the landscape response on the scheme as originally submitted were that it was not acceptable in its current form. The proposal given its prominent location on the plateau above the city has the potential to have significant effects on the WHS and its Outstanding Universal Value.

Following the amendments to the scheme the Landscape response advises that they object to the proposal. The additional information and assessment provided by the applicant, including identification of trees in views as well as reductions in building heights are noted and welcomed. The landscape comments include a detailed assessment of the revised proposal and in particular the potential impact of the proposal on the WHS. In this regard the visualisations from numerous viewpoints have been considered having specific regard to the significance of the WHS and the key attribute of "The Green Setting of the City in a Hollow in the Hills." The conclusion of the landscape response is that the applicant underplays the significance of the impact and that the submitted scheme fails to demonstrate it will conserve the WHS. Based on the building heights parameters submitted the proposal is considered to have a very significant impact on the skyline. Supportive of the intentions of the development, but considers the development fails to satisfactorily address 3 key issues:

1. The importance of the existing trees (on the site) in forming skyline views and in screening the existing and any redevelopment.
2. A proposed layout which is sensitive to views to the site and its skyline significance.

3. A proposed fully integrated Green Infrastructure and new tree planting strategy to reinforce the treed skyline as well as providing benefits to residents.

The response identifies standard landscape conditions that should be applied if the application is to be approved.

#### Parks and Green Spaces

The Parks and Green Space consultation response concludes that the development is not acceptable in its current form. The expectation for green space arising from the development would be 1.19 ha, the proposal fails to deliver this quantum. The development is also considered to be deficient in terms of providing a green infrastructure link to Springfield Park. S106 payments are sought to mitigate for the deficiencies in space proposed. The provision of open spaces proposed including play space should be controlled through a S106 agreement.

Following receipt of the amended plans the comments are reiterated and in addition clarifies that in the absence of on-site allotments the Parks & Green Spaces team suggest a financial contribution be secured by S106 agreement for off-site provision.

#### Planning Policy

Originally advised that the planning application was not acceptable in its current form. The key deficiency identified in the application was the failure to justify the net loss of affordable housing. As such the proposal was assessed to be contrary to Policy H8 of the emerging Placemaking Plan.

Planning Policy Officers now support the proposal as amended, confirming that the additional information submitted by the applicant addresses concerns previously raised. In particular, it is confirmed that the evidence provided in respect of the proposed regeneration, viability and social balance considerations to support the reduction in affordable housing now meets the requirements of Policy H8.

#### Public Rights of Way

The Public Rights of Way Team have no objection to the planning application but note that where existing roads or rights of way are affected these will need to be diverted by the Secretary of State.

#### Urban Design

Not acceptable in its original and amended form identifying the following summarised concerns:

- o Bradford Road blocks are incongruous in scale and fail to turn the corner of Foxhill appropriately.
- o Layout is car dominated and public realm compromised. All public spaces are dominated by car parking and there is a lack of front gardens.
- o Architectural proportions of buildings are not appropriate and fail to reflect the suburban setting.
- o Failure to identify positive aspects of the existing development that should be incorporated into any redevelopment.
- o Failure to reflect what aspects of the estate need regeneration and to identify what factors have informed the regeneration proposals.
- o Green spaces and footpaths should be better designed to be overlooked.

- o The scheme does not appear to have been designed to prioritise people or to work with the existing topography and landscape setting from the outset.
- o The proposal appears to prioritise housing numbers within a very urban density and form.
- o It is not clear how the scheme will improve the socio-economic problems identified by the community and Curo such as high unemployment and low levels of children's well-being.
- o Similarly, 'Underutilisation of green spaces due to poor lighting, safety concerns, visibility, work facilities and lack of equipment' are identified as problems and not addressed in the proposed designs.
- o New buildings located adjacent to existing homes have details reserved e.g. scale, this does not help in assessing the impacts of the proposal.
- o Growing spaces are right next to car park.
- o The proposed scheme reduces green areas and increases hard landscaping.
- o There are a considerable number of objections that demonstrate much concern amongst the whole community about the proposed scheme.

(Officer Note - whilst the comments from the Urban Design Team are understood and noted, Members are reminded that what is being presented for consideration at this stage is an outline planning application with all matters reserved. The detailed layout and design of the scheme would be for consideration at reserved matters stage. The layout submitted by the applicant at this point is illustrative only, seeking to demonstrate that the quantum of development proposed can be accommodated within the site.)

## OTHER REPRESENTATIONS

### Foxhill Residents' Association (Nola Edwards):

Foxhill Residents Association have made the following summarised points in objecting to the application:

- o The consultation has been biased and flawed and they want to see the application rejected and Curo conduct meaningful consultation before reapplying.
- o Consultation was a tick box exercise aimed at justifying a preconceived plan - For most, consultation began when masterplan was exhibited, presenting the scheme as a fait accompli.
- o Residents in the bungalows ask that their properties are removed from regeneration zone.
- o The needs of vulnerable residents are not top of independent inspectors agenda - disappointed that Local Authorities role is not more proactive in standing up for residents.
- o Draws attention to inadequate supply of rentable homes in the scheme.
- o Want to see an alternative method for rehoming tenants rather than the Homeseach scheme.
- o Want far less emphasis placed on Hepworth report which they feel unfairly stereotypes large sections of the community.
- o Wants a new consultation in place that places greater emphasis on employment and training opportunities - current provision of only 3 hours on a Tuesday afternoon seen as inadequate.
- o Project of this size should aim to be ambitious rather than just adequate - a different approach could make the scheme transformational.



- o Overall, FRA want the scheme rejected and new resident centred consultation conducted addressing issues raised.
- o Curo does not have the support of the residents - at first consultation, 8% of people endorsed the replacement of some homes, that means 92% did not!
- o Scale of project too big - will result in green space being lost and tall buildings will be out of place.
- o Foxhill is on a hill and is windy, no models presented which address issues of wind being channelled down streets by tall buildings.
- o Plan doesn't address social dynamics of Foxhill - a new community centre cannot compensate for the loss of community caused by destruction of existing networks - through altering physical environment and the forced relocation of people.
- o Nothing has been put into place to help residents move to new houses save for a bidding war through Homesearch system.
- o Curo have failed to meet the expectations of the NPPF which states that the planning system should support health, social and cultural well-being for all. Community services should be delivered.

Widcombe Association (Jan Shepley):

The Widcombe Association object to the application on the following summarised grounds:

- o Welcome proposals which would genuinely lead to an improvement in the environment and enhance community facilities within the Foxhill area. But have become increasingly concerned about the implications of the current outline proposals and their detrimental impact on the character and cohesion of the Foxhill community in particular the significant net loss of affordable housing.
- o Concern is expressed about the high density of the development based on the illustrative layout and the lack of open space (public and private).
- o Lack of provision for waste and recycling facilities as well as cycle storage.
- o 700 homes is an unrealistic target if the proposal is to deliver an attractive environment. The proposals should be redesigned to provide a realistic and achievable figure.
- o The Housing team is evidently still 'working with Curo' and are therefore not impartial. Nevertheless, they would clearly like to see a higher proportion of affordable homes provided.
- o There remains uncertainty over the number of privately owned homes that will be acquired.
- o The recent revision to the application, removing details of access from consideration, due to further work being undertaken on various routes and junctions, leaves even more uncertainty and reinforces the view that this application is premature.
- o Potential impact of an aerial tramway would be damaging to the local community (This is not a current proposal presented to the Local Planning Authority for consideration and does not form part of the application submitted for determination).
- o The Widcombe Association considers that there are currently too many unknowns and a requirement for more information. If the applicant is seeking an 'in principle' approval, it should not be given on the basis of the current illustrative layout or on the basis of the figures outlined.

#### Bath Preservation Trust:

Acknowledge that this is an outline application and that many matters which concern the Trust are reserved for later submission & determination. The Trust identify that they broadly support the regeneration of the site to improve housing stock. They also acknowledge that the scheme has considerable challenges, not least in the complex process of negotiating with the community, re-housing and development phasing that is involved in transforming an area to which many people have strong and long held communal ties. In this regard, we commend the level of detail and extent of assessment undertaken and provided by Curo and the extensive public consultation that has occurred so far. Summary comments include:

- o Concerns regarding tall buildings have been reduced following the amendments made to the planning application, including reductions in height on the crescent. Remain concerned about building heights on Bradford Road and the impact on views from Midford Road.
- o Concerned by the fact that there is no net increase in affordable housing across the whole site.
- o Welcome the provision of an LVIA with images of building lines and heights from long views.
- o On the whole, accept the general principles of the illustrative masterplan & layout.
- o Whilst understanding all design matters are illustrative at this point, they are disappointed to see that there appear to be no design references to the form of the 'Cornish Houses' that are a historical feature of the site.

#### Transition Bath:

Object to the application on the following summarised grounds:

- o Poor energy efficiency of buildings.
- o Information about energy savings provided by the applicant is untrue and overinflates the likely savings.
- o Net loss of affordable homes is too high.
- o Allotment and growing space is insufficient.

#### Federation of Bath Residents' Association:

Objects to the proposal identifying the following matters:

- o Support the comments of the Foxhill Residents' Association.
- o Accept that there is a need to regenerate some of the estate but remain unconvinced that all of the 542 homes within site should be demolished. They identify that many similar properties on the estate are not earmarked for demolition. Consider there is a strong case for refurbishment of most of the properties, rather than their demolition?
- o Consider the density of development is too great.
- o In respect of Policy H8 of the Placemaking Plan they consider that criteria (i) is met, but for only some and certainly not for most of the properties earmarked for demolition; and (ii) is not met, there being overall excellent cohesion and well-being within the Foxhill estate, which has a stable and settled community. Most importantly, though, as underlined above, Policy H8 presumes against the net loss of affordable housing.
- o The affordable homes that are to be built in Mulberry Park should not form part of the Foxhill affordable homes equation and the Council should not be persuaded otherwise.

- o Curo whilst undertaking consultation have failed to listen or act upon residents' concerns.
- o Concern expressed that current owner occupiers won't be able to afford new homes.
- o How and where will current tenants of social homes be re-housed?  
Conclude by suggesting that the application be refused and that Curo be invited to resubmit a more appropriate application that focuses on refurbishment rather than demolition.

### Local Residents:

There were more than 120 individual objections to the application when originally submitted, the subsequent consultation following receipt of the amended plans resulted in excess of 100 further objections (some, but not all from those who originally objected). The objectors included both residents of Foxhill (Curo tenants and owner occupiers), residents of Bath and members of the public from further afield. The objection letters can be seen on the public file but are summarised as:

- o Demolition of the whole estate is not necessary, should just infill between existing homes
- o Proposals are out of character with Bath
- o Result in loss of community
- o Result in loss of significant numbers of affordable homes (this is immoral particularly in the light of the current shortage)
- o Statements in D&A and Planning Statement are incorrect
- o Buildings are too big and too high and out of keeping
- o Amenity adversely affected through loss of privacy, overshadowing and overlooking of properties due to high rise development proposed
- o Development is too dense
- o Provision of mixed community will result in 'friction'
- o Violation of human rights
- o Many residents do not want to move or loose their current homes and gardens. Residents feel they are being forced out by Curo.
- o Reference made to a 338-name petition against the development (NB this has not been seen by officers)
- o Existing homes should be improved not demolished
- o Environmental impact of demolition would be huge
- o Insufficient parking provided
- o The site will be a building site for the next 10 years
- o The rents in the new properties will be too expensive
- o Proposals will be detrimental to mental health and wellbeing of residents
- o Loss of support networks if forced to move
- o Lived in Foxhill for decades and do not want to move
- o Families will be priced out of the area
- o Proposals directly contrary to the Foxhill Regeneration and Development Charter
- o Access should be reserved for future approval
- o Proposals do not respond to the Councils pre-application feedback
- o Object to the 'review of housing stock condition'
- o Insufficient compensation for existing homeowners
- o Proposals just result in huge uncertainty for residents of the estate

- o Bungalows should be removed from the application site
- o Object due to increased potential for 'rat-running'
- o Proposals are 'social cleansing' and will price people out of the area
- o Properties proposed will only suit buy-to-let landlords
- o Leader of the Council has said he will not support 'evictions' want him to abide by this promise
- o Justifications for redevelopment are 'farcical'
- o Homeowners have been able to invest and renovate properties on the estate, why can't Curo
- o Foxhill estate is not isolated
- o Local roads including Fox Hill cannot cope with additional traffic
- o Existing working hours' restrictions on Mulberry Park is being flouted
- o Proposals are contrary to the Placemaking Plan policies (notably H8)
- o Concern expressed about availability of school places
- o Existing shops are good enough
- o Curo have deliberately neglected properties on the estate to justify this application
- o Too old to move and too old to get another mortgage

In addition to the objectors, 5 letters of support were received and a further 9 letters of 'comment'. Supportive comments included:

- o Desire to see additional homes built
- o Existing homes are not of a good standard and expensive to run
- o Need to think of future generations
- o Increased housing will increase supply and make properties more affordable
- o Imaginative and enterprising development
- o High density can be good
- o Chance to blend in with Mulberry Park development
- o Rare chance to make large scale improvements
- o Support re-development as Foxhill is a 'blight on the local area'

'Comments' made can be summarised as:

- o Support regeneration in principle but there needs to be a cap on 'affordable rent' as anything at market price is not affordable
- o Houses that cost £200k are not affordable - shared rent/mortgage housing options should be considered
- o Monthly rents/mortgage payments of £650 should be sought.
- o Support regeneration in principle but offers to homeowners should be reconsidered - they are offering less than market value with very little compensation - people will be priced out of the area.
- o Support for tenants and existing home owners isn't good enough
- o Traffic increase is unsustainable
- o Development should be permitted on other sites rather than at Foxhill
- o Foxhill already has a strong community
- o Not convinced redevelopment as proposed would address existing problems experienced on the estate.
- o Concerned about how the plans would be implemented on site
- o More should be done to encourage cycling and walking e.g. Perrymead, link to two tunnels cycle path

- o Welcomes improvements to the area, but will not be selling to Curo
- o Foxhill needs places for kids and elderly
- o Council should protect residents from threat of compulsory purchase
- o Some houses were renovated less than 10 years ago
- o Proposal is just 'land grab based on greed and profit', 'social cleansing'
- o Proposed allotment provision is unacceptable

## **PUBLICITY**

All properties within the application site, adjoining it or opposite it were notified of the application. In addition, all properties on the wider Foxhill Estate were directly notified of the planning application. Site notices were displayed at numerous locations around the Foxhill Estate and a notice placed in the press. On the receipt of the amended details, additional information and addendum ES further consultation was also undertaken. At that point all those previously notified of the application were consulted, along with anyone who commented on the application as originally submitted. Additional site notices were erected and a fresh press notice published.

## **POLICIES/LEGISLATION**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that for the purposes of making decisions under the Town and Country Planning Act, decisions must be made in accordance with development plan for the area unless other material considerations indicate otherwise.

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:

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

Core Strategy Policies of relevance include:

- DW1 - District -Wide Spatial Strategy
- B1 - Bath Spatial Strategy
- B4 - World Heritage Site and its Setting
- SD1 - Presumption in favour of sustainable development
- CP2 - Sustainable Construction
- CP5 - Flood Risk Management
- CP6 - Environmental Quality
- CP8 - Green Belt
- CP9 - Affordable Housing
- CP10 - Housing Mix
- CP13 - Infrastructure Provision

Local Plan (Saved) Policies of relevance include:

- IMP.1 - Planning obligations

- D.2 - General design & public realm considerations
- D.4 - Townscape considerations
- CF.8 - Allotments
- SR.3 - Provision of recreational facilities to meet the needs of new development
- S.9 - Dispersed local shops
- ES.2 - Energy efficiency
- ES.5 - Foul and surface water drainage
- ES.15 - Contaminated land
- HG.4 - Residential development in the urban areas and R.1 settlements
- HG.7 - Density (Housing)
- GB.2 - Visual amenities of the Green Belt
- NE.1 - Landscape character
- NE.2 - AONB
- NE.4 - Trees
- NE.5 - Forest of Avon
- NE.10 - Nationally important species and habitats
- NE.12 - Natural features
- NE.13 - Water source protection areas
- NE.14 - Flood risk
- BH.12 - Important archaeological remains
- T.1 - Balanced and integrated transport system
- T.3 - Promotion of walking and use of public transport
- T.5 - Cycling strategy: improved facilities
- T.6 - Cycle parking
- T.24 - General development control and access policy
- T.25 - Transport assessments and travel plans
- T.26 - On-site parking and servicing provision

The Bath Placemaking Plan is at a very advanced stage, however it is not yet adopted and, as such, does not currently form part of the statutory development plan. The Council has received the Inspector's Report which concludes that the Placemaking Plan is sound subject to a number of modifications. The Inspectors Report and recommended modifications will be discussed at Full Council on 13 July 2017 and may be adopted at that meeting. That being the case the Placemaking Plan Policies will accrue full weight and saved policies from the Local Plan will be superseded. In the meantime, it is assessed to carry substantial weight as a material consideration given its advanced stage. Officers will update Members on this matter at the committee.

Placemaking Plan Policies of relevance include:

- B1 - Bath Spatial Strategy,
- B4 - The World Heritage Site and its Setting
- BD1 - Bath design policy
- D1 - General urban design principles
- D3 - Urban fabric
- D4 - Streets and spaces
- D6 - Amenity
- D8 - Lighting
- HE1 - Historic environment
- NE1 - Development and green infrastructure

- NE2 - Conserving and enhancing the landscape and landscape character
- NE3 - Sites, species and habitats
- GB1 - Visual amenities of the Green Belt
- CP9 - Affordable housing
- CP10 - Housing mix
- H5 - Retention of existing housing stock
- H7 - Housing Accessibility
- H8 - Affordable housing regeneration schemes
- LCR3A - Primary school capacity
- ST1 - Promoting sustainable travel
- ST7 - Transport requirements for managing development

In addition to the statutory Development Plan, there is also 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 Documents and other guidance of relevance includes:

Bath City Wide Character Appraisal (2005)  
 The City of Bath World Heritage Site Setting SPD (2013)  
 Bath Building Heights Study (2010)

National Planning Policy Framework (NPPF) March 2012  
 Planning Practice Guidance (PPG) first published March 2014

A Foxhill Regeneration and Development Charter has been drawn up and was adopted by the Council following consultation with ATLAS and Curo in September 2016. The charter is a material consideration in determining planning applications. The Charter is identified as setting out the shared ambitions of the Council and Curo for Mulberry Park and Foxhill (which jointly form a Housing Zone). The Charter identifies 4 ambitions:

1. Communities: communities which continue to be proud of themselves and their local neighbourhood
2. Connections: a neighbourhood which is well connected and fully integrated with its surroundings
3. Housing Choice: a destination where people choose to live and then want to stay
4. Quality of Place: a vibrant neighbourhood with a mix of uses and a strong local economy

The central theme cross-cutting these ambitions is identified as building a sense of community and integration through providing a greater choice of housing along with the active participation of people in the way their neighbourhood is run.

## **OFFICER ASSESSMENT**

This outline planning application from Curo is both ambitious and complex and raises a number of issues which require careful consideration. The planning application site covers a large part, but not all of the Foxhill Estate. It includes land and property within Curo's ownership, as well as land in control of the Council, dwellings in private ownership and in the ownership of other Registered Social Landlords. There have been numerous

objectors raising concerns that the proposal includes their land and property and that they do not wish to be party to any regeneration proposals. While fully appreciating the concerns of those residents, Members should be aware that an applicant is entitled to submit a planning application on land that they do not own, so long as those other landowners are served notice of the development. As far as officers are aware, the applicant has served notice on all other interested parties, as required. Should any planning permission be granted, it does not oblige those third parties to participate in the development.

The following main issues are discussed in this report:

- 1) the principle of residential-led development
- 2) housing mix and affordable housing
- 3) impact on the WHS and other heritage assets
- 4) design and character of the development
- 5) transport and access
- 6) open space
- 7) ecology
- 8) other planning considerations

These matters are considered in turn with reference to consultee and resident comments, as appropriate.

## 1. THE PRINCIPLE OF RESIDENTIAL-LED DEVELOPMENT

The District-wide spatial strategy (Policy DW1) and Spatial Policy for Bath (Policy B1) of the Core Strategy seek to focus new housing development within the city and provide for approximately 7,000 new dwellings within the City over the plan period. The proposals in delivering up to 158 net additional dwellings will contribute positively towards these policies, making a meaningful contribution to meeting the housing need of the city in terms of quantum. One of the key objectives of the Core Strategy is to 'meet housing needs' and the proposal will assist in meeting this objective.

One of the other key objectives set out in the adopted Core Strategy is to 'plan for development that promotes health and well-being'. This objective identifies that the Council will promote and deliver, amongst other things, regeneration opportunities that can contribute to a reduction in the health and social inequalities across the district. The proposal in providing modern, better quality housing, as well as physical improvement to the wider estate, has the potential to improve the health of residents. As such, the



proposal has the potential to contribute towards this strategic objective. A key stated aspiration of the proposal is to significantly improve the socio-economic outlook for residents, with the applicant identifying that the existing estate displays key indicators of social deprivation. This matter is considered in detail later in this report.

In respect of national guidance set out in the NPPF, this confirms that the presumption in favour of sustainable development is the "golden thread" running through both plan making and decision taking. This is replicated in Policy SD1 of the Core Strategy. Paragraph 9 of the NPPF confirms that sustainable development involves seeking positive improvements in quality of the built, natural and historic environment as well as in people's quality of life, including replacing poor design with better design, improving the conditions in which people live and widening the choice of high quality homes. All matters the proposals seek to address.

More recently in December 2016, DCLG have published the Estate Regeneration National Strategy. This seeks to encourage the regeneration of estates where poor quality housing or physical decline is evident or where social or economic problems result in a disconnect from their surroundings. These objectives are reflective of emerging Policy H8 in the Placemaking Plan, which seeks regeneration through redevelopment of an area to improve the physical quality of it and the housing stock as well as addressing social inequalities. The thrust behind such policy is to seek to create more mixed and therefore balanced communities where there are increased opportunities for all residents for better access to services, facilities and amenities. Such communities are considered to offer better integration and social cohesion enhancing networks and opportunities for residents including for employment and education. Thus, the underlying objectives of the proposals to improve the housing stock and address social inequalities is something that is supported in principle at both the local and national level in planning policy.

Taking a step back, the application site falls within a Housing Zone. The Housing Zone designated in 2015 is one of only 20 identified outside London and covers the Foxhill Estate (including the application site) and Mulberry Park (former MOD Foxhill). Housing Zones, although not a planning designation, are an initiative by the Government to support the accelerated delivery of new homes on brownfield sites. As such, there is a consensus that the area should deliver additional homes. In this regard, Mulberry Park is delivering up to 700 new dwellings, and this application proposes up to 158 additional dwellings.

Looking at the emerging Placemaking Plan, Policy H5 seeks to ensure that development does not result in a net loss of residential accommodation. This policy deals with the quantum of dwellings only, not tenure. The application does not propose a net loss of residential accommodation; it proposes redevelopment to deliver a net gain of up to 158 dwellings. However, the nature of the development, is that it proposes demolition and redevelopment of areas of the estate in a phased manner. It is also possible that development may come forward in a piecemeal fashion owing to the complexity of land ownership and assembly. The combination of phasing and piecemeal development has the potential to conflict with Policy H5. Therefore, to ensure full compliance with emerging Policy H5 it is considered reasonable to attach conditions on the phasing of development to ensure that the number of demolitions does not exceed the scale of re-provision at any time. On this basis, there would not be a scenario where development of a phase or combination of phases would result in a net loss of dwellings overall, therefore compliance with Policy H5 can be assured and a net gain in dwellings can be secured. Managing of

phasing also presents the opportunity to ensure that the development delivers the anticipated benefits inherent in the proposal. This matter is discussed further later in this report.

Turning to what is considered the key policy in terms of assessing the principle of redevelopment, Policy H8 of the Placemaking Plan. Policy H8 has two elements: The first part sets out "a general presumption to support the redevelopment of social housing" subject to meeting specified criteria. The second part of the policy applies "where the principle of redevelopment is accepted" and then goes on to set out a "presumption against the net loss of affordable housing subject to viability and other social balance considerations."

There are three criteria applicable to the first part of the policy. The first two are alternatives relating to:

- o whether the existing dwellings are substandard or not fit for purpose; and/or
- o whether there are socio-economic justifications for development led regeneration, considered alongside alternative options for remodelling or refurbishment.

The third criterion is of relevance where a proposal results in the loss of amenity space. This is not applicable in this case. Matters of amenity and other open space are dealt with elsewhere in this report.

Policy H8 is clearly applicable to the proposed regeneration of Foxhill as proposed in this application. The basis and purpose of the policy is to enable redevelopment of social housing which is either in poor condition or where there is a socio-economic justification for redevelopment rather than just refurbish or remodel existing housing. It is a permissive policy subject to the identified criteria being met.

For the principle of regeneration through redevelopment of Foxhill to be accepted, it is incumbent on the applicant to demonstrate to the satisfaction of the Council that either of the first two criteria of the policy are met. The applicant has provided information relating to both criteria. However, the applicant has confirmed it is the second criterion, the socio-economic justification, which they are seeking to demonstrate compliance with. They advise information relating to the condition of the housing stock is simply provided for completeness. Accordingly, the proposal has been judged primarily against the second criterion in dealing with the first part of Policy H8.

The potential socio-economic effects of the development are one of the aspects considered in detail in the submitted ES. The applicant has also now provided a considerable amount of information to address concerns of the Council on this point which is focused in their 'Technical Evidence for Regeneration' document. This evidence sets out the current socio-economic baseline of Foxhill North (within which the site falls) and profiles this against the surrounding area and the wider city. The summary of this is that the Foxhill Estate performs poorly against key socio-economic indicators. Some of the key facts identified include:

- o unemployment levels at 6.9% are more than double the average across the Council area (reported at 2.7%);

- o those classified as long term sick or disabled in the area represent 8.2% of the population compared to 2.8% across the Council area as a whole; and
- o Foxhill North falls within the 11% most deprived areas in England (this takes account of issues including income, education, skills, employment, health and disability and barriers to housing and services).

More generally, the statistics demonstrate that the site performs poorly when compared to the adjacent area of Combe Down, but also that the area ranks poorly compared to other areas of the city such as Twerton/Whiteway.

The applicant also highlights that the indicators of deprivation on the estate are deteriorating, in that the estate continues to fall down the national rankings. From 2004 to 2007 it fell from being within the bottom 20% to then being with the lowest 18%; a more marked change has occurred between 2007 - 2015 with it falling considerably, to now be within the bottom 11%.

The technical evidence submitted by the applicant makes frequent references to "Foxhill at the Crossroads" also known as the Hepworth Report (2012). That research report was prepared for the applicant as a basis for better understanding the issues affecting the estate. Subsequently, the applicant commissioned in 2016 a Social and Economic Regeneration Plan. That plan sets out measures that could be implemented in conjunction with Mulberry Park to improve the prospects of Foxhill Estate residents. That report identifies the benefits of integrating the two sites to break down physical and social barriers. The need to ensure integration between the established and new residential areas is recognised and it is accepted that regeneration through redevelopment presents the best opportunity to achieve this aim.

The socio-economic case for regeneration provided by the applicant has attracted significant criticism from objectors, notably existing residents of the estate. The thrust of many of these objections revolve around the failure of the research to give weight to the many positive social aspects of the existing estate, including the sense of community spirit, family and social relationships which exist. The response from the community demonstrates that there is a strong and established sense of community and ownership of the estate by existing residents. This is of considerable value and the estate would undoubtedly be a worse place without this. The applicant is not seeking to demonstrate that the estate is beyond hope, indeed, nor is that the policy test set in H8. Based on independent assessment, the applicant is expressing that the estate is failing and deteriorating from a social and economic perspective and that regeneration through redevelopment will deliver benefits and is necessary.

It is clear that the Foxhill Estate, when compared to other areas of the city, is far less socially and economically mobile and performs poorly against indicators. This to some extent is owing to its historic development as a post war Council Estate which was primarily a mono-tenure residential development. The estate lacks a clear focus in terms of community services and facilities and compounding this is the poor physical integration with surrounding areas. This lack of community infrastructure and isolation is considered to have led to the estate being both socially and economically isolated from surrounding neighbourhoods. Notwithstanding these failings and possibly because of this isolation, the estate has a strong sense of community which is to be celebrated and valued in

considering the current proposals. Indeed, this sense of community is a positive attribute of the estate that is identified in the adopted Charter and which should be fostered.

Looking beyond the local area, the Foxhill Estate also, and perhaps more importantly, performs poorly on a national basis. This makes intervention to address the failings more important.

The applicant has considered the implications of alternatives to regeneration through redevelopment, including 'do nothing' and refurbishment of the existing housing stock, but has concluded that this would fail to address the inherent social and economic problems experienced by the estate. Moreover, the applicant has highlighted that continued investment and refurbishment in the existing stock is not viable and whilst prolonging the life of the existing housing stock would not deliver the extent of benefits that would be delivered through construction of modern properties and a development designed to better integrate with its surroundings. This is recognised to some extent by the Housing Zone status of the site and the development of the Charter. Indeed, it is the Charter's ambitions which the applicant has used to assess both the proposal and alternatives.

The applicants have provided a report on the condition of the housing stock on the estate, which identifies the ongoing maintenance costs over the next 30 years. The report does not suggest that the existing properties on the estate are not fit for purpose. The Local Planning Authority has no reason to question the costs advanced by the applicant regarding maintenance, however, the applicant must acknowledge that regardless of the age or condition of properties, a level of investment is always going to be required to keep the properties in a reasonable standard. The applicant concludes in this instance that the level of investment required does not present a viable business case in the longer term. Beyond this they identify that comprehensive regeneration can deliver a greater level of benefit than maintenance and refurbishment alone.

While fully understanding the concerns expressed by residents, it is clear that the Foxhill Estate performs poorly having regard to key social and economic indicators. Therefore, some form of intervention is warranted. Regeneration in the manner proposed seeks to address key inherent and concentrated characteristics of deprivation which are reflected in the estate. The estate includes poor quality housing, a poor physical environment, it also suffers from a poor reputation, low employment levels, low incomes, poor levels of educational attainment and poor health. More limited intervention will simply not address such issues and a more comprehensive long term approach is required. Fundamentally, the Council has already recognised this in developing the Charter.

Development on the adjoining site at Mulberry Park is already committed and will deliver a policy compliant mixed tenure development supported by key community infrastructure including a new primary school, community facility, recreational and employment opportunities as well as small scale retail facilities. It will provide a focus for the development and can assist in addressing some of the deficiencies in the Foxhill Estate regardless of the current planning application. However, to maximise the benefit to the Foxhill Estate there is a need to better integrate the site with its surrounds as envisaged by the Charter. The Mulberry Park development is outward looking and within its confines seeks to engage with Foxhill and Combe Down. However, the overall Masterplan for the Housing Zone area is one which seeks regeneration of the Foxhill Estate too in order to maximise those opportunities for integration between the sites. A more limited scale of

regeneration or simple stock enhancement will not deliver the 'step change' required to address the identified deficiencies.

It is noted that concerns were raised by both Planning Policy and the Housing and Enabling Team in respect of compliance with the criteria of the first part of Policy H8 initially. Those concerns have now been addressed by the evidence submitted by the applicant. Both internal consultees now state that they support the planning application. Accordingly, it is considered that the sufficient evidence has been provided by the applicant to demonstrate the socio-economic justification for development led regeneration. Therefore, the proposals comply with the first element of Policy H8.

The next part of Policy H8 provides that where the principle of redevelopment is accepted, as it is in this case, there is a presumption against the net loss of affordable housing, subject to viability considerations and other social balance considerations. Compliance with this part of Policy H8 is dealt with under issue 2 below, housing mix and affordable housing.

#### Summary on Principle Residential-led Redevelopment.

The proposal in delivering up to 158 additional dwellings in Bath complies with the District-wide spatial strategy (Policy DW1) and Spatial Policy for Bath (Policy B1) of the Core Strategy which seek to focus new housing development within the city.

After careful consideration of the evidence provided by the applicant it is concluded that a socio-economic case for regeneration of the estate has been demonstrated. The estates displays a concentration of the key characteristics of deprivation and which are worsening. A more limited approach will not deliver the level and breadth of improvements required or opportunities for residents through creating a more mixed community, which are considered necessary to lift the fortunes of the estate. In considering the evidence, it is noted that the site falls within a designated Housing Zone and that a Charter has been agreed between the Council, Curo and residents through ATLAS to bring about enhancement of the estate.

Evidence submitted in respect of the quality of the existing housing stock is noted and, in part, shows that the quality of existing buildings and the physical environmental quality of the existing estate would benefit from improvements. This adds to the case but is not the determinative factor. Therefore, the principle of residential-led redevelopment is considered to be acceptable and the first part of Policy H8 met.

## **2. HOUSING MIX AND AFFORDABLE HOUSING**

This part of the report firstly looks at the housing numbers and mix proposed, before turning to consider the level of affordable housing having regard to the Core Strategy and the second part of Policy H8.

In considering housing supply paragraph 47 of the NPPF requires that Local Planning Authorities should identify and update annually a supply of deliverable sites sufficient to provide 5 years' worth of housing against their housing requirements. An additional 5% buffer is also required or 20% where a Local Planning Authority has a persistent record of under delivery. The Local Planning Authority considers that a 5-year supply of deliverable housing sites can be demonstrated plus a 20% buffer. Therefore, housing policies in the

development plan should be considered up-to-date and are the starting point for assessing the proposal.

The NPPF requires that Local Planning Authorities significantly boost the supply of housing (Paragraph 49) and deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities (Paragraph 50).

As stated earlier in the report the proposal would lead to a net gain of up to 158 new dwellings on an unallocated site, within the built up area of the City of Bath. This is an area where the principle of development of housing is acceptable and is on land which has been identified as part of Housing Zone, specifically designated to assist in the delivery of houses. The net gain of up to 158 dwellings on what is in effect a 'windfall site' would make a significant and meaningful contribution to the delivery of new homes in the City in accord with the Core Strategy and guidance in the NPPF. This is a notable benefit of the application.

In terms of housing mix, the application proposes to provide 30% affordable housing. This level of affordable housing is compliant with Core Strategy CP9 and can be controlled through a S106 agreement. Within the 30% affordable housing the applicant proposes a 75/25 social rent/ shared ownership split. The details of this can be defined through a S106 agreement.

Give the principle of redevelopment is accepted, it is then necessary to consider the second element of Policy H8, which states that there is a presumption against the net loss of affordable housing subject to viability considerations and other social balance considerations.

The outline planning application proposes the redevelopment of the application site to provide up to 700 new dwellings. This compares to the 542 dwellings that are currently within the application site. A maximum net gain therefore of up to 158 dwellings.

The applicant proposes provision of a minimum of 30% affordable housing for the development and cumulatively as phases progress. This is to allow some flexibility in the delivery, but to ensure that at no point, no less than 30% of new properties constructed would be affordable. This can be secured through a S106 agreement.

Whilst the proposals deliver a policy compliant 30% affordable housing provision, as the proposals relate to redevelopment of an existing housing estate where a high proportion of the existing houses fall within the definition of affordable housing, it is necessary to consider whether the proposals will result in a reduction in the overall amount of affordable housing stock, as required by the second part of Policy H8. There are currently 414 affordable homes identified within the application site. Assuming full delivery of the proposal then the 30% affordable homes proposed would re-provide 210 affordable homes. Therefore, this results in a net reduction of 204 affordable homes within the site.

Policy H8 recognises that a net loss of affordable housing may be justified and, as such, the presumption against the net loss can be overcome. Policy H8 identifies viability and 'social balance considerations' as relevant in assessing whether a net loss of affordable housing can be accepted.

Looking firstly at viability, information has been provided by the applicant and has been independently reviewed by a consultant appointed by the Council. The viability case presented by the applicant demonstrates that the development of the application site as proposed results in a significant deficit and, as such, is not viable. This deficit assumes the provision of affordable housing (30%) but no other S106 contributions. The applicant has identified that they are proposing to provide a minimum of 30% affordable housing on the site to accord with Policy CP9 and to ensure no net loss of affordable housing when considered in conjunction with Mulberry Park; a scheme which delivers 210 affordable homes. This aligns with the aspirations of the Charter and Housing Zone submission where the ability to rehome existing residents of the Foxhill Estate in the immediate area is identified as a priority. The rehoming of existing social tenants in the immediate area is facilitated by the local lettings plan agreed with the Council. In addition, the applicant is offering a shared equity opportunity on new dwellings on Mulberry Park or Foxhill to existing owner occupiers. This would ensure that they can remain in the area and that their existing housing costs would be no greater than they currently are. E.g. they would not need to pay any 'rent' on the equity element retained by Curo. The viability assessment demonstrates that the development cannot deliver a greater level of affordable housing. Indeed, the 30% proposed by the applicant can only be delivered through cross subsidy from the adjacent Mulberry Park development. Notwithstanding that the viability assessment demonstrates a significant deficit, the applicant is content to commit to delivering at minimum 30% of affordable housing through a S106 agreement. The significant viability deficit of the project alone is assessed to be sufficient to justify the net loss of affordable housing having regard to Policy H8 of the emerging Placemaking Plan.

Turning to consider the other aspect that of 'social balance considerations', it is noted that these are not defined in Policy H8. However, Policy CP10 of the Core Strategy identifies the aspirations for housing mix in new developments. This seeks to ensure that the mix of housing provides a choice in tenure and housing type, having regard to the existing mix of dwellings in the locality and the character and accessibility of the location. The current application would deliver a tenure and housing mix that accords with the requirements of Policy CP9. The exact mix of housing in terms of unit sizes is to be agreed at reserved matters stage. In respect of the affordable housing, the S106 agreement can ensure this is agreed to meet identified needs, the intention being that of the 210 affordable units to be provided 158 would be for social rent and 52 for shared ownership. This is a positive aspect of the scheme in terms of delivering a mixed and balanced community. The proposal in terms of the housing mix also includes accommodation to specifically meet the requirements of different parts of the community, including family housing, apartments and accommodation purpose built to meet the needs of the elderly and disabled. In this regard, it is noteworthy that 36% of housing requirements across the Council area are estimated to be for affordable housing (SHMA), as such, more than 60% is for market housing.

The detailed layout of the development is reserved for future approval but again the S106 Agreement would ensure that affordable homes would be tenure blind and evenly distributed across the development and within each phase. These factors will also greatly assist in delivering the mixed community desired.

The timing of this application is important and relevant in considering the proposal. The same applicant has received planning permission for delivery of up to 700 dwellings on the adjoining Mulberry Park development. The applicant has suggested as part of their submission that this adjacent development does offer the opportunity to 'rehome' residents (regardless of tenure) currently residing on the Foxhill Estate near their current homes where this reflects their desires. This is a time limited opportunity. Should regeneration of the Estate be proposed once Mulberry Park is partially or fully occupied, the ability to 'rehome' residents of the Foxhill Estate on Mulberry Park would not exist, or would be far more compromised. At that point, if residents cannot be accommodated within a regenerated Foxhill Estate, the potential negative social effects of regeneration of the Foxhill Estate are assessed to be significantly greater as the opportunity for residents to stay in the immediate locale would be significantly reduced. Such a scenario would almost certainly result in the displacement of residents, which would have a greater negative impact on aspects of day-to-day lives including access to and continuity of employment, education and healthcare. The inability to cater for residents' preferences in the locale would also be likely to affect friendship and community groups resulting in further social dis-benefits.

The timing of the delivery of Mulberry Park offers a genuine opportunity to limit the potential adverse social impacts of comprehensive regeneration of the area and one officers believe should be taken. Furthermore, progressing development of Mulberry Park and regeneration of the Foxhill Estate in parallel provides the best opportunity for the two areas to develop together rather than in isolation. As such, development now is assessed to offer the best opportunity to limit and mitigate the potential for negative social impacts of regeneration of the Foxhill Estate. This factor should not be underestimated.

Other aspects of the 'social balance considerations' which are assessed to weigh in favour of the proposal and need to be considered as part of the 'other social balance considerations' are set out below and are set out in full in the applicants 'Technical Evidence for Regeneration':

- o All dwellings will be built to meet the requirements of Part M of the Building Regulations. Therefore, they will be more energy efficient than the existing housing stock on the estate. This should mean that running costs in terms of utilities should be kept low, ensuring the units are affordable to live in and lifting vulnerable residents out of fuel poverty.
- o Better quality homes and the associated improved environment also provides the opportunity to improve residents health.
- o The provision of better quality homes would deliver increased tenant satisfaction. This in turn would be expected to lead to reduced tenant turnover and therefore a more settled community.
- o The affordability of the new affordable homes is secured through the S106 agreement to ensure that existing residents are not 'priced out'.
- o The applicant has also offer shared equity (not shared ownership) of new market housing at no additional cost to existing owner occupiers of the estate.
- o A Local Lettings Plan to give priority to existing tenants on Foxhill has been agreed with the Council and covers the Housing Zone area.
- o The proposals will increase the permeability of the estate particularly with Mulberry Park. This enhanced connectivity will assist in the integration of the estate with the



wider urban area and improve access to new facilities and amenities to be provided at Mulberry Park.

- o Redevelopment as proposed will assist in addressing the current segregation of the estate from its surrounds. In part improving the physical appearance of the Estate, homes and urban fabric will raise the quality of the Estate to be on a level playing field with immediate areas such as the new Mulberry Park. This is considered to be an important factor to achieve better social cohesion. Whilst there is recognised community spirit on the estate and that that is something to be fostered, there is little interaction between the existing estate and the adjoining neighbourhoods.
- o Enhanced access to better quality and accessible open space including play space. This will create natural meeting places and focal points for residents to dwell, increasing opportunities for social interaction and engagement.
- o Creation of additional employment during the construction period and targeted recruitment and training secured through the S106 to ensure local benefit.

These social benefits of the application can be controlled in part through the control of reserved matters applications, where if future details fail to provide the benefits identified the applications can be refused. In addition, specific aspects can be controlled by condition or through the S106.

In summary, considering the second element of Policy H8, the proposal results in the net loss of up to 204 affordable homes and this weighs against the proposal, however, it is not necessarily fatal to the application. The net loss of affordable housing is something which has the potential to result in significant social dis-benefits through dispersion of residents and loss of community links etc. In this particular case, however, the context and timing of the net loss in parallel with the delivery of development on Mulberry Park provides the ability to mitigate these effects. Policy H8 is clearly permissive of development even where there is a net loss, where 'viability' and 'social balance considerations' are assessed to justify the loss. The scheme submitted has been independently assessed and is not viable, this justifies a net loss of affordable homes on the site in the view of officers. Moreover, the proposals have been designed to deliver a 'mixed and balanced community' in accord with the NPPF and Policy CP10 of the Core Strategy. This coupled with the other social considerations identified weigh in favour of the proposals and are sufficient in your officer's opinion to justify the net loss of affordable housing resulting from the proposal. The proposals accord with emerging Policy H8.

A further consideration in dealing with net loss of affordable housing arising from the proposal, is the combined effect across the Housing Zone as alluded to above. It is accepted that when combined with Mulberry Park the two sites together ensure no net loss of affordable units beyond that currently on the estate. Whilst accepting that the applications have been submitted independently, it is of relevance in consideration of Policy H8 because the quantum of affordable homes proposed in the Housing Zone across the two sites would ensure that all existing residents of the Foxhill Estate can be accommodated in the immediate area (Foxhill and Mulberry Park). Were the net loss of affordable homes greater the social impact of the development would be worse and therefore the level of harm greater.

### 3. IMPACT ON THE WORLD HERITAGE SITE AND OTHER HERITAGE ASSETS

The effects of the proposed development on heritage assets and, in particular, the World Heritage Site (WHS) is an important factor in considering this proposal. Policy B4 of the Core Strategy is of importance and sets out the strong presumption against development that would result in harm to the Outstanding Universal Value (OUV) of the WHS, its authenticity or integrity. This policy also notes the need to weigh demonstrable public benefit against any level of harm identified to the OUV of the WHS. The Core Strategy also makes reference to the WHS setting SPD and Building Heights Strategy which are material considerations.

In considering and assessing the likely effects on heritage assets, guidance in the NPPF in paras 126 - 141 is noted which provides advice on conserving and enhancing the historic environment. In particular, the requirements of paras 133 and 134 are noted, which identify the implications of development that result in substantial or less than substantial harm.

The key element of the WHS that the proposed development has the potential to effect is considered to be the 'Green setting of the City in a hollow in the hills'. In regard to the green setting of the city, trees, tree belts and woodland predominantly form the skyline from views out of and across the City, although vistas do also include some buildings forming part of the skyline in these views. Therefore, it is important to understand and assess the potential for the development to affect this key attribute of the WHS. The nature of the City in terms of topography means that the potential effects will differ depending upon the vantage point. The submitted ES has assessed the potential effects of the development from numerous vantage points in seeking to assess the effects on the WHS.

The key potential visual effects from the development on the WHS and, in particular the green setting of the city, is assessed to be:

- o Whether the proposed development would be visible above the current green skyline from key viewpoints.
- o The visibility of the proposed development through or in front of the current green skyline and hillside.
- o The effect of visibility of the proposed development in appreciating the green setting of the City.
- o The varying magnitude of the effect over the calendar year.
- o The varying magnitude of effects between night and day.
- o Consideration of mitigation proposed.
- o Consideration of any cumulative effects with committed development (notably Mulberry Park).

The amendments made to the proposals during the course of the application, resulting in reduced maximum parameter heights have necessitated an addendum to the submitted ES. The key changes made to the proposal are the reduction in maximum height parameters for the development, reduced from 178m AOD (indicatively up to 6 storey development) down to 174m AOD (indicatively up to 4 storey development) in the north eastern part of the site. These proposed maximum AOD heights would facilitate development up to 4 storey in height in taking account of roof pitches and requirements for lift overruns etc. In addition, maximum AOD heights have been reduced elsewhere on the site, notably on the northern periphery where the site is visually more 'exposed'. The

application as originally submitted (including the indicative 6 storey development) was assessed on the basis of the submitted accurate visual representations and LVIA to result in an unacceptable effect on the 'Green setting of the City in a hollow in the hills'. The harm was considered to arise owing to the visibility of development above the existing green skyline and also owing to the increased visibility of development within the estate on the green hillside. The level of harm to the WHS owing to a combination of the visibility and height of the development was assessed to be unacceptable.

In terms of the visibility of the proposed development, the crucial aspect is the proposed maximum heights and scale and how these relate to existing vegetation on the site. As part of the amendments to the application the applicant was requested to seek to identify the contribution of trees within the site to the City skyline. This was to better assess and understand the combined impact of both development and associated tree removal on the site. This sought to eliminate any under estimation of the visual impact of development owing to the accurate visual representations inaccurately portraying the effects of existing vegetation in screening development which may then subsequently be removed as part of the site clearance. This was a particularly complicated process, but was considered essential to understand what realistically might be the result of the development given the positive contribution of the existing site to the OUV of the WHS.

The development site is located on the plateau above the City and on its north-western edge projects prominently out above Springfield Park. The sloping topography of the site and adjoining land means that parts of the Foxhill Estate are already clearly visible in views from across the WHS City. The principle views of relevance in terms of the green setting of the city are assessed to be those from the north, north east and north west. These views towards the Foxhill Estate currently include both buildings and vegetation on the hillside and forming the skyline. The character of the site is that it makes a positive contribution to the green setting of the City and the predominantly treed skyline. Importantly existing development on the Foxhill Estate is not of a height or nature that is at odds with the general consistency of the skyline in this part of the city, notwithstanding the presence of some buildings on the skyline.

The winter views provided as part of the LVIA demonstrate that the visibility of the existing Estate is increased owing to lack of depth of tree cover. At night, existing development is visible on the hillside and on the plateau beyond when looking across the City from the north. Light glow from existing development on the plateau is noticeable but does not significantly detract from the quality or appreciation of the view or the setting of the WHS.

It is noted that despite the maximum heights of development proposed being reduced during the application, there remain objections to the impact of proposed development on the WHS. It is noted that Historic England support the principle of redevelopment of the site and identified that their concerns would be satisfied if development was reduced to no more than 4 storeys. This is the scale of development now proposed. The views expressed by Historic England align generally with the Bath Building Heights Strategy which recommends for the plateau zone, in which the site is located, that "building shoulder height of 2 storeys, with one additional setback storey is generally acceptable, and one additional storey could be acceptable where it aids legibility, for example local centres, creates better enclosure or provides regeneration benefits and does not intrude into views onto the plateaux by exceeding the height of the tree cover." It is also relevant that there are already examples of 3 and 4 storey elements of development on the Foxhill

Estate, albeit that they do not rise to the AOD heights proposed in the application. The amended parameter plans submitted show development of generally 2-3 storeys in height (indicatively), with pockets of development being up-to indicatively 4 storeys in height. This form and scale of development is generally in line with the recommendations with the Building Heights Strategy.

The existing positive contribution of the site to the green setting of the City is provided by the existing tree cover on the site. The submitted plans include an Arboricultural Assessment and Tree Protection Plan. Objection has been raised to the proposals by the trees and woodlands team on the basis that the value of some of the trees on the site has been underestimated and that the level of tree removal has not taken their positive contribution into account. Additional work undertaken by the applicant validates the concerns raised by the trees and woodlands team and also the related concerns of the landscape team that significant tree removal on the site as part of any redevelopment would result in the site being more exposed and its positive contribution to the WHS (skyline in particular) would be greatly reduced. Analysis of the LVIA and the associated Arboricultural Assessment identifies that in addition to trees that are identified to be retained by the applicant, there are other trees (groups and individual trees) which are of value and should be retained. These trees are generally on the northern part of the site and many screen existing development from numerous vantage points. The retention of such trees would in the opinion of officers not undermine the ability to redevelop the site and have no fundamental impact on the illustrative masterplan submitted. Trees considered of value can be protected by condition to ensure that they are retained in any future reserved matters proposals. This offers multiple benefits. Retention of existing trees means that the visual change to the existing green setting of the City, hillside and skyline, particularly when viewed from the north is reduced, thereby better respecting the OUV of the WHS. Existing trees worthy of retention are of a mature size and stature already and, therefore, provide a better and immediate visual screen and depth of screening for development on the site.

In assessing the potential effects of the scale of development proposed, the submitted accurate visual representations clearly demonstrate that elements of the development would be visible on the skyline from some vantage points in the City, notably from those elevated positions to the north. As discussed above, the impact of this and concerns of the landscape team are mitigated to some extent through the proposed condition seeking retention of existing trees on the site and can also be further controlled at the detailed design stage through use of appropriate materials at reserved matters stage. With these safeguards in place the extent of change when compared to the existing development on the Foxhill Estate is assessed to be limited from long distance vantage points such as Prospect Stile, Penn Hill and Kelston Round Hill. Closer views at higher elevations to the north and east, such as Camden Road and Widcombe Hill are those that are likely to have the clearest view of development on the site where it will be visible above vegetation which sits lower down the hillsides. In these views the accurate visual representations suggest that there is the potential for development at the maximum parameters to protrude above the treed skyline. It is these medium distance, elevated views where the effects of the development on the tree lined bowl of the City and, therefore the WHS, is likely to be most affected and mitigation has more limited benefit. In particular, the view from Widcombe Hill unlike other representative views can be characterised as generally undeveloped. Existing buildings on the estate are generally well screened, as such the introduction of higher buildings combined with tree removal will have a considerable

change on the character of this view. Again, retention of existing trees on the site by condition has the ability to limit the impact.

The extent of the site and parameters proposed would also result in the development being clearly visible and prominent on the WHS skyline when viewed from the south within the Cotswolds AONB. This is arguably the greatest degree of change resulting from the proposed development and given topography offers the least ability to mitigate through planting. This suburban southern edge of the City is in the main hidden behind the tree edged skyline on the edge of the plateau, but some existing development is visible between and above the trees and more so in winter views. The skyline in these views is in the main formed by the trees and buildings along Bradford Road. Development has also crept down the hillside to the south of Bradford Road providing evidence of the presence of the City beyond. The maximum parameters proposed are identified by the landscape team to be particularly out of character with the scale of existing development in this area. The proposed parameters are the highest proposed on the site based on AOD heights, however, this reflects that this is the highest point of the site.

Existing development on this southern periphery of the site includes both 3 and 4 storey development at the Bradford Road shops and Fox Hill house respectively. The proposed parameters allow for development that indicatively would permit 3 and 4 storey development for a greater proportion of the site than currently is the case. The accurate visual representations submitted as part of this application, whilst very helpful in understanding potential impacts, are somewhat crude at this outline stage. Given all matters are reserved for future approval the accurate visual representations do not and cannot reflect the detailed articulation of buildings, only the maximum parameters proposed. Therefore, as previously identified the accurate visual representations offer a worst case. Within the parameters, a development would have undulations in roofscape and articulation in built form which could be used to reduce the apparent bulk and scale of buildings. This in turn would reduce the visibility and prominence of the proposals. The proposals would result in a greater amount of development being visible on the skyline than that currently visible and the impact of this would be harmful to the WHS and to lesser extent to the setting of the AONB. The degree of harm can to some extent be reduced by detailed design at the reserved matters but some harm would remain. This harm is judged to be 'less than substantial harm' and weighs against the proposal in the planning balance.

In considering the potential for overall harm resulting from the visibility of the development, it should be noted that whilst the accurate visual representations suggest development will be visible above the existing treeline, it will not significantly protrude above the skyline in most views, Midford Road being the most notable exception. Whilst visible, in the view of your officer, the development will not introduce a built form protruding significantly into the skyline at odds with the current gently undulating skyline. Moreover, the effect can be mitigated though retention of existing vegetation but also through further planting to ease integration with the wooded hillside character. Taking account of the amendments made and the proposed conditions in respect of retention of existing trees and detailed design and materials which can be controlled at reserved matters stage, the level of harm resulting from the development on the green setting of the skyline is assessed to be less than substantial in respect of Policy.

The visual effects of the development will be more pronounced in the winter months when tree cover is less and at night when a glow from lighting on the site is likely to be visible. However, there is already visibility of the site in winter and at night from existing development on the Estate.

Whilst the proposal is in outline and detailed designs of buildings are not yet provided, the worst case in terms of the effects of the development on the WHS skyline is assessed to be those medium to short distance views such as Widcombe Hill and Midford Road. Such vantage points provide clear views of part of the development on the skyline based on the maximum parameters proposed.

The quantum of development likely to be visible on the hillside or above the existing tree line will vary depending on the particular viewpoint and elevation and also the final form of development defined at reserved matters.

It is also necessary to consider whether the proposal would result in any cumulative harm, notably with the adjacent Mulberry Park scheme. That site has similar properties to the application site, being located on the plateau above the city. However, the MOD site has the benefit of a well treed boundary on its northern edge to the City and above the escarpment. The level of harm to the WHS arising from the former MOD site in isolation was assessed to be fall short of resulting in significant harm. Given the geographic proximity there are many viewpoints where both sites can be seen together. The cumulative level of impact has been assessed as part of the ES and identifies those representative views where both developments may be visible. The combined effect of the developments cumulatively must result in harm to the WHS given the conclusions for Foxhill. Given the juxtaposition of the sites and the significant tree belt on the escarpment adjacent to the former MOD site, most viewpoints where both sites are visible are elevated and at medium/long distance on the northern side of the City. The degree of harm cumulatively assessed to arise is, assessed to be less than substantial.

In conclusion having full regard to the policies in the development plan and national guidance it is assessed that the proposed development would result in an adverse impact to the WHS. The harm is assessed to arise owing to the development potentially affecting the appreciation of the 'Green setting of the City in a hollow in the hills' from some vantage points across the City and within the WHS. The level of harm can be mitigated to some degree through the retention of existing trees within the site and through further mitigation planting as part of the development proposals. The degree of potential harm can also be reduced through the detailed design of development, particularly on the northern edge of the site and the higher elements adjacent to Bradford Road. The level of harm to the WHS is assessed to be fall short of resulting in substantial harm having regard to the NPPF even when considered cumulatively with the adjacent former MOD site. The 'less than substantial' harm to the WHS carries weight and weighs against the proposal in the planning balance.

In respect of the Bath Conservation Area, Policy CP6 of the Core Strategy identifies the desire to protect, conserve and seek opportunities to enhance the historic environment. Policy HE1 of the emerging Placemaking Plan also identifies the requirement for development affecting the setting of a conservation area will only be permitted where they preserve or enhance its special character or appearance.

The site is not within the Bath Conservation Area and, as such, there is no direct impact on the Conservation Area resulting from the proposal. The development, given its location on the plateau above the City has the potential to affect the setting of the Conservation Area. Such considerations in terms of the setting of the Conservation Area follow the consideration of the WHS discussed above. In this regard the development owing to its visibility on the skyline and hillside setting to the Conservation Area will result in harm to the setting. This harm like the harm to the WHS is less than substantial but weighs against the proposal.

There are no listed buildings within or close to the site that would be directly affected by the proposed development.

In summary, the development is assessed to result in harm to the WHS and Conservation Area. The level of harm resulting from the development is assessed to diminish over time as existing vegetation and mitigation planting matures. The level of potential harm can also be reduced through ensuring that the detailed design particularly of development on the northern edge of the site retain existing trees. Adopting a sensitive design approach to materials, scale and massing will reduce the potential for harmful visual effects. These matters and the retention of existing trees are proposed to be covered by conditions attached to any outline planning permission. The level of harm to the WHS and Bath Conservation Area is assessed to fall short of resulting in significant harm and falls within the 'less than substantial category' where development plan and national guidance require this harm to be weighed against the public benefits of the proposals.

In considering Policy B4 and Paragraph 134 of the NPPF less than substantial harm to the WHS and Bath Conservation Area, as identified in this case, must be weighed against any public benefit. The key public benefits inherent in this proposal are set out earlier in this report in assessing the proposal against Policy H8. These benefits, including the provision of up to 700 new energy efficient homes and regeneration of the estate to facilitate better integration and access to services and facilities all weigh heavily in favour of the proposal. These public benefits are in your officer's opinion sufficient to outweigh the identified less than substantial harm to the WHS and Bath Conservation Area. As such, the proposal is assessed to accord with Policy B4 of the Core Strategy.

#### 4. DESIGN AND CHARACTER OF THE DEVELOPMENT

This is an outline planning application with all matters reserved for future approval. The parameter plans provide a framework upon which the ES is based so that effects of the proposals can be judged. These plans can be conditioned to define the shape and form of the future development of the site in order to ensure the effects are no greater than assessed at the outline stage. Therefore, design and character can only be considered in this context. The application is also accompanied by an illustrative Masterplan, showing how the level of development proposed could be accommodated on the site in accord with the proposed parameters.

Policy CP6 in the Core Strategy seeks to promote high quality and inclusive design and to create attractive and inspiring places. Policy D1 in the emerging Placemaking Plan sets out general design principles for large scale proposals. Key aspects include that places should be, designed to be safe and comfortable, varied and attractive; contribute to local distinctiveness; make connections and be legible; work with landscape structure; be mixed

use and respond to context; buildings and spaces should be flexible and adaptable; buildings should be designed to be energy efficient. The Government in the NPPF attaches great importance to the design of the built environment recognising that good design is a key aspect of sustainable development and is 'indivisible from good planning'. Securing high quality design includes both physical development but also the connections between people and places.

The applicant's Design and Access Statement has been updated and amended during the course of the application to provide further clarity on the ambitions and direction of travel for the proposed regeneration of the estate.

The Design and Access Statement and illustrative Masterplan, much like the adjacent Mulberry Park development, seeks to make an efficient use of the site whilst delivering a high quality development. The existing estate has been developed at approximately 48 dwellings per hectare (comparable to that approved on Mulberry Park). The proposals, if 700 homes were delivered on the site, would result in a density of approximately 58 dwellings per hectare. This is noted to incorporate an older persons' living complex, as well as a greater proportion of townhouses, which have a reduced land area. This would be the maximum density achievable and is not guaranteed to be achievable. Detailed design would be assessed at the reserved matters stage, however, at this stage the applicant has provided an illustrative Masterplan which assists in assessing the acceptability of the densities proposed. The Illustrative Masterplan indicates how the proposed level of development could be accommodated on the site. While noting that all matters are reserved for future approval the Illustrative Masterplan and accompanying Design and access Statement demonstrate how development can integrate well with surrounding development taking account of the context and existing constraints and opportunities of the site, these matters are explored below. On this basis, the proposed density is considered to be acceptable in principle having regard to the parameters proposed.

In terms of land uses, the proposals for the Foxhill Estate are for residential uses with the replacement of the shops and provision of open space. No further educational, commercial or community uses are proposed. This mix of uses is assessed to be acceptable and reflect the existing context and accessibility to key services and amenities as required in the Placemaking Plan. The applicant advises that those facilities to be provided at Mulberry Park are designed to cater for and serve the regenerated Foxhill Estate as well. It is the improved connections and permeability between the Foxhill Estate and Mulberry Park which is identified as being key to delivering a sense of shared ownership of those facilities and amenities. The applicant contends that to do nothing on the Foxhill Estate will perpetuate the segregation and inward looking nature of the estate which has led to its poor economic and social standing.

The layout of the site indicated on the illustrative Masterplan includes features which provide a positive design solution for the estate and create a sense of place for the development. The illustrative Masterplan looks to retain and build upon the existing road layout within the estate. This reflects the need to be able to accommodate existing properties that may not wish to participate in the regeneration. It also reflects the existing extensive infrastructure on the site which would be problematic to disrupt. At the same time, the illustrative Masterplan in addition, includes new roads and access through the redeveloped estate to strengthen connections to the wider area and create a far greater



degree of permeability through the site. Tree planting is indicated along principal roads which is welcomed in providing a high quality development. The presentation of avenue planting at the detailed design stage would need to ensure that sufficient space is provided for trees to grow and mature to assist in greening the site in the medium to long term. The Illustrative Masterplan looks to create a better sense of arrival and place at key sites including creating a frontage for the estate on Bradford Road. The illustrative Masterplan identifies a hierarchy of streets with the lower order streets providing areas for domestic scale development in accord with the parameter plan. The primary streets would be wider and designed to accommodate the taller buildings (up to 4 storey). This would assist in the legibility of the development.

The main character areas for the site are identified in the Design and Access Statement as:

- o The Crescent
- o The Square
- o The North Green
- o Queens Drive and Avenue
- o New Streets

The features of the character areas are summarised in the Design and Access Statement. Overarching site wide design principles are also set out for the application site. Beyond this key design principles are set in terms of massing, heights and design for each identified area. The purpose of these is to guide future development and to ensure development reflects how these areas interact with each other and the external influences on the site. The Design and Access Statement also includes consideration of how to accommodate and design with retained properties. In this regard flexibility is inbuilt within the scheme and it is noted that the illustrative layout looks to retain and build upon the established road layout and pattern of infrastructure within the estate. In the event that existing properties are retained within a phase of development, then the impacts on retained properties can be fully assessed to ensure they are appropriately accommodated and integrated, having particular regard to layout, design and scale. The design principles set out in the Design and Access Statement provide a satisfactory basis for guiding and controlling proposals across the site to ensure a high quality development and to ensure a smooth transition with retained and surrounding development. Therefore, the proposals are assessed to accord with Policy CP6 of the Core Strategy and emerging Policy D1 of the Placemaking Plan.

The potential of establishing a more formal Design Code for the site has been discussed with the applicant. However, given the potential complexities of existing land ownership the applicant did not wish to pursue this. As an alternative, a planning condition is proposed to require future development to reflect the site wide design principles, including the relevant character areas. It is noteworthy that a similar condition was successfully used at Mulberry Park. The design principles also provide a means to ensure the development responds to the topography of the site, something which was raised as a concern by the landscape team.

The scale of buildings, as discussed above, has been reduced across some areas of the site during the course of the application. The development parameters proposed reflect the levels on the site and topography and would facilitate predominantly a mix of two, two

and half and three-storeys with the taller buildings (up to 4 storeys in height) in limited areas. The amendments to the height parameters effectively removes the potential for five and six storey development, as originally proposed by the applicant. Buildings around the periphery of the site, where adjacent to existing residential development are shown to be 2 and 2 ½ storeys in height generally. The exception to this being in the northern part of the site and on Bradford Road where the parameters would allow development up to an indicative 4 storeys. As stated before these are maximum parameters and do not guarantee that reserved matters approval for building up to the maximum parameters. The scale of development proposed as defined in the height parameter plan is assessed to be generally acceptable having regard to context. The detailed design of buildings can be controlled at the reserved matters stage to ensure the amenity of existing residents is fully respected and in particular, the scale of development proposed is in keeping with surrounding properties. Should an unacceptable relationship be proposed at reserved matters this conflict can be resolved through seeking reduced building heights. The scale of development on the height parameter plan can be secured by condition.

The quantum of open space is discussed later in this report, however, the principles of the open spaces proposed are that they are evenly distributed throughout the regenerated estate to provide opportunities for specific purposes including doorstep play. The estate would continue to rely upon the existing Springfield Park adjacent to the site for its main recreational space and in due course the new formal park on the adjacent Mulberry Park. The quantum of open space and location can be controlled by condition and relate in part to the character areas defined in the Design and Access Statement. The open spaces will offer the opportunity to provide areas of planting to link with avenue planting and provide greater connectivity with Springfield Park. The distribution and presentation of spaces will assist in creating a distinct character and sense of place for the redeveloped Foxhill Estate. The illustrative Masterplan show building lines and roads to clearly define open spaces. This approach should ensure that open spaces benefit from passive surveillance providing safe and secure spaces. The proposed distribution of spaces should also help in legibility of the development. Care would need to be applied at the detailed design stage to ensure that open spaces provided interact positively with buildings and infrastructure, in particular to avoid being dominated by car parking. The individual size and design of open spaces can be controlled at the detailed design stage to ensure that spaces have a clear purpose and include appropriate levels of planting. The development as proposed has the ability to deliver a greater quantum and quality of open space than currently on the Estate. This is a benefit of the proposals.

The applicant identifies the desire for the redeveloped estate to significantly improve accessibility through and round the site through the provision of better quality vehicle, pedestrian and cycle links. Key to this is opening the estate to surrounding development, notably Mulberry Park. Whilst layout is reserved for future approval, the illustrative Masterplan identifies delivery of an east-west link between Sedgemoor Road and Fox Hill. This link is considered to be of particular importance in terms of making the moving from the estate into Mulberry Park seamless. This east-west link will enhance the connectivity physically and socially given the facilities on Mulberry Park. This is a benefit and is seen as key to the integration of the communities through shared facilities and amenities, including the community centre and school. In order to give weight to this benefit, it will be important that the enhanced links are secured by condition. A suitably worded condition is proposed. The improved connectivity and permeability of the Estate is a key driver of the Illustrative Masterplan.

As mentioned previously, the applicant does not have full control of the land within the application site. As such, there is the potential that rather than delivering full redevelopment within the application site it could be that the outline application facilitates partial delivery. Partial delivery could be delivery of certain phases only or due to existing properties being retained. As discussed above, partial delivery due to retention of existing properties can be accommodated, but it is necessary to consider how this may impact on delivery of benefits identified in the application. In many cases the impact on the deliverability is simply a factor of the extent of development. For example, for every new home developed this would deliver a better quality home, reduced energy consumption etc. However, partial delivery also has the potential to undermine wider benefits such as the increased permeability of the site, delivery of key connections, wider physical enhancements to the estate including provision of increased areas of open space. These factors are to some extent elements that are set out in the parameter plans (in terms of open space) and in others through the Design Principles set out in the Design and Access Statement. Control over delivery of them will therefore be secured through the S106 agreement and by condition (through referring to the principles set in the Design and Access Statement).

In addition, control can also be further exercised through consideration of future reserved matters applications. In this regard where partial development is proposed due to retention of existing housing stock, close scrutiny of design and layout will be required at reserved matters stage to seek to maximise benefits such as visual improvements to the estate and the perception that the area has been 'improved'. These benefits are recognised to be more 'speculative' and dependent upon the extent and nature of redevelopment delivered. Where such reserved matters applications fail to deliver on the benefits identified they can be refused. On the wider matters of benefit, the S106 will, regardless of partial or full delivery, ensure the delivery of a minimum of 30% affordable housing and ensure that there is no net loss of housing across the site at any juncture. As such even in the event of partial delivery, tangible benefits, including an uplift in dwelling numbers, provision of a greater range and choice of housing would be achieved proportionality to the level of development undertaken. Importantly, partial delivery would not undermine or prejudice the appropriate delivery of the benefits of regeneration.

On the basis of the outline proposals and taking account of the design principles set out in the applicant's Design and Access Statement, it is assessed that the proposed development can provide a high quality urban development in line with development policies notably Policies CP6 of the Core Strategy and D1 of the emerging Placemaking Plan and the guidance of the NPPF.

## 5. TRANSPORT AND ACCESS

The planning application is supported by a Transport Assessment and Travel Plan. The Transport Assessment has been subject to an addendum to reflect the changes made to the proposals during consideration of the application. The scope of the assessment was discussed and agreed with the Council prior to submission of the application.

The existing Foxhill Estate is accessed by vehicle by either Foxhill or Hawthorn Grove (via Entry Hill). Queens Drive and Sedgemoor Road within the estate act to distribute traffic.

Bus services (No.s 3 and 20) go through or past the site using Bradford Road, Foxhill, Queens Drive and Hawthorn Grove.

Pedestrian and/or cycle access is achievable along the aforementioned roads as well as down Perrymead north towards the city centre, to the south onto Bradford Road and to the west onto Entry Hill Park.

Matters of access, including the details of a new access onto Bradford Road were originally included in the application but following further discussion have now been withdrawn from consideration at this outline stage. As such, matters of access are reserved for future reserved matters consideration.

The Transport Assessment considers the implications of redevelopment of the site as proposed, taking account of the uplift in dwelling numbers. Key areas for consideration are the potential increase in vehicle movements owing to the increase in housing numbers and change in tenure mix and the impact of any increase in traffic on the existing junctions serving the site and the immediate highway network. The applicant, at the request of the Council, has also looked at the impacts of potentially closing Hawthorn Grove at its junction with Entry Hill. Matters around permeability and accessibility are also of relevance. This assessment work has been the subject of discussion with the applicant during consideration of the application and the modelling and assumptions used to inform it have been updated to ensure it is robust.

In consideration of the proposal it is noted that one of the principle junctions serving the site, Fox Hill/Bradford Road, has recently been upgraded as part of the S106 requirements of the Mulberry Park application. These improvements have enhanced visibility at the junction and its operational capacity. This was required to address the likely impact of additional traffic from Mulberry Park using Fox Hill.

The Transport Assessment has taken a consistent approach to considering trip generation to that agreed for Mulberry Park. The impacts of the development in highways terms has taken account of the uplift in dwelling numbers from 542 to 700, account has also been taken of the proposed change in tenure and impacts of other likely growth in traffic when taken with committed development such as Mulberry Park. This is assessed to provide robust growth figures for assessing the likely impact of the development.

The TA addendum has importantly revisited the modelling of trip distribution and junction capacity given the removal at this stage of the additional junction and access onto Bradford Road. The results of the modelling demonstrate that the Fox Hill junction with Bradford Road will continue to operate within its design capacity during the morning and afternoon peak hours. The impacts of the development are seen most clearly in terms of those vehicles seeking to leave via Fox Hill onto Bradford Road, with the development resulting in the wait time to leave the junction increased from around 45 seconds in the peak hours to 1 minute. This level of increased delay is not assessed to have a severe impact on the operation of the junction and the modelling suggests that the junction could accommodate higher vehicle flows. In considering the Entry Hill junction with Bradford Road, the assessment also shows that this junction will continue to operate within capacity with additional queueing times of up to 30 seconds as a result of the development in the peak hours. The proposal would result in the junction operating at approximately 85% of capacity. As such, there is little room to accommodate further growth, however, the

impact of the development is not severe. Given both junctions have been demonstrated to operate within capacity, it is clear that there is no 'need' for an additional access point onto Bradford Road in the future to assist with the distribution of traffic.

As stated above, consideration has been given by the applicant to the potential of closing Hawthorn Grove at its junction with Entry Hill. This was undertaken given the concern of potential 'rat-running'. The applicant notes that the modelled increase in traffic using Hawthorn Grove amounts to approximately 23 vehicles in the peak hours. This is considered to be a negligible increase. They also note that there are no recorded road collisions on this part of the highway network over the 10-year period 2005-2015. The implications of closing Hawthorn Grove to through traffic at its western end would increase the length of trips owing to the alternative (using Fox Hill) being longer. In addition, it would put increased pressure on Fox Hill/Bradford Road junction, reduce permeability and require the diversion of the existing No. 20 bus service. The conclusion of the applicant is that the dis-benefits of closing the western end of Hawthorn Grove far outweigh the potential benefit (the reduced level of traffic). The Council's Highways officer has reviewed this part of the assessment and agrees with the conclusions reached. The increased level of traffic use on Hawthorn Grove resulting from the proposal is not assessed to be significant and given this and the existing good safety record on the junctions concerned, there is assessed to be no material benefit that would outweigh the dis-benefits.

Therefore, in summary, the uplift in dwelling numbers proposed will have a negligible impact on the immediate highway network. All immediate junctions will continue to operate within their design capacity taking account of the development and committed development at Mulberry Park. As such, the level of additional traffic likely to arise can be safely accommodated on the highway network without any severe impact. As such in highways terms there is assessed to be no conflict with the development plan or NPPF.

The applicant has identified, with the agreement of the Highways officer, that a Travel Plan for the site would be best prepared in conjunction with that already approved by the Local Planning Authority for Mulberry Park, rather than having a separate document. Key measures within the Travel Plan would include:

- o Provision of a Travel Information Pack to residents (to include walking and cycling amps, public transport information etc.)
- o Sustainable travel vouchers (£100 per bedroom)
- o Arrangement of travel events by a Travel Plan Co-ordinator (including walk to work week, Bike Week, Car Free Day etc.)
- o Promotion of car sharing
- o Provision of Car Club Spaces
- o Provision of electric vehicle charging points

This framework for the travel plan has been previously assessed to be acceptable for Mulberry Park and is considered to be equally acceptable for Foxhill Estate. The Travel Plan has the ability to support sustainable transport objectives and increase the use of alternative modes of transport rather than the private car. The travel plan can be secured through the S106 agreement. In this regard the proposal accords with Policy ST7 of the emerging Placemaking Plan.

The application is in outline only, with access layout and other matters reserved for future approval. The applicant suggests that increased permeability through the site and to the site can be achieved through redevelopment. The illustrative layout provided by the applicant suggests that the primary road network, including Queens Drive, Hawthorn Grove and Sedgemoor Road would be retained. This would retain the principle roads through the estate and those that existing bus services utilise. The future site layout would need to ensure the ability for the bus service to continue to operate through the site both long term and also during construction. The illustrative layout has been designed, as set out by the applicant, to seek to increase the permeability of the estate and to better integrate it into the surrounding area. This in particular, concentrates on better linkages to Mulberry Park and the community and educational facilities already committed there. This is identified by the applicant as a significant benefit of the proposal. It is accepted that increased permeability of the site with the surrounding area would be a benefit of the proposal and would also assist in better integration between communities. However, improvements to permeability are closely tied with the layout of the development which is a matter reserved for future approval albeit the principles can be secured by condition. Improvements to permeability can undoubtedly be delivered, but the scope and scale of improvements can and will be limited by the extent of development delivered. Given the objectives set for the site in the Design and Access Statement, delivery of improved permeability particularly pedestrian and cycle permeability can be secured through condition (controlling design objectives) and future reserved matters. As such the benefits of enhanced permeability can be given some weight in the planning balance.

In respect of parking, whilst noting the outline nature of the application, the Transport Assessment and illustrative layout, indicate provision of 848 car parking spaces to serve the 700 dwellings (1.2 spaces per dwelling). The parking proposed is suggested to be a mix of both allocated and unallocated parking for residents, on the basis of one space for 2 or 3 bed dwellings, two spaces for 4 bed dwellings and flats having unallocated parking. This total level of provision is marginally below what the DCLG statistics would suggest is required (860) and those in the emerging Placemaking Plan, which promote 1 space per one bed dwelling, 2 spaces per two or three bed dwelling and 3 spaces for four bed dwelling or larger. However, this has not attracted an objection from Highways officers. In this regard officers are aware that the change in tenure and social mix of units would be likely to result in an increased demand for parking. It is noted that highways officers have identified that the site is well served by public transport, with a bus route migrating through the site. Provision of secure cycle parking would also be a requirement for every new dwelling. Furthermore, the provision of a Travel Plan and incentives, as well as car club parking and electric car charging points through the S106 has the ability to positively influence the modes of transport from the outset. Fundamentally, the outline planning permission, given all matters are reserved does not fix parking levels at this stage. Parking requirements can be appropriately dealt with by condition and at reserved matters stage.

The rights of way officer has confirmed the presence of numerous rights of way across the site. They have not raised any objection to the proposal and the applicant is aware that existing rights of way including paths and roads, where not retained, will require to be either stopped up or diverted in the future.

Subject to the imposition of conditions and securing the agreement of the Travel Plan through the S106 agreement it is considered that the development is acceptable from a highways perspective.

## 6. OPEN SPACE

The application is accompanied by an Open Space Statement provided by the applicant which identifies existing open space on site, the levels of open space proposed and sets the site in its context. The applicant makes the case that within the existing application site the levels of open space are very poor, only 0.183ha, but that there is significant provision of natural green space and park/recreational areas provided in the immediate locale. In this regard attention is drawn to Springfield Park which adjoins the site and that the Council's 2015 Green Space Strategy identifies a surplus of natural green space in the area. In this regard, it is accepted that there is reasonable provision immediately adjoining the application site. The applicant also draws attention to the new areas of natural green space and park areas being provided at Mulberry Park. These areas will be in close proximity to the application site, but are areas of open space which were required to meet the needs of that development and, as such, in the view of your officer cannot be relied upon to meet the needs of the redeveloped Foxhill.

Although all matters are reserved for future approval, the applicant, as part of the proposed parameters, identifies 0.68ha of open space to be provided. This is to be formed of 0.55ha of amenity green space and 0.13ha of children's play space. This is an increase in open space of approximately 0.6ha on the application site and is an improvement when compared to existing provision but falls short of the 1.19ha which the Parks and Green Spaces Team considers is required. The parameter plans and illustrative masterplan show the space distributed across the site in several smaller areas and for these to include Local Areas of Play (LAP). This nature of provision given the existing larger spaces nearby, such as Springfield Park, is accepted by your officer as an appropriate presentation of space. This can be controlled through reserved matters and through the S106 to ensure there is no net loss of affordable space and that new provision does not fall below cumulative requirements.

The Council's Parks and Landscape team suggest that relying upon Springfield Park for provision of parks and recreational space to meet the needs of the development is inappropriate if green infrastructure links to the space are not provided. In addition, where such links can be provided they identify that S106 contributions should be provided to enhance the park and to mitigate for the impact of additional users. Looking at these matters in turn the illustrative plan fails to show Green Infrastructure across the site to meet the aspirations of the Council. However, the layout and provision of open space is not fixed at this point. Detailed layout can be controlled through reserved matters and can include ensuring the delivery of better Green Infrastructure. As discussed in relation to other issues, this is a complicated proposal where given the uncertainty over land ownership, it is simply not possible at this outline stage for the applicant to commit to specific areas being devoted to providing Green Infrastructure. In addition, with the exception of Springfield Park to the north, the site is otherwise enclosed by existing development. As such, creating links from one existing Green Space to another is not possible. The Design & Access Statement makes a commitment to delivering Green Spaces across the site and to link these through tree lined streets. The principle being to draw people through the site towards Springfield Park and also to the new park at

Mulberry Park to the east. This strategy is supported but reserved matters would need to clearly demonstrate that this is being achieved in a cohesive manner notwithstanding issues around land ownership and that the Green Infrastructure linking the spaces is of a size and nature to be viable. In this regard, it is considered that viable and appropriate links to Springfield Park can be delivered and secured by condition and controlled as necessary through reserved matters.

Turning to consider the potential for financial contributions, the viability of the project was discussed earlier in this report. The conclusion that was reached is that the scheme is not viable as a standalone scheme and can only reasonably be delivered through cross subsidy from Mulberry Park. The applicant has committed to delivering 30% affordable housing through a S106 agreement. The conclusion of the viability report (which has been independently reviewed) is clear that beyond this the proposal as a standalone project cannot bear the cost of further financial contributions.

Turning to consider allotments and growing space, these are seemingly intertwined by the applicant but, having regard to the Placemaking Plan, should have been considered separately. The illustrative proposals suggest that growing space or allotments can be provided on site up to 0.1 ha in size. This can be controlled through condition and future reserved matters as appropriate. As discussed above the provision of contributions for further off-site provision cannot be borne by this development owing to viability.

In summary, the proposal seeks to increase the overall levels and quality of open space on the site and this can be secured by condition and through the S106 agreement. The design and layout of open spaces and how they link to provide site wide Green Infrastructure as well as better links to existing open spaces again can be controlled by condition at the reserved matters stage. The quantum of open space can be controlled through the S106 Agreement.

## 7. ECOLOGY

Policy CP6 of the Core Strategy seeks to protect and enhance sites and existing networks of valued habitats. Policy NE3 of the emerging Placemaking Plan seeks to resist development that would adversely affect internationally or nationally protected species and/or their habitats except in certain exceptional circumstances.

Policy NE5 of the emerging Placemaking Plan requires development proposals to contribute to ecological networks through habitat creation, protection, enhancement, restoration and/or management. These policies align with the saved local plan policies notably NE9, NE10 and NE11 and reflect national guidance in the NPPF.

The site is not subject to any ecological designations. However, the nearby Springfield Quarry to the west of the application site is part of the Bath and Bradford on Avon Bats Special Area of Conservation (SAC). In addition, the Lyncombe Vale Site of Nature Conservation Interest (SNCI) is to the north. Bats are a protected species. In recognition of this, the application is accompanied by ecological surveying and assessment, this concludes that the site lacks significant habitat of value.

Surveying for protected species has identified limited bat activity on the site. This is not unexpected given the considerable level of existing development and artificial lighting coupled with the lack of suitable habitat. The extent of surveying whilst considered



acceptable given the outline nature of the proposal, would require to be updated and targeted at reserved matters stage before any development commenced on the site. This precautionary approach can be satisfactorily controlled by condition. What is clear from the surveying undertaken to date is that the proposed development is considered unlikely to be capable of a "likely significant effect" on the nearby SAC.

As part of the amendments and additional information provided, a lighting strategy and illustrative lighting plan have been submitted to allow an appreciation of the likely effects of lighting in terms of ecology. It should be acknowledged that the existing site is developed and lit with street lighting, it is not therefore a dark site. The submitted lighting information demonstrates that light levels from the development are unlikely to have any significant effect on protected species. The principles set out in the submitted strategy can be conditioned to ensure the impacts of lighting are appropriately controlled and deliver some ecological benefits.

It is noted that objectors have advised that they believe there are bat roosts on the site. In this regard the submitted assessment concludes that there is an absence of maternity roosts of sufficient significance for the conservation status of the affected species to be harmed. This is based upon the survey data to date, and this position has been accepted by the Council's ecologist. The precautionary approach of further surveying would ensure that account is taken of more detailed surveying and any changes over time.

On the basis of the ecological assessment undertaken to date it is concluded that the proposal accords Policy CP6 of the Core Strategy, saved policies in the local plan and NE3 of the emerging Placemaking Plan.

## 8. OTHER CONSIDERATIONS

### Residential Amenity

Some issues related to residential amenity are tightly linked to urban design matters. A number of residents immediately adjoining the application site have raised concerns that the parameters proposed in the outline planning application would result in an adverse impact on their properties through overlooking, loss of privacy, overshadowing and changed outlook for example. These are legitimate concerns and valid in consideration of the proposals. Where it has been considered that the proposed parameters were completely unacceptable from an amenity perspective, officers have sought the reduction in proposed maximum building heights, notably along Queens Drive. Generally, but not everywhere, the scale of development proposed where it adjoins existing properties outside the site, development is limited to indicatively 2 or 3 storeys. It must be acknowledged that the outline planning application sets maximum parameters for building heights across zones/areas only. It does not guarantee that buildings up-to those maximum parameters will be acceptable. It would be at the reserved matters stage for the detailed design of buildings to be brought forward having regard to the amenity of existing and future occupiers and in line with the fixed parameters. Should reserved matters applications fail to take adequate account of issues such as residential amenity they can be refused.

Whilst fully appreciating the concerns expressed by residents about residential amenity, at this outline stage it is assessed that the amenity residents can be satisfactorily controlled through conditions including reserved matters.

### Archaeology

The application site is identified as being within a significant historic landscape. The archaeological assessment submitted with the application suggest that given the extent and nature of development across the estate that any archaeology of value will have already been destroyed. Whilst it is true to say there has been significant development across the site, there are areas of open space and gardens which have the potential to have undisturbed archaeology within them. Given this and the previous finds on the site and in the immediate vicinity, it is considered necessary to impose archaeological conditions in line with the consultee comments. This will offer the opportunity to ascertain if any archaeology of importance remains on the site and if there is, to record it.

### Green Belt

Some objectors have raised concerns about the impact of the proposed development upon the Green Belt. The site is not within the Green Belt, nor does it directly adjoin it. However, the site is visible from the Green Belt both from the north and south. Policy CP8 of the Core Strategy in line with National guidance in the NPPF is clear that the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open. In this regard the application is urban land and its proposed development has no direct impact on the permanence or the openness of the Green Belt, nor the purposes of including land within the Green Belt.

### Cotswolds AONB

The Cotswolds AONB like the Green Belt wraps around the application site to the north and south but the designation does not directly abut the site. A number of the viewpoints assessed in the LVIA were from within the AONB and where this is the case the increased sensitivity of the receptor to the development has been taken into consideration. Policy CP6 of the Core Strategy and NE2 of the emerging Placemaking Plan seek to conserve or enhance the distinctive landscape character and quality of landscapes including the Cotswold AONB. Paragraph 115 of the NPPF also confirms that great weight should be given to the conserving landscape and scenic beauty in AONB's. Existing development on the site is already visible from some vantage points. As such it is understanding any increased impact on the setting of the AONB resulting from a larger amount of development being visible on the site, or whether in some cases, the more intensive and higher development now proposed makes the site visible when it wasn't before. In this regard, the increased height of development proposed within the site will undoubtedly make the site more visible as discussed in this report in respect of the WHS and Conservation Area. Immediate views from the AONB north of the site are unlikely to be impacted given the angle of view and existing intervening tree screening on the slopes of Springfield Park. From further to the north on the opposite side of the City but within the AONB, existing development on the Foxhill Estate is already perceived on the plateau. The degree of change associated with the development parameters at this distance is limited. The appreciation of this view and the change resulting from the proposal to the setting of the AONB which takes in a very wide vista of the City is assessed to be negligible. The other main area of particular relevance to the AONB is the previously discussed views from the south of the site on Midford Road. Views from this area within the AONB back towards the City would be subject to a higher level of change owing to the

maximum parameters proposed and the proximity of the site to the receptor. This area of the AONB provides the transition from the rural landscape south of the City to the suburban edge of Combe Down and Foxhill Estate beyond. Even with this greater level of change to the setting of the AONB this is not assessed to undermine the special qualities of the AONB or its tranquillity. As such the distinctiveness and natural scenic beauty of the AONB will be preserved in accord with the development plan and guidance in the NPPF.

### Education

The proposed uplift in dwelling numbers and indicative dwelling mix has been considered by officers in Education Services to assess the potential increase in educational requirements arising from the development compared to the existing situation. The conclusion of this assessment is that the proposals would lead to an increase in children across the development up to:

- o Under 1 year - 3.5 children
- o Aged 1-2 years - 3 children
- o Aged 3-4 years - 13 children
- o Primary school - 46.5 children
- o Secondary school - 26 children
- o 16 + years - 7.7 children
- o Youth - 11.9 children

This maximum uplift in children, based on projections and the indicative mix, can be accommodated within existing educational establishments in the vicinity based on education services assessment. Of note, officers have calculated that the increase in primary school aged children can be accommodated within local schools including through an expanded St Martin's Garden Primary school.

On this basis, no objection is raised to the proposal from Educational Services.

Public Rights of Way - The public rights of way team have identified a number of public rights of way, roads and footpaths across the application site. They raise no objection to the proposed redevelopment but clarify that existing routes should be retained or where they need diverting will require to be submitted to the Secretary of State. The applicant's attention will be drawn to this through an advisory note.

### Contamination

The ES assesses the likely significant effects of the development in respect of contamination. This concludes that with appropriate mitigation there would be no significant effects either during the demolition/construction phase or operational phase.

The ground investigation work undertaken by the applicant was a desk top exercise and concluded that notwithstanding the previously developed nature of the site, there was the potential for contamination to be present within the site. The study also identified that former quarries on the site had been backfilled and that further investigation of these was warranted. In recognition of this, the report recommends further investigatory work be undertaken. This view is shared by the councils contaminated land officer who recommends that any grant of planning permission is conditional on further site

investigation and risk assessment and subsequent agreement and undertaking of a remediation scheme as necessary.

#### Noise and Vibration

As part of the ES submitted with the application an assessment of the potential significant effects of noise and vibration has been undertaken. This assessment concentrated the demolition and construction phase of the development rather than the operational phase (completed development). This is accepted given that the land uses proposed reflect those currently on the site and that the proposed uses are not noisy in nature. In respect of the limited increase in traffic movements owing to the uplift in homes across the site, again this was considered unlikely to be significant.

In terms of the demolition and construction phase the ES identifies that without mitigation some receptors close to the development site could experience noise levels of major adverse significance. Vibration impacts were assessed to be of minor to moderate significance. Consideration was also given to the cumulative effects with Mulberry Park. Consequently, the ES recommends mitigation measures to reduce the effects. Such mitigation measures can be adequately controlled by planning condition. On this basis, there are not assessed to be any long or short term unacceptable impacts arising from the development in respect of noise or vibration.

#### Air Quality

Similar to noise and vibration, the likely effects on air quality arising from the development are considered to most likely during the demolition and construction phase. The ES recommends mitigation measures be employed to minimise impacts on air quality. Again, this can be controlled satisfactorily through planning condition.

Post development consideration of the effects of the uplift in dwellings has been given to air quality, notably owing to the uplift in vehicle numbers. Testing undertaken by the applicant concluded that the levels of nitrogen dioxide and particulate matter would even when considered cumulatively with Mulberry Park have a negligible effect on air quality. All levels would be well within air quality standards and as such no mitigation was required. Therefore, there is no conflict with the development plan in respect of this matter.

#### Flood Risk and Drainage

Dealing firstly with Flood Risk. The site is located within Flood Zone 1 where there is less than a 1 in 1,000 annual probability of flooding. Development in flood zone 1 is appropriate. No objections have been raised to the proposal based on flood risk. All consultees who have responded in this regard are content that as set out in the submitted Flood Risk Assessment the outline planning application is acceptable and subject to conditions, will not result in increased risk of flooding either on site or elsewhere.

Similarly, drainage as proposed is assessed to be acceptable. Wessex Water and the Council's drainage officer are both content with such matters subject to compliance with standard conditions. In regard to drainage, the proposed redevelopment of the site has the ability to deliver benefit to the current drainage system. Areas of the existing estate have surface water drains that go straight into the foul system. Removal of such links and provision of surface water drainage through soakaway has the ability to deliver betterment

to the existing system and reduce the potential for the system being overloaded in periods of heavy rainfall.

## **OFFICER ASSESSMENT CONCLUSIONS**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that for the purposes of making decisions under the Town and Country Planning Act, decisions must be made in accordance with development plan for the area unless other material considerations indicate otherwise.

The application has been assessed against the policies of the statutory development plan and no direct conflict with the statutory development plan has been identified.

The development would make a net contribution of 158 dwellings in accord with Policy DW1 and B1 of the Core Strategy.

In regard to Policy H8 of the emerging Placemaking Plan, the principle of regeneration of the estate has been accepted. The application as proposed would result in a considerable net loss of affordable homes on the application site. Notwithstanding this Policy H8 is permissive of such scenarios, where viability and social balance considerations apply. That is assessed to be the case here. The independent viability assessment very clearly demonstrates that the application as a standalone scheme makes a significant loss. In addition, the applicant has made a strong and evidenced case of the social benefits delivered through comprehensive regeneration of the estate. The proposal is therefore assessed to be compliant with Policy H8.

The proposal would deliver a mix of market and affordable housing which would lead to a more sustainable and balanced community in line with the aspirations set out in the Development Plan, notably Policies SD1 and CP10.

In terms of heritage assets, less than substantial harm to the WHS and Bath Conservation Area was identified to result from the development. That level of harm was assessed to be outweighed by the public benefits arising from the regeneration. As such, the proposal is assessed to accord with Policy B4 of the Core Strategy.

In terms of other matters, no conflict is assessed to arise from the development in respect of highways matters, flood risk, open space, residential amenity, ecology, noise, vibration or air quality.

The Core Strategy identifies a strong presumption in favour of sustainable development as set out in Policy SD1. Delivery of a mixed and balanced communities is an integral part of that and would be directly achieved through this application.

Accordingly, subject to the satisfactory agreement of the S106 and conditions as identified the application is considered to be acceptable and comply with the provisions of the development plan. That being the case, planning permission should be approved unless material considerations indicate otherwise. Such material considerations include national guidance in the NPPF, the Housing Zone, Foxhill Regeneration and Development Charter and also the effect of the reduction in affordable homes within the application site.

No conflict has been identified with policies in the NPPF. The purpose of the Housing Zone is to seek to deliver accelerated housing growth. The application would contribute towards this, delivering up to 158 additional homes. In terms of the Charter, as joint signatories to it, Bath and North East Somerset Council support the aspiration to improve the Foxhill Estate. Whilst there are less dramatic methods of seeking to improve the estate than the comprehensive regeneration proposed by Curo, less 'interventional' approaches are assessed unlikely to deliver the considerable 'step change' that is aspired to in improving the long-term outlook for the estate. As such, these material considerations weigh in favour of the proposals and do not indicate a decision should be taken contrary to the development plan.

The final principle material consideration is the effect of the reduction of affordable housing within the site. The net loss of affordable homes is assessed for the reasons identified to accord with Policy H8, however the effect of every affordable unit being re-provided on the site is capable of being a material consideration. In looking at the site in isolation, it is clear that not all those who currently reside in affordable homes within the application site can be re-accommodated with the site. This will inevitably have some impacts on social groups and community links. This is assessed to be mitigated by the timing of the application, which is assessed to offer the best opportunity to limit the social impacts of regeneration of the Foxhill Estate by homes on Mulberry Park immediately adjacent the site being available. However, notwithstanding this harm weighs against the proposal.

Related to the timing of development of Mulberry Park and Foxhill Estate, Curo identify that surpluses from development at Mulberry Park are to be used to subsidise the regeneration of Foxhill Estate. They identify that any surpluses made, if not used promptly, would necessarily need to be utilised in other projects, which could logically include maintaining the existing housing stock on the Foxhill Estate. This would make comprehensive regeneration of the estate far less likely in the future. The implication being that the scale of regeneration in the future would need to be significantly reduced and therefore the impacts on the quantum of affordable housing may be greater owing loss of economies of scale. In this regard, Members are reminded of the existing poor viability of the proposal.

In conclusion, the comprehensive regeneration of the estate as proposed is assessed to accord with the statutory development plan. The balance of material considerations weigh in favour of the application. Accordingly, subject to the satisfactory agreement of the S106 and conditions as identified the application is recommended for approval.

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

0 1.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to secure:

- a) 30% on-site affordable housing
- b) provision of open space
- c) targeted recruitment and training

d) travel plan

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

1 (a) No part of the Outline Application hereby permitted shall be commenced unless and until an application or applications for the matters reserved by this planning permission in respect of that part of the Development have been submitted to and approved in writing by the Local Planning Authority and the reserved matters application or applications shall include detailed plans, sections and elevations (including accurate visual representations) showing:

- o Access
- o Layout
- o Scale
- o Appearance
- o Landscaping

(b) Application(s) for approval of the matters reserved by this planning permission must be made not later than the expiration of 8 years from the date of this decision notice

(c) The Outline Application hereby approved shall be begun either before the expiration of 5 years from the date of this permission, or before the expiration of 2 years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and to avoid the accumulation of unimplemented planning permissions.

2 All reserved matters applications shall be accompanied by a Design Statement identifying how they align with the Area Wide Design Principles and Design Principles for the Character Area/s in which they are located, as set out in the submitted Design and Access Statement (as amended) prepared by HTA dated May 2017. The Design Statement shall have first been submitted to and approved in writing by the Local Planning Authority. Development should thereafter proceed in accordance with the approved design statement

Reason: In the interests of the appearance of the development and the character and appearance of the area and to ensure the effects of the development accord with that assessed.

3 All reserved matters applications shall be accompanied by a statement demonstrating how they contribute to delivering the benefits of the scheme as set out in the 'Planning Statement' (Chapter 8 and summarised at Paragraph 9.6) 'prepared by Barton Willmore and dated May 2017.

Reason: In the interests of ensuring the development proposed delivers the benefits identified in the application.

4 This outline planning permission relates solely to the description of development set out above and in the Application Plans and Documents attached to this planning permission. All reserved matters applications shall accord with the following approved parameter plans forming part of the application except where specific listed conditions in this permission require otherwise:

- o Amount - EXX-0100 Rev D
- o Heights - EXX-0102 Rev O

Reason: To ensure that the amenities of the site and the impact of the development on the surrounding area are safeguarded and appropriately mitigated.

5 All floorspace figures, building heights (based on AOD levels) and housing numbers stated in the application plans and documents attached to this permission are hereby deemed as maximum parameters used for the Environmental Impact Assessment. They shall not be exceeded and this permission shall not be deemed to indicate that those maximum development parameters are necessarily achievable at the reserved matters stage.

Reason: To ensure the effects of the development accord with that assessed.

6 Details of the existing and finished site levels and floor levels (based on AOD levels) shall be submitted to and approved in writing by the Local Planning Authority at each reserved matters stage and before development commences. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: To ensure that the amenities of the site and the impact of the development on the surrounding area are safeguarded and appropriately mitigated.

7 A schedule of demolitions and new build shall be provided at each reserved matters phase prior to commencement of development on that phase. The schedule shall demonstrate that each phase will result in a net increase of dwellings on the site.

Reason

To ensure that phased delivery does not result in a net loss of dwellings on the site in accord with Placemaking Plan Policy H5.

8 No development above slab level shall commence within any individual part of the development until a schedule and sample of all materials to be used in the construction of the external surfaces including elevations, windows, doors, roofs of buildings of that part of the development have been first submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

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

9 No development shall commence within any individual part of the development until details of hard landscape materials for that part of the development have been submitted



to and approved in writing by the Local Planning Authority. The details shall include all walls, fences and other boundary treatments/means of enclosure and finished ground levels; details of the surface treatment of the open parts of the site; roads, footpaths, cycleways and driveways and a programme of implementation. The development shall thereafter be carried out only in accordance with the details so approved.

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

10 No development shall commence within any individual part of the development until details of the open spaces and the planting scheme for that part of the development have been first submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all trees, hedgerows and other planting which are to be retained; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; details of the surface treatment of the open parts of the site; and a programme of implementation.

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

11 Trees identified to be retained in the Tamala Tree Removals Plans (ref: 02512P\_TRP\_01/A, 02/A, 03/A and 04/A) and the following trees and groups of trees: TG1, T13, T17, T29, T101, T102, identified on the same, shall be retained as part of future reserved matters proposals unless otherwise first agreed in writing with the Local Planning Authority.

Reason: To ensure the provision of an appropriate landscape setting to the development which contributes to the green setting of the City of Bath.

12 All hard and/or soft landscape works shall be carried out in accordance with the approved details. The landscape works for approved shall be carried out prior to the occupation of that part of that development or in accordance with the programme agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of 5 years from the date of the scheme being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

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

13 No development shall take place on any individual part of the development until an arboricultural method statement with tree protection plan identifying measures to protect the retained trees in that part of the development (including those identified through Condition 11) during construction has been submitted to and approved in writing by the Local Planning Authority. The statement shall include proposed tree protection measures during site preparation (including clearance and removal of hard surfacing). The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, and movement of people and machinery.

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

14 No development activity shall commence on any individual part of the development until the protective measures as stated in the approved arboricultural method statement, for that part of the development, and tree protection plan have been implemented. The local planning authority is to be advised in writing two weeks prior to development commencing of the fact that the tree protection measures as required are in place and available for inspection.

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

15 Any application for reserved matters shall be accompanied by a detailed lighting scheme to be submitted to the Local Planning Authority for approval. The scheme shall be based on the principles established through the submitted 'Philip Lighting Proposal Statement' and illustrative Lighting Layout dated 04.05.17. The scheme shall include:

- o Full specifications of street lamps, positions, numbers and heights
- o Details of predicted lux levels and light spill, including measures to prevent light spill onto nearby vegetation to avoid potential harm to bat activity
- o A dimming regime for night hours to be agreed with Natural England, B&NES Ecological Officers and the Local Planning Authority
- o Details of a timetable to be agreed for implementation of the lighting scheme

The approved Lighting Scheme shall be implemented and thereafter maintained as specified unless otherwise agreed in writing with the Local Planning Authority.

Reason: To avoid harm to bats and wildlife in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policy NE.3 of the Bath and North East Somerset Placemaking Plan.

16 Any application for reserved matters shall be accompanied by a Landscape and Ecological Management Plan (LEMP) for that part of the development. The LEMP for each phase shall be consistent and compatible with a site wide strategy, details of which shall have been submitted to and approved in writing by the local planning authority, and shall include:

- (i) Details of all wildlife friendly landscape planting and habitat provision, to also be shown on all relevant plans and drawings
- (ii) Details of proposed long term management specifications, duration, method, timing and frequency of works, and responsibilities and resourcing, for all areas of habitat which must also be clearly shown on a plan
- (iii) Details of proposed long term monitoring of ecological measures, bat activity and light level compliance monitoring

All works within the scheme shall be carried out in accordance with the approved details and an agreed timetable unless otherwise approved in writing by the local planning authority.

Reason: To secure long term provision maintenance and monitoring of ecological and protected species mitigation measures in line with the approved ecological assessment

17 No site clearance or development work, including demolition, shall take place within any part of the development until full details of a Wildlife Protection and Enhancement Scheme for that part of the development have been submitted to and approved in writing by the local planning authority. These details shall include:

- i. completed updated protected species survey and assessment, including, but not limited to, bats and badgers, by a suitably experienced ecologist (licenced bat worker) in accordance with current best practice guidance
- ii. detailed proposals and method statements as required to avoid harm to wildlife including protected species and retained habitats and vegetation, in light of updated and previous survey findings, to include: timing of works; pre-commencement checks and ecological watching briefs and supervision; precautionary working methods for site clearance and demolition; and fencing specifications for exclusion zones to be shown on a scale plan, within which no development works storage of materials or excavation shall take place
- iii. details of proposed mitigation and compensation measures in the light of updated and previous survey findings, and proposals for additional measures to benefit wildlife, including incorporation of bird and bat nesting opportunities into landscaping and into the fabric of buildings, all details of which shall be fully incorporated into the scheme and shown on all relevant plans and drawings. All such details must be compatible and consistent the LEMP and all other related documents

All works within the scheme shall be carried out in accordance with the approved details prior to the commencement of that part of the development and in accordance with a timetable to be first agreed in writing with the Local Planning Authority.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policy NE.3 of the Bath and North East Somerset Placemaking Plan.

18 No occupation of any part of the development hereby approved shall commence until a report produced by a suitably experienced ecologist confirming and demonstrating, using photographs where appropriate, completed implementation of the approved Wildlife Protection and Enhancement Scheme for that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the implementation and success of the Wildlife Protection and Enhancement Scheme to prevent ecological harm and to provide biodiversity gain in accordance with policies NE.10 and NE.11 of the Bath and North East Somerset Local Plan.

19 No development within any individual part of the development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation for that part of the development which has first been submitted to and approved in writing

by the Local Planning Authority. The programme of archaeological work should provide a field evaluation of the site to determine date, extent, and significance of any archaeological deposits or features, and shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

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

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

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

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

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

22 No development shall commence within any individual part of the development until an investigation and risk assessment of the nature and extent of contamination for that part of the development and its findings has been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. The assessment must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11' and shall include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - o human health,
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and
  - o service lines and pipes,
  - o adjoining land,
  - o groundwaters and surface waters,
  - o ecological systems,

- o archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover harmful contamination. Therefore, these details need to be agreed before work commences.

23 No development within any individual part of the development shall commence until a detailed remediation scheme to bring that part of the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment, has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required. The scheme shall include:

- (i) all works to be undertaken;
- (ii) proposed remediation objectives and remediation criteria;
- (iii) timetable of works and site management procedures; and,
- (iv) where required, a monitoring and maintenance scheme to monitor the long-term effectiveness of the proposed remediation and a timetable for the submission of reports that demonstrate the effectiveness of the monitoring and maintenance carried out.

The remediation scheme shall ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

The approved remediation scheme shall be carried out prior to the commencement of development, other than that required to carry out remediation, or in accordance with the approved timetable of works.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework. This is a condition precedent because the works comprising the development have the potential to uncover harmful contamination. Therefore these details need to be agreed before work commences.

24 No occupation shall commence within any individual part of the development until a verification report for that part of the development (that demonstrates the effectiveness of the remediation carried out) has been submitted to and approved in writing by the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required.

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

25 In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. Thereafter an investigation and risk assessment shall be undertaken, and where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report (that demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.

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

26 No part of the development shall commence, except ground investigations and remediation, until infiltration testing and soakaway design in accordance with Building Regulations Part H, section 3 (3.30) have been undertaken to verify that soakaways will be suitable for that part of the development. If the infiltration test results demonstrate that soakaways are not appropriate, an alternative method of surface water drainage, shall be submitted to and approved in writing by the Local Planning Authority and installed prior to the occupation of the development.

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because it is necessary to understand whether soakaways are appropriate prior to any initial construction works which may prejudice the surface water drainage strategy.

27 In the event SUD's are not suitable for the discharge of surface water for a part of the development that part of the development shall not commence, except ground investigations, until written confirmation from the sewerage company (Wessex Water) accepting any surface water discharge into their network including point of connection and rate for that part of the development has been submitted to the Local Planning Authority. If the sewerage company are not able to accept the proposed surface water discharge, an alternative method of surface water drainage, which has first been submitted to and approved in writing by the Local Planning Authority, shall be installed prior to the occupation of the development.

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because it is necessary to understand whether the discharge rates are appropriate prior to any initial construction works which may prejudice the surface water drainage strategy.

28 No part of the development shall commence until plans showing overland flow routes with flood depths and velocities for that part of the development have been submitted to

and approved in writing with the Local Planning Authority. Development shall thereafter proceed in accordance with the approved details.

Reason: In the interests of Flood Risk and Drainage Management and in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan.

29 Any application for reserved matters shall include details of the street lighting, street furniture and any other alterations and/or amendments to the existing highway infrastructure for that part of the development. The development shall thereafter be carried out only in accordance with the details so approved by the Local Planning Authority and shall be retained thereafter.

Reason: To ensure that the roads and public highway are designed, laid out and constructed to an adoptable standard and in the interests of the appearance of the development and the character and appearance of the area.

30 No part of the development shall be occupied until junctions on the internal access roads serving that part of the development have been constructed with no obstruction to visibility at or above a height of 900mm above the nearside carriageway level. The visibility splays shall therefore be maintained free of obstruction at all times.

Reason: To ensure sufficient visibility is provided in the interests of highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

31 No part of the development hereby permitted shall be occupied until details of pedestrian/cycle links for that part of the development have been provided and a programme for their implementation have been submitted to and approved in writing by the Local Planning Authority. The links shall thereafter be maintained free of obstruction at all times.

Reason in the interests of amenity and sustainable development

32 No individual plots shall be occupied until their access and parking provision has been laid out using a properly consolidated surface material. Once provided the access and parking provision shall be kept available for parking and free of obstruction in perpetuity.

Reason: To ensure that adequate and safe parking is provided in the interests of amenity and highway safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

33 No commercial development shall be occupied until car parking to serve it has been constructed and laid out in accordance with details to be first submitted to and approved in writing by the Local Planning Authority. The car parking area shall thereafter remain solely for use as parking in perpetuity.

Reason: To ensure that adequate and safe parking is provided in the interests of amenity and highway safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

34 No occupation of any part of the development shall commence until bicycle storage for that part of the development has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.

Reason: To secure adequate off-street parking provision for bicycles and to promote sustainable transport use in accordance with Policy T.6 of the Bath and North East Somerset Local Plan

35 On completion of the works but prior to any occupation of that part of the approved residential development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise in accordance with BS8233:2014. The following levels shall be achieved: Maximum internal noise levels of 35dBLAeq, 16hr and 30dBLAeq, 8hr for living rooms and bedrooms during the daytime and night time respectively. For bedrooms at night individual noise events (measured with F time weighting) shall not (normally) exceed 45dBLAmax.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

36 No part of the development shall commence until a Construction Management Plan for that part of the development has been submitted to and approved in writing by the Local Planning Authority and shall include details of:

- o deliveries (including storage arrangements and timings),
- o contractor parking,
- o traffic management,
- o working hours,
- o site opening times,
- o wheel wash facilities and
- o site compound arrangements.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity. development shall thereafter be undertaken in accordance with the approved details

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

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



38 Prior to commencement a flood risk assessment and detailed drainage strategy needs to be provided to and approved by the Local Planning Authority. This needs to address any potential flood risk to the site and how this will be managed. The drainage strategy needs to detail how surface water will be disposed and should follow the Sustainable Drainage requirements as set out in the West of England SuDS Guide and the non-statutory technical standards.

Reason: To prevent an increase in flood risk to the site and surrounding land

39 The development shall not be commenced until a foul water drainage strategy is submitted and approved in writing by the local Planning Authority in consultation with Wessex Water acting as the sewerage undertaker

- o a drainage scheme shall include appropriate arrangements for the agreed points of connection and the capacity improvements required to serve the proposed development phasing,
- o the drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the local planning authority.

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

40 Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses shall be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.

Reason: To prevent pollution of the water environment.

41 No uses falling within Use Classes A1, A3, A4 or A5 shall be open to customers other than in accordance with an opening hour's statement (detailing the hours of opening for the specific unit/s) which has first been submitted to and approved in writing by the Local Planning Authority.

Reason: To protect the amenity of the locality, especially for people living nearby.

42 No uses falling within Use Classes A3, A4 or A5 shall commence until a detailed scheme for the ventilation and extraction of fumes/cooking smells has been submitted to and approved in writing by the Local Planning Authority. The scheme shall specify the precise details of the flue extraction equipment to be used, including: the stack height; the design and position of all ductwork; the noise/power levels of the fan(s); the number, type and attenuation characteristics of any silencers; details of anti-vibration mounts and

jointing arrangements in the ductwork; the number of air changes per hour, and the efflux velocity. The scheme shall be implemented as approved prior to the commencement of the use and thereafter maintained as such.

Reason: In the interests controlling odours and protecting residential amenity in accordance with Policy PCS2 of the Bath and North East Somerset Placemaking Plan.

43 No deliveries shall be taken at or dispatched from the commercial elements of the proposed development outside of the hours of 07.30-21.00 nor at any time on Sundays, Bank or Public Holidays.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

44 No occupation of the development shall commence until a Travel Plan has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan.

Reason: In the interest of encouraging sustainable travel methods in accordance with Policy ST1 of the Bath and North East Somerset Local Plan.

#### **45 Plans List (Compliance)**

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

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

#### **PLANS LIST:**

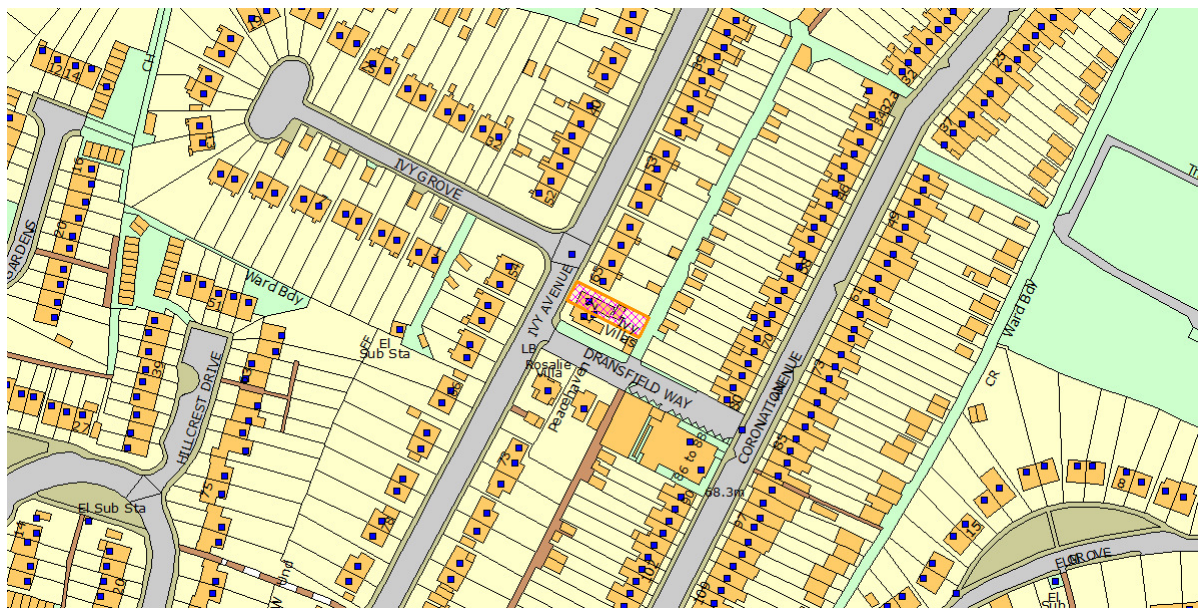
This decision relates to drawing nos - Site Plan EXX-0010 Rev D, Amount - EXX-0100 Rev D, Heights - EXX-0102 Rev O, Illustrative Masterplan EXX-0190.

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

The applicant is reminded that any public rights of way on the site, including roads and footpaths should be retained or where diversion is required will require the approval of the Secretary of State. Works or alterations to the public highway will also require a S278 Agreement.

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil)

**Item No:** 02  
**Application No:** 17/02383/FUL  
**Site Location:** 2 Ivy Villas Ivy Avenue Southdown Bath Bath And North East Somerset



**Ward:** Westmoreland      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Colin Blackburn Councillor June Player  
**Application Type:** Full Application  
**Proposal:** Change of use from 3 bed dwelling house (use class C3) to a 4 bed house in multiple occupation (use class C4)  
**Constraints:** Affordable Housing, Agric Land Class 3b,4,5, Article 4, Forest of Avon, HMO Stage 2 test required, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,  
**Applicant:** Mr Peter Gray  
**Expiry Date:** 27th July 2017  
**Case Officer:** Nikki Honan

## REPORT

This application has been referred to the Development Management Committee as a request has been received from Cllr Player for the application to be determined by Development Management Committee if officers are minded to approve, on the grounds that it is contrary to saved Policy T.24 (vii) of the Local Plan and will increase on-street parking in the vicinity which will detract from highway safety and residential amenity. Comments are summarised within the Representation Section of this report.

Planning permission is sought for change of use from a 3 bed dwelling (use class C3) to a 4 bed house of multiple occupation (HMO) (Use class C4).

The application site is a semi-detached house on Ivy Avenue. The application site is in Southdown in the Westmoreland ward and falls within the World Heritage Site and the HMO Stage 2 test area.

This change of use would ordinarily constitute permitted development under the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended. However, planning permission is required in this case due to an Article 4 Direction which removes permitted development rights for this change of use within the City of Bath.

Planning History:

The property has no relevant planning history.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Highways:

The applicant is seeking permission for Change of Use from a 3 bed family dwelling to a 4 bed HMO (Use Class C4) at 2 Ivy Villas, Ivy Avenue, Southdown, Bath.

The change of use is likely to increase the occupancy of the house marginally by independent individuals (i.e. not a family) and this may raise concerns over increased parking demand. However, the sites sustainable location is acknowledged where there is good access to a range of services, facilities and public transport links and car-use should therefore be less intense.

Furthermore, there is also evidence from surveys carried out by Dept. for Communities and Local Govt. which states that rented accommodation can have up to 0.5 fewer cars than owner occupied households of similar size and type. In this instance car-ownership would be similar to or even less than the current domestic use of the property. Given this, coupled with the sites sustainable location, it is not considered that there would be a significant impact on the local highway.

Highways, therefore, have no objection to this application.

Cllr Player:

- Significant parking shortages on this street and the surrounding streets.
- Another HMO with at least 4 individuals means they will have 4 different groups of friends, families and deliveries coming to this property which would not be the case with a family living in it.
- Due to parking already being an issue here residents are having no choice but to turn their front gardens into drives so they can park their vehicle without having to find a space streets away.
- Cllr Player questions the evidence and surveys that the highway officer refers to as a justification for lower standards.
- The application has been submitted during summer holidays when student numbers are lower
- There is a need for more family homes in this location.
- Existing HMO's are impacting negatively on the existing residents.
- Should the officer be minded to approve the application Cllr Player requests a condition is attached limiting the number of occupants to no more than 4 due to parking issues and large number of HMO's in the area.

Third Party Comments:

37 neighbour objections have been received, which are summarised as follows:

- Noise
- Unkempt gardens
- Litter
- Rubbish out all the time

- Mess
  - Anti-social behaviour
  - Amenity issues, no consideration for those who work and have young children
  - Residents should not need to object to all HMO applications. They should all be refused.
- When will the planning department listen to residents?
- We do not want any more HMO's.
  - Overconcentration of HMO's locally
  - Better community balance needed. Families / professionals / first time buyers should occupy this house.
  - House prices make it difficult for first time buyers
  - Bath developers are not building enough small/medium sized family homes
  - House should be owned by a family who could take in student lodgers
  - Another HMO in the area will make it a very impersonal place to live.
  - HMO's have destroyed a whole area, which was at one time a thriving community.
  - I have lived in this area all my life and it is being destroyed by rented accommodation.
  - There are not many HMO's in this area and this strong community should be maintained
  - Current balance between HMO's and others is threaten by this application
  - There is no need for this HMO - there is other purpose built student accommodation - the university is buying land
  - More focus should be on encouraging student accommodation to be built on university campuses, purpose built blocks and flats
  - Article 4 Directive should prevent further HMO's
  - The student population living in HMO's is transient and houses are empty for parts of the year.
  - During students vacation time the house is left empty and is an eyesore
  - HMO will exacerbate existing parking problems
  - Could lead to 4 more cars
  - Student unauthorised and inconsiderate parking issues
  - Assumption of lower car use is not true. Since summer holidays began there are enough parking spaces
  - Data is not based on this area
  - Highways should visit the site to see what the parking situation is really like
  - Residents have confirmed parking assumptions are wrong as part of previous applications and the Council will not listen
  - Concerned about parking at the bottom on Ivy Grove as it turns into Ivy Avenue as cars currently park on the corner, making it a blind spot when turning left into Ivy Avenue
  - Allowing this HMO would create a dangerous environment for children with cars going up and down a narrow street on a more regular basis.
  - Another HMO would devalue our properties.
  - Negative impacts will knock on to other nearby streets
  - Planning officers should get out into the community to see what they are sanctioning
  - Property has unique character and would be better maintained by being a private home
    - o Students that do not pay council tax. In increase in HMOs for students leads to a reduction in council revenue and local services will suffer.
    - o It should be checked whether there is any emerging policy which can be used to justify refusing permission

3 students have supported the application. Comments are summarised below:

- Vast majority of students are focused on their studies. They pay a lot for their education
- Bath is a beautiful city, and we are aware of our responsibility to take care of it.

- Students are aware of and respect their community responsibilities
- This development would be a great location for students who are willing to respect and contribute to the local area.
- Most students are just as concerned to respect their neighbours and as such work hard to keep noise to a minimum for the benefit of all.
- Increasingly difficult to find quality, affordable housing.
- Increase in students results in shortages in student accommodation in Bath
- There is not enough accommodation within the university grounds for even the first years, let alone any other years.
- It is unreasonable to suggest that students should seek housing in other areas as many students do not drive or own a car and the further from university they are, the more the travel costs increase and therefore, the harder it is to find suitable accommodation.
- Demand for student housing in Bath is increasing and it is important to provide for all residents of Bath, whether students or families, as both are beneficial to the economy and community.
- A car is also not affordable for most students, so I don't believe parking is an issue.
- Finances are a serious concern for all, especially students who, in general, cannot afford to run cars. With good and frequent bus services, many students walk, cycle, or use public transport, and as such, do not add to existing parking issues.
- Personally, I know very few students who own cars, and know many more who cycle.
- Students are good for the local economy.
- The housing market is already competitive, and with an ever increasing pressure from a growing numbers of students, rent prices are always increasing. For many students, their loan is insufficient to cover their rent, placing pressure on parents, and on students who are required to work alongside their degree to cover the costs of food and bills. This is not feasible for many students, particularly those in the final years of their degree.

The owner of the property has also commented, which is summarised below:

- There are many excellent landlords in Bath proving an essential service
- I have a full-time dedicated property manager to oversee the properties.
- We ensure regular maintenance of both the interior and exterior of our HMO properties
- A gardener is employed to ensure that all gardens are kept in a tidy condition.
- Each group of new students is informed of their responsibilities including maintenance and respecting neighbours
- Neighbours are provided with the property manager's phone number on request. They are also informed that failure to comply with these simple courtesies will result in eviction.
- Car parking: I currently have 24 students in my properties, only two of them have cars, instead they elect to use the dedicated bus service that is provided to take them from Oldfield Park directly to the university. In addition to this Ivy Avenue is well away from Moorland Road and does not suffer the same problems.
- Waste & Recycling: Students are usually very aware of environmental issues, so are most cooperative. Nevertheless, the property manager monitors it regularly and addresses it with neighbours if there are problems.
- Bicycle Provisions: There is a large back yard at the property for storage (out of sight) as they are not permitted to bring bicycles into the house.
- Amenity & Drying Space: There is a large garden with plenty of room to hang washing as well as enjoy the fresh air.
- Room Size: All rooms fall comfortably within the Licencing specifications.

- Licencing: I understand that as the current programme is coming to an end, therefore if the HMO application is granted a licence for just one year can be granted. Clearly if the property is not run properly, any future licencing may be revoked.
- There is a desperate shortage of accommodation for students.

## **POLICIES/LEGISLATION**

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

- o Core Strategy (2014)
- o Saved Policies in the B&NES Local Plan (2007)
- o Joint Waste Core Strategy (2011)

## **RELEVANT CORE STRATEGY POLICIES**

The B&NES Local Plan policies that are replaced by policies in the Core Strategy (2014) are outlined in Appendix 1 of the Core Strategy. Those B&NES Local Plan policies that are not replaced and remain saved are listed in Appendix 2 of the Core Strategy.

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

CP.6: Environmental Quality

B.4: World Heritage Site

## **RELEVANT LOCAL PLAN POLICIES**

The following saved policies of the Bath and North East Somerset Local Plan (2007) are also relevant to the determination of this application:

D.2: General Design and public realm considerations

D.4: Townscape considerations

NE.5: Forest of Avon

NE.13A: Bath Hot Springs

T.24 General development control and access policy

T.26: On-site parking and servicing provision

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

## **RELEVANT PMP POLICIES**

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. Following the Examination hearings the Inspector has now issued her final report and has found the plan sound subject to main modifications (that have already been consulted on). The following policies can now be given substantial weight:

H2: Houses in Multiple Occupation

UD.1: General Urban Design Principles

UD.2: Local Character and Distinctiveness

UD.3: Urban Fabric

UD.4: Streets and Spaces

UD.5: Building Design

UD.6: Amenity

ST7: Transport Requirements for Managing Development

H.1: Historic Environment

The Supplementary Planning Document (SPD) 'Houses in Multiple Occupation in Bath' (2013) is relevant in the determination of this planning application.

'The City of Bath World Heritage Site Setting' Supplementary Planning Document (2013) is relevant in the determination of this planning application.

National Planning Policy Framework (March 2012) and the National Planning Practice Guidance (March 2014) can be awarded significant weight. The following sections of the NPPF are of particular relevance:

Section 6: Delivery a wide choice of high quality homes.

## **OFFICER ASSESSMENT**

Site Context:

The application site is a semi-detached house on Ivy Avenue. The application site is in Southdown in the Westmoreland ward and falls within the World Heritage Site.

Proposed Development:

Change of use from a 3 bed dwelling (use class C3) to a 4 bed house of multiple occupation (HMO) (Use class C4).

No physical alterations would be required to the exterior of the building. One bedroom is proposed on the ground floor (former lounge) and three bedrooms are on the first floor. The ground floor also includes a communal kitchen and a communal dining room. The bedrooms will be of an adequate size. The property includes rear garden and room for bin storage and drying space. Overall the property should provide a good standard of accommodation for the future occupiers.

HMO Policy Tests:

The guidance within the Council's SPD 'Houses in Multiple Occupation in Bath' specifies the criteria for assessing applications required by the introduction of the Article 4 Direction. The document sets out a two stage assessment process to establish whether the change of use would be acceptable with regards to the existing balance and mix of housing accommodation within the locality, and to ensure that it would not create an unacceptable concentration of HMO's in the area.

The 'Stage 1 Test' assesses whether the application property is within or less than 50 metres from a Census Output Area in which HMO properties represent more than 25% of households. If a property is within such an area then a further 'Stage 2 Test' is applied, which assesses whether HMO properties represent more than 25% of households within a 100 metre radius of the application property.

The subject property of this application does not meet the Stage 1 Test. The property lies in an area in which HMO properties represent more than 25% of households.



Therefore in this case the 'Stage 2 Test' is also applied in accordance with the SPD and with specific reference to the Council's data on the number of HMO dwellings.

In the case of this application the following calculations are made:

- o Total number of dwellings within 100m radius of subject property = 134 dwellings
- o Total number of HMO dwellings within a 100m radius of the subject property = 28
- o Percentage of HMOs =  $(17/74) \times 100 = 21\%$

In accordance with the Stage 2 Test of the Article 4 Direction, the threshold in the immediate 100 metres around the application site property is below 25%.

Therefore at the current time the change of use of this property is deemed to be acceptable in principle and compliant with the Article 4 Direction and the policy set out in the 'Houses in Multiple Occupation in Bath' SPD, which aims to encourage "an appropriately balanced housing mix across Bath, supporting a wide variety of households in all areas." The application site is viewed as an appropriate location for an HMO, unless there are other material considerations.

In addition, paragraph 50 of the NPPF states that LPA's should deliver a wide choice of high quality homes and support inclusive and mixed communities. This guidance advises that local planning authorities should "...plan for a mix of housing based on current and future demographic trends, market trends and needs of different groups in the community (such as but not limited to families with children, older people, people with disabilities, service families and people wishing to build their own homes)". The application site is therefore considered to be an appropriate location for a HMO, unless there are other material considerations.

Policy H2 of the Placemaking Plan can now be given substantial weight. This broadly carries forward the requirements of the current 'Houses in Multiple Occupation in Bath' SPD.

The Council is currently consulting on a revised HMO Supplementary Planning Document. At this early stage, this document currently has limited weight.

#### Impact on Existing Residents:

It is recognised that there are concerns arising from HMO's in terms of increased levels of noise and disturbance. However, this would not constitute a reason for refusal of planning permission for the change of use. Whilst a shared housing unit may have different patterns of behaviour to a single family unit, there is no evidence to suggest that the proposed HMO would result in increased levels of disturbance or be used materially differently to that of an ordinary dwelling house occupied by a family. In a similar way it cannot be assumed that the HMO will create more litter or other disturbance than any other form of occupation.

#### Highways:

The adult occupancy of the building is likely to increase, which may result in increased demand for the street parking. The Highways team refer to surveys carried out by Dept. for Communities and Local Government which state that rented accommodation can have up to 50% fewer cars than owner-occupied households. Although this is not based on local data it is considered robust data from a reliable source. Furthermore in a recent

appeal decision at 10 Lymore Gardens (ref 16/02230/FUL) the Inspector allowed the appeal stating there is no robust evidence to suggest harmful highways safety problems or additional on street parking as a result of the development. In this case and notwithstanding the third party submissions there is no robust evidence that highway safety problems would arise.

It is not necessarily the case that a HMO property will have more vehicle ownership than a family with adult children.

Also the property is in a very sustainable location, within easy walking distance of the city centre, major train and bus stations and other local shopping facilities.

#### Other Matters:

Cllr Player has requested any permission includes a condition limiting the number of occupants.

Paragraph 206 of the National Planning Policy Framework states "Planning conditions should only be imposed where they are:

1. necessary;
2. relevant to planning and;
3. to the development to be permitted;
4. enforceable;
5. precise and;
6. reasonable in all other respects."

The inclusion of a condition limiting the number of occupants is not considered to meet these tests, including being reasonably enforceable.

#### Conclusion:

In accordance with the Stage 2 Test of the Article 4 Direction, the threshold in the immediate 100 metres around the application site property is below 25%. Although it is appreciated that there is a perception that the area has an over concentration of HMO properties, the data provides evidence that this is not the case around the immediate vicinity of the application site property.

The change of use is therefore considered acceptable in this location and complies with the relevant policies in the emerging Placemaking Plan, Core Strategy, saved Local Plan Policies and guidance within the current SPD. It is not considered that there are any material grounds which would justify refusal of this application and it is therefore recommended for approval, subject to the inclusion of conditions.

## **RECOMMENDATION**

PERMIT

## **CONDITIONS**

### **1 Standard Time Limit (Compliance)**

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

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

## **2 Plans List (Compliance)**

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

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

### **PLANS LIST:**

The development shall be carried out strictly in accordance with the details shown on the following drawings/documents:

Location Plan, Block Plan, Floor Plan - all received 19 May 2017

### **Condition Categories**

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

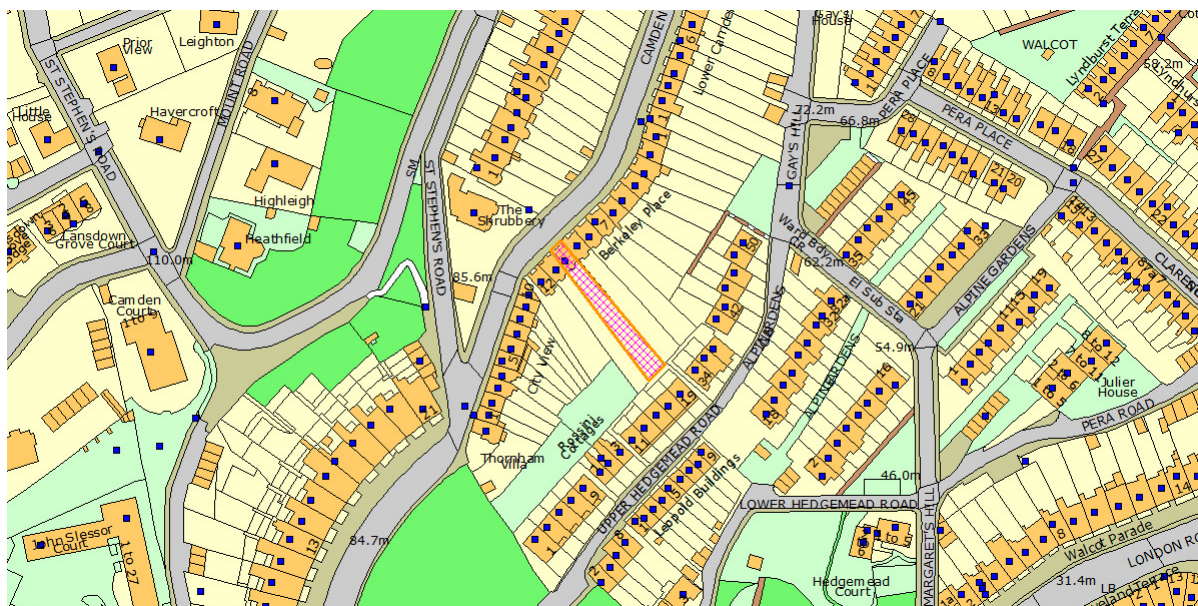
Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, details of the fee can be found on the "what happens after permission" pages of the Council's Website. You can submit your conditions application via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or send it direct to [planning\\_registration@bathnes.gov.uk](mailto:planning_registration@bathnes.gov.uk). Alternatively this can be sent by post to The Planning Registration Team, Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

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.

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Full details about the CIL

Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil)

**Item No:** 03  
**Application No:** 17/02214/FUL  
**Site Location:** 10 Berkeley Place Walcot Bath Bath And North East Somerset BA1 5JH



**Ward:** Lansdown      **Parish:** N/A      **LB Grade:** II  
**Ward Members:** Councillor Patrick Anketell-Jones Councillor Anthony Clarke  
**Application Type:** Full Application  
**Proposal:** Erection of garden building  
**Constraints:** Affordable Housing, Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,  
**Applicant:** Steve George  
**Expiry Date:** 28th July 2017  
**Case Officer:** Laura Batham

## REPORT

This application is before the Committee for consideration as the applicant is an employee within the Planning Service.

### Site Description and Proposal:

The application site forms one of 12 grade II listed buildings within Berkeley Place. The property is located in the conservation area and world heritage site. This 19th Century building is set into the hillside with a large garden stretching downhill to the south of the site. It is proposed to erect a new garden building to replace a modern shed in the

southern end of the garden. The site is surrounded by residential development with a row of modern properties located at a lower level on Upper Hedgemoor Road and Alpine Drive to the south of the site.

**History:**

DC - 98/01003/LBA - CON - 22 December 1998 - External works to remove paint by manual tooling, returning facade to a fine drag finish cleaning unpainted ashlar by nebulous spray

DC - 06/00972/LBA - CON - 13 July 2006 - Internal and external alterations including damp-proofing of vaults and construction of new infill wall and new sash window. Installation of satellite mini dish in roof valley.

DC - 14/05147/LBA - CON - 19 January 2015 - Internal and external alterations to include installation of a new shower room within first floor rear bedroom with associated works, and installation of two secondary glazing units to the two front bedrooms.

**SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Arboriculturalist: While the site is within the Bath Conservation Area and therefore all trees are protected under section 211 of the Town and Country Planning Act 1990 I consider that the trees within the garden and within the neighbouring property are not of sufficient quality or public amenity value to warrant further protection through the making of a Tree Preservation Order. However the submitted documents make clear that the trees have been considered in the development of the design and that appropriate and reasonable mitigation measures will be employed to avoid adverse impacts on the trees as a consequence of the proposed development. I therefore have no objection to the proposals.

No further comments received.

**POLICIES/LEGISLATION**

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

- Core Strategy (2014)
- Saved Policies in the B&NES Local Plan (2007)
- West of England Joint Waste Core Strategy (2011) which supersedes all 2007 Local Plan policies on Waste apart from Policies WM.4 and WM.9

The following policies of the Core Strategy (2014) are relevant to the determination of this application:

B4: The World Heritage Site and its setting  
CP6: Environmental quality

The following saved policies of the Bath and North East Somerset Local Plan (2007) are also relevant to the determination of this application:

D.2: General design and public realm considerations  
D.4: Townscape considerations  
BH.2 - Listed buildings and their settings  
BH.6: Development within or affecting Conservation Areas  
NE.4: Trees and Woodland Conservation

## Placemaking Plan

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. Following the Examination hearings the Inspector has now issued her final report and has found the plan sound subject to main modifications (that have already been consulted on). The following policies can now be given substantial weight:

D.5: Building Design  
D.6: Amenity  
HE.1: Historic Environment  
NE.6: Trees and Woodland Conservation  
National Policy  
The National Planning Policy Framework adopted March 2012 and National Planning Practice Guidance.

## OFFICER ASSESSMENT

The application seeks consent for a garden building in the rear garden. This would be located at the southern end where there is an existing modern shed. The building would measure 3m by 4.8m and have a mono pitched roof with the eaves measuring 1.8m at the lowest point and 2.3m at the highest point. The building is proposed to be finished in timber which will either be left to patinate naturally or painted in a dark grey. Either of these finishes are considered acceptable and would not cause harm to the setting of the adjacent terraces of listed buildings. The roof is proposed to be finished in either a metal or single ply membrane. As an ancillary building in the garden, the use of either material would be acceptable; however, full details of this are required and a condition will be added to request this. All windows will be finished in grey which is supported.

The proposed garden room would be located 15m from the rear elevations of Berkeley Place. The boundaries between the gardens are generally low level with established vegetation. This restricts views from the garden room into No.11 Berkeley Place. The garden room has been orientated to avoid overlooking towards the garden of No.9 Berkeley Place and the properties to the south on Upper Hedgemoor Road and Alpine Drive. There is also a standard fence on this boundary preventing overlooking to the south. It is not considered that the addition of this garden building will significantly impact upon residential amenity of the neighbouring gardens.

## Conclusion:

The proposal by reason of its design, siting, scale and materials is acceptable and maintains the character and appearance of the surrounding area. The addition is not considered to have a significant impact upon the amenity of the adjacent neighbouring properties.

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. In this case by virtue of the design, scale, massing, position and the external materials of the proposed development it is considered that the development would at least preserve the character and appearance of this part of the Conservation Area and its setting. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and saved policy BH.6 of the Bath and North East Somerset Local Plan (2007) and Part 12 of the NPPF.

There is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, that the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Here it is considered that the proposals are consistent with the aims and requirements of the primary legislation and planning policy and guidance. The proposals would not have an unacceptable impact on the listed building or its setting and would preserve the significance of the designated Heritage asset. The proposal accords with saved policy BH.2 of the Bath and North East Somerset Local Plan (2007) and part 12 of the NPPF.

## **RECOMMENDATION**

PERMIT

## **CONDITIONS**

### **1 Standard Time Limit (Compliance)**

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

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

### **2 Materials - Submission of Schedule and Samples (Bespoke Trigger)**

No construction of the external walls of the 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 approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.

### **3 Plans List (Compliance)**

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

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

## **PLANS LIST:**

This decision relates to the document 'Shed planning application - including plans' received on 10th May 2017.

### **Condition Categories**

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

**Compliance** - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

**Pre-commencement** - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

**Pre-occupation** - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

**Bespoke Trigger** - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

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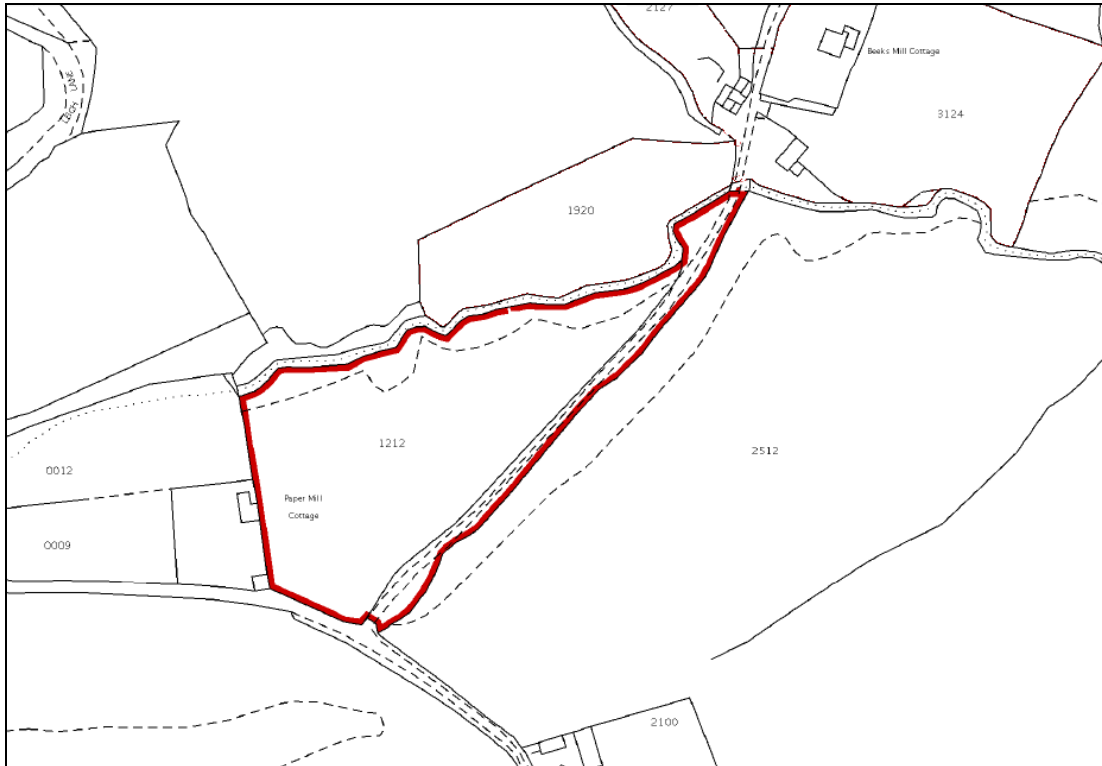
In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework.



## **ENFORCEMENT COMMITTEE REPORT**

### **REFERENCE:**

15/00524/UNDEV



### **SITE**

Parcel 1212, Leigh Lane, St Catherine, Bath BA1 8AW

### **INTRODUCTION**

The purpose of this report is to seek authority from the Development Management Committee to use powers under Section 102 of the Town and Country Planning Act, 1990 ("the Act") to issue an Order requiring the removal of a timber panel screen/fence located on the eastern boundary of Parcel 1212 Leigh Lane (abutting the boundary wall with the adjacent site, Papermill Cottage).

### **BACKGROUND / ENFORCEMENT NOTICE**

The site is located in the green belt and the Cotswold Area of Outstanding Natural

Beauty. Immediately adjacent to the site is a residential property – Papermill Cottage. The adjacent property consists of two residential elements, the principal dwelling located to the north of its plot and an ancillary residential unit (holiday let) to the south.

In September 2015 Officers responded to a complaint that a timber screen/fence structure had been erected along the eastern boundary of the field, the entire length of the original field boundary wall and situated within a few centimetres of the windows of Papermill Cottage. The position of the fence inhibits the ability to fully open any of the ground floor windows on the east elevation of Papermill Cottage or the adjacent annex, significantly diminishes natural light ingress and significantly reducing outlook to the detriment of residential amenity.

Having investigated the case, and having regard to the development plan and national policy, Officers issued an Enforcement Notice on the 31<sup>st</sup> May 2016. The requirements of the Notice were to “*remove the screen in its entirety and restore the land to its former condition prior to the development*” within 6 months of the date of the Notice. The Council issued the Notice as it considered:

- 1) that the screen did not constitute permitted development in accordance with Schedule 2, Part 2 Class A of the General Permitted Development Order;
- 2) that the screen constituted inappropriate development in the green belt which was harmful to openness, contrary to saved policy GB.2 of the Bath and North East Somerset Local Plan
- 3) that the screen has a severe adverse impact upon the amenities of the existing occupiers of adjacent property Papermill Cottage.
- 4) that, by virtue of its size, materials and design, the screen contributes to a deterioration of the rural character of the surrounding area, contrary to saved policies D.2 and D.4.
- 5) that the screen does not respond to local context in terms of appearance, materials, siting, spacing and layout and is therefore considered harmful to the character of the public realm and special landscape character of the Cotswolds Area of Outstanding Natural Beauty in which the development is situated.

### **ENFORCEMENT APPEAL**

An appeal was lodged against the Enforcement Notice on grounds (a) – that planning permission should be granted - (c) – that there has not been a breach of control - (f) – that the steps of the notice are excessive - and (g) – that the time given to comply is too short.

The appeal was determined on the 3<sup>rd</sup> February 2017. The Inspector upheld the Notice (subject to variations).

With regard to the ground (a) appeal, the Inspector concluded that whilst the structure was not inappropriate development in the green belt, having regard to national policy and the development plan he found that it was unacceptable for the following reasons:

- 1) It *“does not either conserve or enhance the character and local distinctiveness of the landscape”* contrary to Policy NE.1 of the Local Plan.
- 2) It *“fails to respond to the local context in terms of its appearance and materials, and does not complement the attractive qualities of local distinctiveness”* contrary to Policy D.4 of the Local Plan.
- 3) It is *“a form of development which adversely affects the natural beauty of the landscape of the designated AONB”* contrary to Policy NE.2 of the Local Plan and contrary to Paragraph 115 of the NPPF
- 4) *“the structure harms the living conditions of the occupiers of Papermill Cottage by reason of loss of outlook and daylight”* contrary to Policy D.2 of the Local Plan, and contrary to Paragraphs 56 and 64 of the NPPF.

Overall the Inspector concluded that the “structure is unacceptable on its merits”

With regard to the ground (c) appeal, the Inspector found that the fence exceeded 2m in height in parts and therefore could not be permitted development however concluded that the Notice could be varied to require the structure be reduced in height to below 2m and thus within the scope of permitted development.

With regard to the ground (f) appeal, the Inspector concluded that this part of the appeal should succeed in light of the fall-back permitted development position. Rather than upholding the Council’s requirement to demolish the structure the Inspector varied the Notice to require the reduction in height of the structure.

With regard to the ground (g) appeal, in light of the variation to the Notice the Inspector found that 6 months was adequate time to carry out the required works.

## **SECTION 102**

Section 102 of the Act grants powers to the Local Planning Authority to issue “Orders requiring discontinuance of use or alteration or removal of buildings or works”.

Section 102(1) states:

*“If, having regard to the development plan and to any other material considerations, it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity) –*

- a) that any use of land should be discontinued or that any conditions should be imposed on the continuance of a use of land; or*
- b) that any buildings or works should be altered or removed,*

*they may by order –*

- i. require the discontinuance of that use, or*
- ii. impose such conditions as may be specified in the order on the continuance of it, or*
- iii. require such steps as may be so specified to be taken for the alteration or removal of the buildings or works,*

*as the case may be”.*

S.102 powers are not frequently used therefore there is little guidance available as to their application however the recent case of the “candy striped” house in Kensington (Lisle-Mainwaring, R (On the Application Of) v Isleworth Crown Court & Anor [2017] EWHC 904]) High Court judgement dated 24<sup>th</sup> April 2017) has examined and clarified the use of S.102 powers. In respect of the case at hand, Officers are satisfied that the use of S.102 would be appropriate given the level of public interest in this case, the significance of the harm caused both to the natural environment and the amenities of residents and the fact that a recent appeal has already considered and confirmed the Council’s concerns that the development is contrary to policy.

If it is agreed that a S.102 Order is made, in accordance with S.103(1) of the Act, the Order will need to be confirmed by the Secretary of State before it can take effect. The SoS has the power to confirm, reject or modify the Order. The person against whom the Order is made has not less than 28 days to request to appear before “*a person appointed by the Secretary of State*” (S.103(4)) – one would expect this to be a Planning Inspector - before the Order is confirmed in order to make any representations they so wish. The SoS would then make a decision whether or not to confirm the Order in light of any representations made. Whilst there is the opportunity for the owner to effectively appeal the recommendation, as an Inspector has already found the development to be harmful, unacceptable and contrary to policy Officers are of the view that it is highly likely that the Order would be confirmed having regard to the development plan and

other material considerations as it would be “*expedient in the interests of the proper planning*”.

### **RELEVANT PLANNING POLICIES**

In making this recommendation, consideration has been given to the following:

#### Legislation:

Town and Country Planning Act, 1990

Town and Country (General Permitted Development) Order, 2015 (as amended)

#### National Planning Policy:

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

- Section 9. Protecting Green Belt land
- Section 11. Conserving and enhancing the natural environment

#### Development Plan:

The Council's Development Plan comprises:

B&NES Core Strategy, 2014

Saved Policies in the B&NES Local Plan (2007)\*

Joint Waste Core Strategy

The B&NES Local Plan policies that are replaced by policies in the Core Strategy are outlined in Appendix 1 of the Core Strategy. Those B&NES Local Plan policies that are not replaced and remain saved are listed in Appendix 2 of the Core Strategy.

The following policies of the Core Strategy should be considered as relevant:

CP6 - Environmental Quality

CP8 - Green Belt

Saved Policies relevant to this appeal in the Bath and North East Somerset Local Plan, including Minerals and Waste Plan, are:

D2 General Design and public realm considerations

D4 Townscape considerations

GB.2 Visual amenities of the Green Belt  
NE.1 Landscape Character  
NE.2 Areas of Outstanding Natural Beauty

The Placemaking Plan was formally adopted at the full Council meeting on the 13<sup>th</sup> July 2017. The following policies can therefore be given weight:

D1 General urban design principles  
D2 Local character and distinctiveness  
D3 Urban Fabric  
D6 Amenity  
NE2 Conserving and Enhancing the Landscape and Landscape Character.  
GB.1 Visual Amenities of the Green Belt

Supplementary Planning Documents (SPD);

- Rural Landscapes of Bath & North East Somerset: A Landscape Character Assessment SPG (2003)
- The Cotswolds Area of Outstanding Natural Beauty (AONB) Management Plan (2013-2018)

**CONSIDERATION**

The principal consideration in this case is whether it is expedient to issue a S.102 Order having regard to the harm of the development, the relevant development plan policies and whether such action would be in the interest of “proper planning”.

Notwithstanding the fact that the Inspector found the fence (subject to a reduction in height) to be permitted development he did conclude (on assessment of relevant planning policy) that “*the structure is unacceptable on its merits*”.

As stated above, part of the appeal against the Enforcement Notice was on ground (a) that permission should have been granted). The Inspector considered and assessed the planning merits of the case and made the following conclusions in considerations of both local and national policy:

In relation to the character and appearance of the Area of Outstanding Natural Beauty:

- The fence is contrary to Policy NE.1 because “*the structure is a development which does not either conserve or enhance the character and local distinctiveness of the landscape*”.

- The fence fails to comply with LP Policy D.4 (a) because it *“fails to respond to the local context in terms of its appearance and materials, and does not complement the attractive qualities of local distinctiveness”*.
- The fence is a form of development which *“adversely affects the natural beauty of the landscape of the designated Area of Outstanding Natural Beauty”*, which LP Policy NE.2 says will not be permitted.
- *“Paragraph 115 of the Framework [National Planning Policy Framework] requires the decision maker to give great weight to conserving landscape and scenic beauty in AONB. In my view, for all of the reasons set out above, the structure plainly fails to, at a minimum, conserve the scenically attractive landscape of the AONB in the vicinity of the appeal site. The structure is visible from a number of public vantage-points, including the lane and the permissive path. In these vistas Papermill Cottage is seen in close association with the structure but, because it is so close and the structure obviously cuts across architectural features such as the windows, its proximity only serves to emphasise the inappropriateness of the structure. Although the Appellant has offered to accept a condition to require hard and soft landscaping, such as a woven hazel or bark facing to give it a more rustic appearance and an indigenous hedgerow planted parallel to the permissive path, this would not address my concerns or achieve policy compliance”*.

Overall the Inspector stated: *“I conclude that the structure harms the character and appearance of the area, fails to conserve the landscape and scenic beauty of the AONB and conflicts with the LP Policies D.4, NE.1 and NE.2”*

In relation to residential amenity the Inspector concluded the following:

- In relation to national policy (the NPPF) the fourth core planning principle of the Framework is that *“planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings”*.
- LP Policy D.2 says development will only be permitted if: (f) it will *“not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reason of loss of light or other disturbance”*.
- *“Placing a structure in front of windows of a house cannot be said to represent good design, which paragraph 56 of the Framework says is indivisible from good planning; it requires development to contribute*



*positively to making places better for people”.*

- *“Paragraph 64 of the Framework is clear that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions”.*

Overall the Inspector stated *“I conclude that the structure harms the living conditions of the occupiers of Papermill Cottage by reason of loss of outlook and daylight. As such I find a conflict with LP Policy D.2 f) and the quoted advice in the Framework”.*

Having regard to the principle of “proper planning” (the test of S.102), in light of the Inspector’s findings Officers are satisfied that the timber structure is both unacceptable and harmful. It conflicts with planning policy and the majority of the Council’s objections to the structure have been upheld on appeal. In this regard Officers would consider that it would be in the interest of proper planning (having regard to the development plan and other material considerations) and in the public interest to consider the use of S.102 powers.

### **PERMITTED DEVELOPMENT AND S.102 POWERS**

As stated, the relevant test for S.102 is whether, having regard to the development plan and any other material planning consideration *“it is expedient in the interests of the proper planning... (including the interests of amenity)”* to pursue an Order.

The owner of the site confirmed to the Council on the 2<sup>nd</sup> March 2017 that the structure has been reduced to 2m from natural ground level (as per the variation to the Notice) and Officers are conscious that the structure now falls within permitted development in accordance with Class A of Part 2 to Schedule 2 of the GPDO.

The issue to consider therefore is whether the Council can seek an Order requiring the removal of a structure that is otherwise lawful – in this case having permission by virtue of the GPDO. Officers have had regard to the relevant case law, in particular the observations made in respect of the recent case in the Royal Borough of Kensington and Chelsea (“RBKC”) which related to a dwelling painted in red and white stripes in a Conservation Area. The judgement was published in late April 2017 and having considered the Judges’ comments within it has prompted a review of this subject case.

In the RBKC case, Mr Justice Gilbart clarifies that the requirements of S.102 apply to works that are permitted by virtue of the GPDO in his discussion in respect of



compensation. At para 79 he states *"It will be observed...that if a lawful use subsists, or a building exists, or if a planning permission is granted for development (whether expressly or by the exercise of GPDO rights) then removal of the building or discontinuance of the use can only be effected by the LPA if it accepts a liability to compensate...Similarly, rights given by the GPDO can only be removed by a direction which also involves the right to compensation"*.

At para 102 of his judgement Mr Justice Gilbert further confirms that *"an LPA has the power to limit permitted development rights or to discontinue lawful uses, but not without payment of compensation...Under section 102 it could have issued a notice requiring the repainting of the building. Were it upheld, the level of compensation would be the diminution of the interest in land (s 115 TCPA 1990). On the basis of its own case, that diminution in value must have been effectively nil. There would at worst be a claim for the cost of the repainting (s 115(3))"*.

Having regard to the Act, S.102 does not differentiate the type or nature of development to which it can be applied nor does it state that it cannot apply to development that is lawful; put simply it applies *"in the interest of proper planning"*. Having regard to the recent High Court judgement Officers are satisfied that the relevant issues have been tested and the High Court has confirmed that S.102 is applicable to development that benefits from permission be it expressed or by exercise of the GPDO rights.

Officers are satisfied therefore that S.102 can be applied in respect of the timber screen despite its lawful status.

### **COMPENSATION CONSIDERATION**

Members should be aware that if an Order is made under S.102, S.115 of the Act applies (*"Compensation in respect of orders under s. 102, etc."*)

S.115(2) states *"If, on a claim made to the local planning authority within the prescribed time and in the prescribed manner, it is shown that any person has suffered damage in consequence of the order—*

*(a) by depreciation of the value of an interest to which he is entitled in the land or in minerals in, on or under it, or*

*(b) by being disturbed in his enjoyment of the land or of such minerals,*

*that authority shall pay to that person compensation in respect of that damage"*.

Furthermore, and without prejudice to the above S.115(3) states “*any person who carries out any works in compliance with the order shall be entitled, on a claim made as mentioned in that subsection, to recover from the local planning authority compensation in respect of any expenses reasonably incurred by him in that behalf*”.

Members are requested to consider the following:

- 1) The removal of the timber structure is unlikely to reduce the value of the land given its removal can only improve the visual appearance of the site. The risk of damage being payable in the first category are therefore limited or non-existent.
- 2) Any damages in respect of disturbance to the enjoyment of the land are likely to be zero. The timber structure is not visible to the owners and its presence is not required for the land to be enjoyed. There is an argument that a level of separation between the wall and field is necessary to protect livestock however prior to the erection of the timber screen this function was adequately fulfilled by a post and wire fence arrangement. Enjoyment of the land by the owner for the purposes of grazing of livestock will not be disturbed by virtue of a S.102 Order requiring the removal of the timber structure.
- 3) Officers accept that there will be a cost involved in removing the current structure and replacing it with a post and wire fence or other appropriate means of enclosure however the cost will be limited solely to the removal works and the materials associated with the new means of enclosure. Officers are satisfied that compensation should not payable for the purchase of the original materials and labour costs to erect the timber structure in the first instance. As noted above in respect of the High Court Judgement, the judge commented in respect of the compensation risk had RBKC sought a S.102 Order that the compensation in that case would “*at worst be a claim for the repainting (s115(3))*”, i.e. the cost of complying with the Order not the initial works.

Overall, with regard to the compensation risk, whilst it is accepted that the recipient of the Order may seek compensation from the Council, officers are of the view that the financial risk to the Council would be minimal and would observe that financial reasons should not be a bar to considering the service of a S.102 Order.

## **CONCLUSION**

The justification for issuing a S.102 Order, as set out in the above report, is that the Local Planning Authority considers it to be in the interest of “proper planning”. In this case, it is clear that such an Order can be made despite the fact that the structure is

permitted development. The Council's position in respect of a S.102 Order has been supported by the Planning Inspectorate where the Inspector made clear findings demonstrating the incompatibility of the structure with local planning policies and other material planning considerations. Having regard to the Development Plan, the structure is considered harmful to the visual amenities of the area, harmful to the landscape character of this part of the Area of Outstanding Natural Beauty and harmful to the residential amenity of the residents of the adjoining Papermill Cottage.

### **RECOMMENDATION**

That authority is given under S.102(b)(iii) to serve an Order requiring the removal of the existing timber structure in its entirety and that the structure is replaced with a post and wire fence following the line of the previous post and wire fence to prevent any possibility of livestock injuring themselves on the building or doing damage to it. Details of the replacement fence shall be confirmed in writing by the local Planning Authority before works are undertaken.

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<b>Bath &amp; North East Somerset Council</b>		
<b>MEETING:</b>	<b>Development Control Committee</b>	<div>AGENDA ITEM NUMBER</div> <div></div>
<b>MEETING DATE:</b>	<b>26<sup>th</sup> July 2017</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:** 16/05423/AR  
**Location:** 57 - 59 Walcot Street Bath BA1 5BN  
**Proposal:** Identification of business operation and building number, hand painted on principal elevation. (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 7 April 2017  
**Decision Level:** Delegated  
**Appeal Lodged:** 27 June 2017

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**App. Ref:** 16/02749/FUL  
**Location:** Wansdyke Business Centre Oldfield Lane Oldfield Park Bath  
**Proposal:** Mixed use redevelopment to provide 178 student studios (Sui Generis), commercial units (B1, B8), fitness centre (D2), coffee shop (A3) following part demolition of existing buildings and structures.  
**Decision:** REFUSE  
**Decision Date:** 13 September 2016  
**Decision Level:** Delegated  
**Appeal Lodged:** 28 June 2017

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**App. Ref:** 17/00955/FUL  
**Location:** Wansdyke Business Centre Oldfield Lane Oldfield Park Bath  
**Proposal:** Demolition of the existing buildings and structures (partial retention of façade fronting/adjoining Monksdale Road) and mixed-use redevelopment to provide 126 student studios (Sui Generis), commercial units (B1, B8), fitness centre (D2), coffee shop (A3), with associated access, parking and servicing space, landscaping and associated works. (Re-submission)  
**Decision:** REFUSE  
**Decision Date:** 1 June 2017  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 28 June 2017

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**App. Ref:** 16/05772/FUL  
**Location:** 40 Bloomfield Park Bloomfield Bath BA2 2BX  
**Proposal:** Erection of eight apartments with associated parking and landscaping following demolition of existing detached house and garage (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 4 May 2017  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 29 June 2017

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## APPEALS DECIDED

**App. Ref:** 16/03373/FUL  
**Location:** 6 St Nicholas Road Whitchurch Bristol BS14 0PJ  
**Proposal:** Erection of one bedroomed end terrace dwelling  
**Decision:** REFUSE  
**Decision Date:** 17 October 2016  
**Decision Level:** Delegated  
**Appeal Lodged:** 15 March 2017

**Appeal Decision:** Dismissed 30.06.2017

Click [here](#) to view the Appeal Decision

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**App. Ref:** 16/05498/AR  
**Location:** Bristol Water Visitor Centre & Tea Room Walley Lane Chew Magna  
**Proposal:** Display of 2no. externally illuminated entrance signs to replace previous signs to the entrance to Chew Valley Lake picnic area and Salt & Malt Cafe and public car park. (Resubmission)  
**Decision:** REFUSE  
**Decision Date:** 9 February 2017  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 23 May 2017

**Appeal Decision:** Dismissed 29.06.2017

Click [here](#) to view the Appeal Decision

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**App. Ref:** 16/05531/FUL  
**Location:** 6 St Nicholas Road Whitchurch Bristol BS14 0PJ  
**Proposal:** Erection of two storey side extension, creation of 2 new car parking spaces and dropped kerb  
**Decision:** REFUSE  
**Decision Date:** 30 January 2017  
**Decision Level:** Chair Referral - Delegated  
**Appeal Lodged:** 4 May 2017

**Appeal Decision:** Dismissed 30.06.2017

Click [here](#) to view the Appeal Decision

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**App. Ref:** 16/02230/FUL  
**Location:** 10 Lymore Gardens Twerton Bath BA2 1AQ  
**Proposal:** Change of use from a 4 bed dwelling (use class C3) to a 4 bed house of multiple occupation (HMO) (Use class C4)  
**Decision:** REFUSE  
**Decision Date:** 12 January 2017  
**Decision Level:** Planning Committee  
**Appeal Lodged:** 20 April 2017

**Appeal Decision:** Dismissed 04.07.2017

Click [here](#) to view the Appeal Decision

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## FORTHCOMING HEARINGS & INQUIRIES

**App. Ref:** 16/05078/TPO  
**Location:** Widcombe Manor, Church Street, Widcombe, Bath, BA2 6AZ.  
**Proposal:** T4, Western Red Cedar- reduce height by 7-8m.  
**Decision:** REFUSE  
**Decision Date:** 7 December 2016  
**Decision Level:** Delegated  
**Appeal Lodged:** 30 01 2017  
**Hearing Date:** 15<sup>th</sup> August 2017 at 10:00.  
**Hearing venue:** Lewis House, Manvers Street, Bath (Meeting Room 3.2).

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