

Development Management Committee

Date: Wednesday, 19th December, 2018

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: Brian Simmons, Martin Veal, Patrick Anketell-Jones, Neil Butters, Ian Gilchrist, Liz Hardman, Will Sandry, Liz Richardson and Karen Warrington

Chief Executive and other appropriate officers
Press and Public

The agenda is set out overleaf.



Marie Todd

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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. We request that those filming/recording meetings avoid filming public seating areas, children, vulnerable people etc; however, the Council cannot guarantee this will happen.

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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 working days before the meeting. This means that for Development Management meetings held on Wednesdays, 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**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are signposted. Arrangements are in place for the safe evacuation of disabled people.

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Additional information and Protocols and procedures relating to meetings

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Development Management Committee- Wednesday, 19th December, 2018

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.

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, ie 3 minutes for the Parish and Town Councils, 3 minutes for the objectors to the proposal and 3 minutes for the applicant, agent and supporters. This allows a maximum of 9 minutes per proposal.

7. ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

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

8. MINUTES OF THE PREVIOUS MEETING (Pages 5 - 30)

To confirm the minutes of the meeting held on 21 November 2018.

9. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 31 - 82)

10. CONCURRENT CREATION AND EXTINGUISHMENT ORDERS AFFECTING PUBLIC FOOTPATHS BA5/35, BA5/37, BA5/43, BA5/45 AND BA5/46 AT BATH RACECOURSE (Pages 83 - 98)

11. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 99 - 104)

The Committee is asked to note the report.

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

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

DEVELOPMENT MANAGEMENT COMMITTEE

Minutes of the Meeting held

Wednesday, 21st November, 2018, 2.00 pm

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

65 EMERGENCY EVACUATION PROCEDURE

The Democratic Services Officer read out the emergency evacuation procedure.

66 ELECTION OF VICE CHAIRMAN (IF DESIRED)

A Vice Chairman was not required on this occasion.

67 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from:

Cllr Jasper Becker – substitute Cllr Brian Simmons
Cllr Caroline Roberts – substitute Cllr Will Sandry

68 DECLARATIONS OF INTEREST

There were no declarations of interest.

69 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was no urgent business.

70 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.

71 ITEMS FROM COUNCILLORS AND CO-OPTED MEMBERS

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

72 MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting held on 24 October 2018 were confirmed and signed as a correct record.

73 **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) on item 1 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 3* to these minutes.

Item No. 1

Application No. 18/02898/FUL

Site Location: Horseworld, Staunton Lane, Whitchurch – Erection of 5 residential units (including affordable housing) together with associated parking, highways and landscaping works

The Case Officer reported on the application and her recommendation to delegate to permit. She also drew members' attention to the wording of the s106 agreement relating to this application. She confirmed that the walking distance from the new development to the Mama Bear's Nursery was between 9 and 15 minutes.

The applicant spoke in favour of the application.

Officers then responded to questions as follows:

- The Legal Advisor explained the effect of the planning obligations to members. In answer to a question from Cllr Kew, the Legal Advisor confirmed that the relevant obligations in the s106 agreement related to early years' provision and not primary school places. The Legal Advisor gave advice about various provisions of the s106 agreement.
- Cllr Crossley asked at what point the decision had been taken to discharge the planning obligations in the s106 agreement and who had been consulted. The Chair confirmed that she had not been consulted. The Legal Advisor stated that the agreement had been drafted on instructions following the Committee's decision to delegate to permit planning permission.
- Cllr Jackson felt that the Committee was placed in a difficult position when planning obligations were discharged without members being informed. She asked at what point it was determined that the parcel of land allocated for community benefit could be converted into housing. She felt that the area should become a play area or allotments if it was no longer required for an early years' facility.
- The Team Manager, Development Management, explained that the parcel of land was never allocated for general community use and had been earmarked solely for early years' provision. When the existing nursery was opened in

Whitchurch, the need for this particular use fell away. There was no planning justification for providing two such facilities and the s106 agreement had been drafted to contain flexibility to take account of changing future circumstances. He also pointed out that there was already provision for open space and allotments within the s106 agreement.

- The Case Officer confirmed that the distance to the nursery was 785m.
- Cllr Matthew Davies stated that it was his understanding that the nursery should be provided on the site or nearby. He did not feel that the Mama Bear's nursery fitted the definition of "nearby". He queried whether the Core Strategy policy RA5 or the s106 agreement wording took precedence. The Legal Advisor confirmed that the s106 agreement took precedence as it was a legal document.
- Cllr Appleyard noted that on the original application there was provision for a new nursery for residents of the development and queried why officers had apparently removed this requirement.
- Cllr Jackson asked about the clean air data for Whitchurch as she believed the air quality in this area was poor. She also drew attention to the Whitchurch Village Neighbourhood Plan and queried how much weight should be given to this. The Team Manager, Development Management, stated that, whilst the Neighbourhood Plan was important, in this particular case the Committee should refer to the legal agreement. There was no evidence of need for a community use on the site.

Cllr Crossley noted that a major part of the S106 agreement had been discharged and felt that the Committee would have disagreed with this had members been consulted. The road on which the early years' provision was located was very busy and polluted. It would be a long walk to the existing site which was not sustainable. The site identified in the original application was more suitable and the removal of a significant obligation should, in future, at least be considered by the Committee Chair. He then moved that the application be refused for the following reasons:

- The alternative early years' provision does not meet the needs of the community.
- The alternative early years' provision does not take into account the need for community sustainability within the new development and the existing early years' nursery in Whitchurch was too far away and along a busy road.
- The removal of the early years' provision was contrary to the masterplan for the wider (former) horseworld site.

Cllr Organ seconded the motion. He felt that the original planning obligations should not have been discharged as the distance from the new development to the existing facility was too far and the pavements would not be improved.

Cllr Kew was not happy with the current position, however, he noted the officer advice that the Council's decision to discharge the planning obligations was legally binding.

The Team Manager, Development Management, explained that the Whitchurch area had been identified as having insufficient childcare provision in 2016. The original s106 agreement was based on the information available at the time and had provided two options (i) to construct an early years' facility on the application site or

(ii) if the early years' facility that had been granted planning permission in Whitchurch had been opened, to rely on that facility and not build a new one on site. As the early years' facility was now open in Whitchurch there was no clear reason to refuse the application and members were strongly advised not to do so, otherwise the Council could be vulnerable to incurring costs at appeal. As option (ii) had occurred, the legal agreement had been discharged.

Cllr Appleyard did not feel the need for an early years' facility had been met as the existing facility had not yet received an Ofsted inspection. He stressed the importance of a local facility to enable community cohesion within the new development.

Cllr Jackson stated that she did not think the existing nursery was economically viable and that if it were to close, there would be no possibility of an alternative. She also felt that the facility could not be classed as being "nearby". She stressed the importance of taking the Neighbourhood Plan into account.

The Team Manager, Development Management, pointed out that the early years' facility had not been earmarked solely for the new development but for the whole of Whitchurch Village. This particular development only created about half of the need for an early years' facility.

The motion was then put to the vote and it was RESOLVED by 5 votes in favour and 5 abstentions to REFUSE the application for the following reasons:

- The alternative early years' provision does not meet the needs of the community.
- The alternative early years' provision does not take into account the need for community sustainability within the new development and the existing early years' nursery in Whitchurch was too far away and along a busy road.
- The removal of the early years' provision was contrary to the masterplan for the wider (former) horseworld site.

Item No. 2

Application No. 18/01999/FUL

Site Location: 40 Bloomfield Park, Bloomfield, Bath, BA2 2BX – Erection of 8 apartments with associated parking and landscaping following demolition of existing detached house and garage (Resubmission)

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

A local resident spoke against the application.

The agent spoke in favour of the application.

Cllr Mark Shelford, local ward member, spoke against the application. He raised issues regarding loss of light to the neighbouring property, inadequate parking provision and non-compliance with the Council's waste disposal policy.

The Case Officer then responded to questions as follows:

- Part of the building would be built of ashlar stone and part of rubble stone.
- The Highways Officer confirmed that the minimum number of spaces required for the development was 12; however, the developer was proposing to provide 15 spaces. This was fully compliant with the Placemaking Plan. Tandem parking spaces would be provided for the three larger flats.
- An assessment had been carried out regarding the removal of trees on the site and the effect had been found to be neutral. A contribution towards off-site replacement trees would be secured by a S106 agreement. A pre-commencement drainage strategy would be required by condition.
- The height of the proposed building would be the same as set out in the previous application and the landscaped terrace would be 0.5m closer than the previous application.
- The Case Officer clarified how the boundary of the development related to the neighbouring bungalow.
- The residents could either transport wheelie bins using the ramp or via the lift and main entrance of the building.
- A management company was proposed for the flats but this was not secured by legal agreement.

Cllr Kew understood the concerns of local residents but explained that the Committee could only consider the application put before it. The neighbouring bungalow had been constructed very close to the boundary. The parking requirements for the development had been met. The comments of the Planning Inspector indicated that there were now no reasons to refuse the application. He moved the officer recommendation to delegate to permit. This was seconded by Cllr Organ.

Cllr Crossley felt that this was an unsuitable scheme and that the parking obligations had not been met. Tandem spaces were not appropriate and meant that people were more likely to park on the street. He also had concerns about the loss of a mature walnut tree. He felt that the application would have a detrimental impact on the neighbouring property.

Cllr Sandry was surprised by the scale and bulk of the building.

Cllr Jackson felt that the loss of mature trees and potential drainage problems which could result was not acceptable.

Cllr Appleyard stated that, on balance, there were still problems with the application. The management of waste would impact on the community. The proximity of the development to the boundary would adversely affect the amenity of the neighbouring property. The application represented overdevelopment of the site in this area.

The motion was put to the vote and it was **RESOLVED** by 6 votes in favour and 4 votes against to **DELEGATE TO PERMIT** the application subject to conditions and the completion of a S106 agreement as set out in the report.

Item No. 3

Application No. 18/04233/FUL

Site Location: 14 The Beeches, Odd Down, Bath, BA2 2UX – Installation of rear and side dormer windows with two front roof lights (Resubmission)

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

The applicant spoke in favour of the application.

Cllr Steve Hedges, local ward member, spoke in favour of the application. He pointed out that the proposed extension would be in line with the current footprint of the dwelling. There were already some properties with large extensions and dormer windows in the street. He also pointed out that there were student flats in the area.

In response to a question from Cllr Jackson the Case Officer confirmed that the proposed development would not have any impact on the setting of the listed Red Lion pub.

Cllr Appleyard stated that he did not see a problem with the application, he pointed out that the neighbouring property already had a large extension and that there were a number of dormer windows in the street. The proposal would enable a local family to remain living in the area. He then moved that the Committee delegate to permit the application.

Cllr Crossley seconded the motion. He felt that the dormer windows would fit in with the roofscape in this area and noted that there were already some large student blocks nearby. He did not feel that the application would be detrimental to the neighbourhood.

Cllr Kew stated that he would prefer to view the site to fully consider the effect of the dormer windows on the street scene.

Cllr Jackson did not feel that the proposal would be detrimental to the area.

Cllr Sandry did not see an issue with the application and stated that it would have no effect on the Bath World Heritage Site.

The motion was put to the vote and it was RESOLVED by 7 votes in favour, 2 votes against and 1 abstention to DELEGATE TO PERMIT the application subject to conditions.

74 QUARTERLY PERFORMANCE REPORT - JULY TO SEPTEMBER 2018

The Committee considered the quarterly performance report – July to September 2018.

Cllr Crossley stated that it was helpful to see details of costs awarded for and against the Council. He thanked officers for their hard work and congratulated them on the excellent performance figures.

Cllr Kew expressed concern at the large number of enforcement cases that remained outstanding. He stressed the importance of carrying out enforcement

action where required.

The Team Manager, Development Management, informed members that there were 3 or 4 officers who carried out enforcement work and explained that this could be a lengthy process.

Cllr Jackson commended the enforcement team for their hard work and their proactive approach.

RESOLVED: To note the report.

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

The Committee considered the appeals report.

The Team Manager, Development Management, drew the Committee's attention to the successful appeal in relation to Flat 35, High Street, Upper Weston. The Inspector had raised concerns regarding the Council's policy to refuse an application for an HMO if it would lead to a property being sandwiched between two HMOs. Officers would consider the implications of this finding.

RESOLVED to note the report.

The meeting ended at 4.15 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services

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BATH AND NORTH EAST SOMERSET COUNCIL

Development Management Committee

Date 21st November 2018

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

ITEM

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
01	18/02898/FUL	Horseworld, Staunton Lane, Whitchurch

Update Report- Horseworld- 18/02898/FUL

At the last committee meeting, members deferred the application for a second time, this time for legal advice regarding the provisions of the S106 Agreement. In particular, members wanted more detail about why the planning obligations to provide an early years facility had been discharged.

Policy and Legal Background

The National Planning Policy Framework (2018) sets out the government's policy on when planning obligations (section 106) should be required:

54. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.

[para 55 deleted as not relevant]

56. Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The above three tests have a statutory basis because they are also contained in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. The key point is that s106 planning obligations should only be required if they are “necessary to make the development acceptable in planning terms”, in other words, required to address a need which is created by the development. Members will be aware of common examples such as a shortfall in school places, replacement trees or additional highways infrastructure.

Occasionally there may be a need for a planning obligation, but there is also a possibility that the need may be met in the near future by some other means. For example, the need might be met by the private market, or another development might come forward which meets the need. It would be contrary to the above tests for the local planning authority to require delivery of infrastructure where the public need for that infrastructure has already been met. In situations where it is uncertain whether a planning obligation will continue to be necessary, it is common for the s106 agreement to contain some flexibility to take account of changing future circumstances.

The section 106 agreement

This section 106 agreement is a complex document which was carefully negotiated with input from a range of expert officers. The agreement provides (page 20) that, subject to certain triggers being met, the developer will pay to the Council financial contributions towards the provision of an early years facility, and transfer land to the Council on which to provide an early years facility.

However, the agreement also contained some flexibility to cater for the situation where there was already adequate early years provision. The relevant section of the agreement is set out in the first update report to which members are referred. However for completeness, the relevant sections of the agreement are also appended to this update report. In summary, the agreement states that the developer shall not be required to pay the financial contribution or transfer the early years land if, prior to occupation of any residential unit, a new early education and/or childcare facility has opened in Whitchurch Village after 1 June 2017, which may include the Mama Bears Nursery, and that such provision at the time of its opening has the capacity to meet the childcare sufficiency demand created by the development which is to say places (whether filled or available) for at least an additional 28 children. The first update report sets out how the figures on capacity were calculated by the education team. The agreement then sets out a formal procedure which the developer and the Council must follow.

The evidence

Members are referred to the first update report which states that the new nursery can accommodate up to 30 children and is currently running at 60% occupancy, meaning that there are still 12 spaces. Therefore, this meets the requirement in the s106 that there are at least 28 places filled or available. Furthermore, the report goes on to state that there is potential for the nursery to expand by up to a further 24 places. Therefore, the evidence is that the identified early years provision is more than covered by the new nursery.

The decision

In accordance with the s106 agreement, the developers made a formal application to the Council to discharge the early years obligations. The application and all of the documents relating to it may be viewed on the Council's website under reference 17/03579/D6A. Members will note that the on-line file contains confirmation from the Council's Early Years Team (21 August 2017 - appended) that, as there is capacity in the existing nursery, the obligation to provide a facility on the Horseworld site can be discharged.

On 19 February 2018 the Council therefore issued a formal decision notice confirming that:

“Pursuant to paragraph 6(a) of Part 2 of Schedule 1 of the Section 106 agreement, dated 12 June 2018, it is confirmed that the information provided

demonstrates that there is now sufficient early years provision in Whitchurch to meet the need generated by the approved development. Therefore the Additional Early Years Land Contribution, the Early Years Contribution and the Early Years Land Contribution are no longer payable.”

Members are advised that the Council is bound by that decision in law.

Conclusion

These planning obligations were required in order to meet the need for early years provision which would be generated by the development. However, the s106 agreement contained flexibility to cater for the situation where, as turned out to be the case, the need was met by the market. Because the need was met, the planning obligations were no longer necessary and so were discharged. The discharge of the obligations meant that the developer was then free to make the current planning application which is now before members and should be determined on its merits.

From: Philip Frankland

Sent: 21 Aug 2017 16:18:19 +0100

To: Rachel Tadman

Subject: RE: 17/03579/D6A - Horseworld, Staunton Lane, Whitchurch

Hi Rachel

Yes as Mama Bears is now opened that is fine. Here is the nurseries verification of opening <https://mamabear.co.uk/nurseries/bristol/whitchurch>

Kind regards

Philip

Philip Frankland

Business Services Manager

Bath and North East Somerset Council

Telephone 01225 394330

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From: Rachel Tadman

Sent: 09 August 2017 10:20

To: Philip Frankland

Subject: 17/03579/D6A - Horseworld, Staunton Lane, Whitchurch

Dear Philip

In order to satisfy the requirements of Schedule 1, Part 2 Paragraphs 6 (a) of the S106 the Developer has submitted the attached document for us to consider. Like the situation at the neighbouring Barratts site, can you confirm that there is still capacity in Whitchurch for Early Years and therefore they can be released from their obligations to fund a facility on the Horseworld site.

I look forward to hearing from you.

Regards

Rachel

Rachel Tadman

Senior Planning Officer
Development Management
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"1990 Act" means the Town and Country Planning Act 1990 (as amended).

"Access" means the provision of adopted and unadopted roads and footpaths together with all rights and easements over the said roads and footpaths as are necessary to provide access to the Affordable Housing Units or any one of them.

"Additional Early Years Contribution" means a contribution of 50% of the total costs incurred by the Council in the provision of the Early Years Facility (including, inter alia, land valuations, legal and other professional fees associated with the acquisition of the land including any site investigation costs and any costs that may be required for ground works, remediation, and site clearance to bring the land up to the required standard suitable for use as an early years facility) save to the extent that the same are included in the Early Years Contribution and up to but not exceeding a maximum contribution of sixteen thousand pounds (£16,000).

"Additional Primary Education Land Contribution" means a contribution of 49.84% of the total costs incurred by the Council in the expansion of Whitchurch Primary School (including, inter alia, land valuations, legal and other professional fees associated with the acquisition of the land including any site investigation costs and any costs that may be required for ground works, remediation and site clearance to bring the land up to the required standard suitable for use as school playing land (which is land in the open air used for education or recreation)) up to but not exceeding a maximum contribution of fifteen thousand pounds (£15,000).

"Adjacent Site" means the land to the east of the Mead and north of Queen Charlton Lane, Whitchurch adjacent to the Land which is being developed pursuant to a planning permission under reference 16/02055/FUL (or any subsequent planning permission granted under section 73 of the 1990 Act)"

"Adjacent Site Early Years Land Contribution" means any contribution payable under the Adjacent Site Planning Obligation for the purpose of enabling the Council to acquire the Early Years Land

"Adjacent Site Planning Obligation" means an agreement under section 106 of the 1990 Act (and any subsequent variation of or agreement supplemental to it) in respect of the Adjacent Site

"Adoptable Areas Plan" means the plan at Appendix 2 showing the areas of land to be adopted as public highway.

"Affordable Housing" means subsidised housing as defined in the National Planning Policy Framework that will be made available to eligible households who are unable to afford to buy or rent an appropriate property locally on the open market and who fulfil the criteria for affordable housing as laid out in the Council's allocations policy (or subsequent equivalent document) and which remains at an affordable price where affordable relates to both rent and services charges levied for future eligible households.

"Affordable Housing Plan" means the plan 7850 PL12. Rev D at Appendix 3 or such other plan that the Council shall approve.

"Affordable Housing Scheme" means the delivery of the Affordable Housing Units as shown on the Affordable Housing Plan.

"Affordable Housing Units" means the units of Affordable Housing to be provided by the Developer to be constructed on the Land pursuant to the Permission consisting of 39 Affordable Housing Units as follows:

- (b) the Wheelchair Units have been designed to Habinteg Wheelchair Standards; and
- (c) the Affordable Housing Units have been designed to Council's Design and Quality Standards.

"Certificate of Construction Standards" means a written notice from a suitably qualified professional issued to the Council following Practical Completion of any Affordable Housing Unit to a Registered Provider confirming that the Development has been constructed in accordance with the Certificate of Design Standards.

"Commencement" means:

- (a) In relation to the obligations in Schedule 1, Part 6 (*Targeted Recruitment and Training*), commencement of development pursuant to the Permission by the carrying out of a "material operation" (as defined in section 56(4) of the 1990 Act); and
- (b) In relation to all other obligations in this Agreement, commencement of development pursuant to the Permission by the carrying out of a "material operation" (as defined in section 56(4) of the 1990 Act) save that the term shall not include works of demolition, surveys, site clearance, works of archaeological or ground investigation or remediation, the erection of fencing or hoardings, the provision of security measures or lighting, the erection of temporary buildings or structures associated with the Development, the laying removal or diversion of services, works to enable temporary access to the Land, or the provision of construction compounds
- (a) and in this Agreement **"Commence"** and **"Commenced"** shall be construed accordingly.

"Conducting Media" means the drains, sewers, conduits, flues, gutters, gullies, channels, ducts, shafts, watercourses, pipes, cables, wires and mains (or any of them).

"Confirmatory Deed" means the deed set out in the form of Appendix 11.

"Contributions" means the Primary Education Land Contribution, the Primary Education Contribution, the Additional Primary Education Land Contribution, the Early Years Contribution and the Additional Early Years Contribution

"Council's Design and Quality Standards" means the Design, Layout, Construction and Affordability requirements set out at paragraphs 3.1.42 to 3.1.55 inclusive of the Council's Planning Obligations Supplementary Planning Document (April 2015) in place at the date of this Agreement, save that (in relation to the relevant units) where there is a conflict with the Lifetime Homes Standards and/or the Habinteg Wheelchair Standards then the Lifetime Homes Standards and/or the Habinteg Wheelchair Standards shall be preferred.

"Development" means the development of the Land as set out in the Application and consented pursuant to the Permission.

"Early Years Contribution" means a contribution of 50% (indexed) of the total costs incurred by the Council for or towards the provision of the Early Years Facility up to but not exceeding a maximum contribution of two hundred and fifty nine thousand pounds, five hundred and sixty two pounds and twenty pence (£259,562.20).

"Early Years Facility" means a facility for the provision of early years education and childcare for children up to 5 years of age to be provided on the Early Years Land or a new (or extension to an existing) alternative early years facility in Whitchurch.

"Early Years Land" means the land for the Early Years Facility comprising .1094 hectares of land in a Serviced Condition to be provided on the Land as shown edged green on the plan attached to this Agreement at Appendix 5.

"Early Years Land Transfer Sum" means the sum of £100,000 (one hundred thousand pounds) payable by the Council to acquire the Early Years Land from the Owner

"Estate Roads" means the roads forming part of the Development to be adopted by the Council as shown on the plan at Appendix 2.

"Fire Hydrant Contribution" means the sum of £7,500 (Indexed) for the provision and maintenance of five (5) fire hydrants at the Development

"Formal Open Space" means those parts of the Open Space that are to be made available to the public.

"Habinteg Wheelchair Standards" means the standard set out in the Wheelchair Housing Design Guide (second edition) dated 2006 published by Habinteg Housing Association Ltd (or such other standard as agreed with the Council) for housing designed to provide independent living for physically disabled people and wheelchair users.

"Highways Agreement" means an agreement (or agreements) between the Owner, Developer and the Council under section 278 and section 38 of the Highways Act 1980 and any other relevant enabling provision, generally in the form set out at Appendix 6, relating to the construction, completion and adoption of the Highway Works, including an enforceable form of security to ensure the works are carried out.

"Highway Plans" means the plans appended to this Agreement at Appendix 7 illustrating the scope and scale of the Highway Works.

"Highway Works" means works comprising off-site highway improvements to Staunton Lane and Sleep Lane to include a mini roundabout, zebra crossing, widening of pavements and amendments to the Staunton Lane/Sleep Lane junction including traffic regulation orders to reduce the speed limit on Sleep Lane and shown for illustrative purposes only on the Highway Plans.

"Homes and Communities Agency" means the Homes and Communities Agency established pursuant to the Housing and Regeneration Act 2008 or such successor body.

"Homesearch Policy" means a choice based letting policy of the Council and the policy documents which support the Council's Homesearch Register.

"Homesearch Register" shall mean the register kept by the Council of those persons who are seeking accommodation within the area and whose need for such accommodation will be assessed by the Council in accordance with the Council's Homesearch Policy.

"Housing Need" means a person in need of housing who is unable to secure housing suitable for his/her needs in the local housing market as a result of the

"Targeted Recruitment and Training Contribution" means the sum of seven thousand and forty pounds (£7,040) (Indexed) to be applied towards targeted recruitment and training in the construction of the Development.

"Targeted Recruitment and Training Management Board" means a management board as identified in writing by the Council if already formed, or if no such management board is in existence to be established by the Owner and Developer and approved by the Council in writing, to include the Council and Bath and North East Somerset Learning Partnership, and whose purpose is to have responsibility for monitoring outcomes and addressing issues as they arise in connection with the Owner and Developers' obligations in connection with the Targeted Recruitment and Training Method Statement.

"Targeted Recruitment and Training Method Statement" means a method statement as required pursuant to Part 6 of Schedule 1 setting out:

- (a) The actions to be taken by the Owner and Developer to maximise opportunities for at least 5% of the construction workforce being a New Entrant Trainee, subject to the scale, duration and nature of the Development;
- (b) The delivery of the Targeted Recruitment and Training Outcomes; and
- (c) The contribution that the Owner and Developer will make to the Targeted Recruitment and Training Management Board.

"Targeted Recruitment and Training Outcomes" means in relation to the construction phase of the Development the provision of the following roles in accordance with Part 6 of Schedule 1:

- (a) Work experience placements of not less than 16 hours per opportunity;
- (b) Apprenticeship starts;
- (c) New jobs advertised through the Department of Work and Pensions ("DWP") and filled by DWP clients.

"Transfer" means Form TP1 to transfer the Early Years Land generally in the form of transfer appended at Appendix 10 the consideration for which shall be the Early Years Land Transfer Sum payable immediately prior to completion of the Transfer.

"Transport Link" means public routes for vehicles and pedestrians to provide links from the Land to adjoining sites as set out on the plan at Appendix 8 to this Agreement.

"Transport Link Highways Agreement" means an agreement (or agreements) between the Owner, Developer and the Council under section 38 of the Highways Act 1980 (and section 278 of the Highways Act 1980 as the case may be) and any other relevant enabling provision, generally in the form set out at Appendix 12, relating to the construction, completion and adoption of the Transport Link and Estate Roads including an enforceable form of security to ensure the works are carried out.

"Transport Management Contribution" means the sum of twenty thousand pounds (£20,000.00) to be paid for traffic management measures on Staunton Lane

**Schedule 1
Owner's Covenants**

**Part 1
Notifications**

- 1 The Owner covenants with the Council to provide the Council with at least 10 Working Days' prior written notice of the occurrence of the following:
 - (a) Commencement of Development;
 - (b) First Occupation of the Residential Units;
 - (c) Occupation of 50% of the Open Market Units; and
 - (d) Occupation of 75% of the Open Market Units.
- 2 Following a written request from the Council, the Owner shall provide the Council within 10 Working Days with such evidence as the Council shall reasonably require in order to confirm the actual stages of Occupation of the Residential Units.

**Part 2
Education**

- 1 The Owner covenants with the Council:
 - (a) to pay the Primary Education Land Contribution (Indexed) and the Primary Education Contribution (Indexed) to the Council prior to Commencement of the Development; and
 - (b) not to Commence the Development until the Primary Education Land Contribution (Indexed) and the Primary Education Contribution (Indexed) has been paid to the Council.
- 2 The Owner covenants with the Council:
 - (a) to serve on the Council the Primary Education Land Notice as soon as reasonably practicable following Occupation of the 40th Residential Unit; and
 - (b) to pay the Council the Additional Primary Education Land Contribution within twenty (20) Working Days of receipt of a written request from the Council such request to include a full breakdown of the Council's estimated costs which go to make up the Additional Primary Education Land Contribution and to be served no earlier than the date of Commencement and no later than:
 - (i) the Occupation of the 50th Residential Unit; and
 - (ii) six (6) months following the Council's receipt of the Primary Education Land Notice;

(whichever is the later) and for the avoidance of doubt the Council may serve the written request whether or not the primary school facility has yet been purchased or works commissioned or the precise costs are yet known.
- 3 Subject to paragraph 6 and paragraph 7 below, in the event that the Development Commences prior to the Council receiving the Adjacent Site Early Years Land Contribution, the Owner covenants with the Council:

- (a) to pay to the Council the Additional Early Years Contribution and the Early Years Contribution within twenty (20) Working Days of receipt of a written request from the Council such request to include a full breakdown of the Council's estimated costs which go to make up the Additional Early Years Contribution and the Early Years Contribution and to be served no earlier than the Occupation of the first Residential Unit and no later than:
 - (i) the Occupation of the 50th Residential Unit; and
 - (ii) six (6) months following the Council's receipt of the Primary Education Land Notice,
 whichever is the later; and
 - (b) to Transfer to the Council the Early Years Land:
 - (i) prior to Occupation of the 50th Residential Unit; or
 - (ii) if later, receipt by the Council of the Adjacent Site Early Years Land Contribution or an alternative means of funding the Early Years Land Transfer Sum.
- 4 Subject to paragraph 6 and paragraph 7 below, in the event that the Council receives the Adjacent Site Early Years Land Contribution prior to Commencement, the Owner covenants with the Council:
 - (a) to pay to the Council the Additional Early Years Contribution and the Early Years Contribution within twenty (20) Working Days of receipt of a written request from the Council or on the date twenty-eight days from the date of Commencement, whichever is the later, such request to include a full breakdown of the Council's estimated costs which go to make up the Additional Early Years Contribution and the Early Years Contribution; and
 - (b) to Transfer to the Council the Early Years Land no later than:
 - (i) within twenty (20) Working Days of receipt of a written request from the Council; or
 - (ii) on the date three months from the date of Commencement,
 whichever is the later.
- 5 For the avoidance of doubt the Council may serve the written request pursuant to paragraph 3 or paragraph 4 whether or not the Early Years Facility has yet been purchased or the works commissioned or the precise costs are yet known.
- 6 The Owner shall not be required to pay the Additional Early Years Contribution and the Early Years Contribution and shall not be required to Transfer the Early Years Land if:
 - (a) the Council has confirmed to the Owner in writing that such payments are not required which shall be in circumstances where prior to Occupation of any Residential Unit:
 - (i) a new early education and/or childcare facility has opened in Whitchurch Village after 1 June 2017 (to the extent that it is within the boundary of the Council's administrative area and which may

include the proposed new Mama Bears Day Nursery in Whitchurch);
or

- (ii) an existing early education and/or childcare facility in Whitchurch Village (to the extent that it is within the boundary of the Council's administrative area) has expanded after 1 June 2017;

and such provision or expansion at the time of its opening has the capacity to meet the childcare sufficiency demand created by the Development which is to say places (whether filled or available) for at least an additional twenty eight (28) children; and

- (b) the Owner has complied with the procedure set out in paragraph 7 below.

7 The Owner and the Council shall comply with the following requirements:

- (a) prior to Occupation of any Residential Unit, the Owner shall serve notice on the Council requiring the Council to confirm whether the circumstances in paragraph 6(a) above have been met and, accordingly, whether the Additional Early Years Contribution or the Early Years Contribution are payable;
- (b) following receipt of notice from the Owner in accordance with paragraph 7(a) above, the Council shall serve notice on the Owner confirming whether the circumstances in paragraph 6(a) above have been met, and accordingly, whether the Additional Early Years Contribution or the Early Years Contribution are payable;
- (c) the Owner shall provide the Council with any information reasonably required by the Council to enable it to confirm whether the circumstances in paragraph 6(a) above have been met.

Part 3 Affordable Housing

1 The Owner must construct the Affordable Housing Units:

- (a) in accordance with:
 - (i) the approved Affordable Housing Scheme and the programme and timetable thereunder;
 - (ii) the Council's Design and Quality Standards;
- (b) provided with Services and Service Installations and Access to the Affordable Housing Units;
- (c) with the Lifetime Homes Affordable Housing Units to be constructed in accordance with the Lifetime Homes Standards; and
- (d) with the Wheelchair Units to be constructed in accordance with the Habinteg Wheelchair Standards.

2 The Owner shall not Occupy or permit Occupation of the Residential Units otherwise than in accordance with the Affordable Housing Scheme.

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 21 NOVEMBER 2018**

MAIN PLANS LIST			
ITEM NO.	SITE NAME	SPEAKER	FOR/AGAINST
1	Horseworld, Staunton Lane, Whitchurch	Rhian Powell (Applicant)	For
2	40 Bloomfield Park, Bloomfield, Bath, BA2 2BX	George Howard	Against
		John White (AGM Ltd)	For
		Cllr Mark Shelford (Local Ward Member)	Against
3	14 The Beeches, Odd Down, Bath, BA2 2UX	Daniel McIntyre (Applicant)	For
		Cllr Steve Hedges (Local Ward Member)	For

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BATH AND NORTH EAST SOMERSET COUNCIL
DEVELOPMENT MANAGEMENT COMMITTEE

21st November 2018

DECISIONS

Item No:	01		
Application No:	18/02898/FUL		
Site Location:	Horseworld, Staunton Lane, Whitchurch, Bristol		
Ward: Publow And Whitchurch	Parish: Whitchurch	LB Grade: II	
Application Type:	Full Application		
Proposal:	Erection of 5no. residential units (including affordable housing) together with associated parking, highways and landscaping works.		
Constraints:	Bristol Airport Safeguarding, Agric Land Class 3b,4,5, Coal - Standing Advice Area, Policy CP9 Affordable Housing Zones, Policy GDS1 Site Allocations, Housing Development Boundary, Policy NE1 Green Infrastructure Network, Neighbourhood Plan, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,		
Applicant:	Bellway Homes Ltd (South West)		
Expiry Date:	22nd November 2018		
Case Officer:	Chloe Buckingham		

DECISION REFUSE

1 The proposed development is on land that was originally intended to be developed for an Early Years Nursery in accordance with the Masterplan considered by the Council under application no. 15/03406/CONSLT. The existing Early Years Nursery in Whitchurch is not considered to be an acceptable alternative location for residents living close to the application site as it is in a location that requires a long walk along a road that is considered dangerous and having a polluted environment for children and parents. Furthermore, the removal of the potential on-site nursery provision will mean that the site loses a community space for the new residents which will not be conducive to creating sustainable communities. The proposal is therefore considered contrary to policies D1, D6, ST1, PCS1, PCS3 and LCR1 of the Bath and North East Somerset Placemaking Plan (2017) and Policy RA5 of the Bath and North East Somerset Core Strategy (2014).

PLANS LIST:

This decision relates to plan references;

7850-EYPL01B, 7850-EYPL28B, 7850-EYPL27B, 7850-EYPL26B, 7850-EYPL25B, 7850-EYPL24B, 7850-EYPL23B, 7850-EYPL22B, 7850-EYPL15B, 7850-EYPL12B, 7850-EYPL05B, 7850-EYPL04B, 7850-EYPL02B received 4th July 2018.

478-8301-3B received 29th June 2018.

7850-EYPL03H, 7850-EYPL06, 7850-EYPL20C and 7850-EYPL21C received 4th September 2018.

416.01578.00063.29.017 Rev 2 received 11th September 2018.

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Whilst the application was recommended for permission by Officers the Development Management Committee considered the proposal to be unacceptable for the stated reasons.

Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

Item No:	02	
Application No:	18/01999/FUL	
Site Location:	40 Bloomfield Park, Bloomfield, Bath, Bath And North East Somerset	
Ward: Lyncombe	Parish: N/A	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Erection of 8 no. apartments with associated parking and landscaping following demolition of existing detached house and garage (Resubmission).	
Constraints:	Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Conservation Area, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, SSSI - Impact Risk Zones,	
Applicant:	Mr J. Morgan on behalf	
Expiry Date:	12th December 2018	
Case Officer:	Chris Griggs-Trevarthen	

DECISION Delegate to PERMIT subject to conditions and a S106 Agreement

Item No:	03
Application No:	18/04233/FUL
Site Location:	14 The Beeches, Odd Down, Bath, Bath And North East Somerset

Ward: Odd Down	Parish: N/A	LB Grade: N/A
Application Type:	Full Application	
Proposal:	Installation of rear and side dormer windows with two front roof lights. (Resubmission)	
Constraints:	Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,	
Applicant:	Mr Daniel McIntyre	
Expiry Date:	23rd November 2018	
Case Officer:	Edward Allsop	

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 Materials (Compliance)

All external walling of the dormer window shall be clad in hanging tiles to match those of the main dwelling; in respect of; type, material, size and colour.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking 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 following plans:

Site location plan-001- 17th September 2018
Existing site plan- 002- 17th September 2018
Existing floor plans- 003- 17th September 2018
Existing loft and roof plan-004- 17th September 2018
Existing elevations-005- 17th September 2018
Proposed site plan-006- 17th September 2018
Proposed floor plans-007- 17th September 2018
Proposed loft and roof plans-008- 17th September 2018

Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council before development commences, failure to comply with the regulations can result in surcharges and additional payments. 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

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

Bath & North East Somerset Council	
MEETING:	Development Management Committee
MEETING DATE:	19th December 2018
RESPONSIBLE OFFICER:	Simon de Beer – Head of Planning
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 Head of Planning about applications/proposals for Planning Permission etc. The papers are available for inspection online at <http://planning.bathnes.gov.uk/PublicAccess/>.

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

The following notes are for information only:-

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

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

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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	18/02911/FUL 21 December 2018	Mr Erwin Davis 1 Ivy Court Cottage, Tennis Court Road, Paulton, Bristol, BS39 7LU Erection of 2 no. 3 bed dwellings with associated garages.	Paulton	Christine Moorfield	PERMIT
02	18/03674/FUL 7 November 2018	KP Lake View, Stoke Hill, Chew Stoke, Bristol, Bath And North East Somerset Change of use from existing garage with office above into holiday let accommodation.	Chew Valley North	Christine Moorfield	REFUSE
03	18/04158/LBA 14 November 2018	Mr & Mrs John Dominic & Elizabeth Jane Brooks The Priory, Old School Hill, South Stoke, Bath, Bath And North East Somerset Exterior alterations to include rebuild & partly relocate & extend dry & mortared rubble bath stone wall. Erection of low rubble stone retaining wall in south east corner. Installation of gates, erection of a wooden fence. Installation of limestone path & garden seat platform & forming of bin/log store. (Retrospective)	Bathavon South	Laura Batham	REFUSE
04	18/04157/FUL 14 November 2018	Mr & Mrs John Dominic & Elizabeth Jane Brooks The Priory, Old School Hill, South Stoke, Bath, Bath And North East Somerset Change of use from pub garden to private garden including the addition of a fence and wall and erection of a shed. (Retrospective)	Bathavon South	Laura Batham	REFUSE

05	18/03359/FUL 21 September 2018	Mr Robert McLuhan 6 Richmond Road, Beacon Hill, Bath, Bath And North East Somerset, BA1 5TU Erection of replacement split level four bedroom dwelling and attached garage following demolition of existing two bedroom bungalow and garage.	Lansdown	Rae Mepham	PERMIT
06	18/04168/FUL 20 December 2018	Mr P Harrison Long Byre, Barn Lane, Chelwood, Bristol, Bath And North East Somerset Erection of detached double garage	Clutton	Hayden Foster	REFUSE
07		Bath Racecourse			

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 18/02911/FUL
Site Location: 1 Ivy Court Cottage Tennis Court Road Paulton Bristol BS39 7LU



Ward: Paulton **Parish:** Paulton **LB Grade:** N/A
Ward Members: Councillor John Bull Councillor Liz Hardman
Application Type: Full Application
Proposal: Erection of 2 no. 3 bed dwellings with associated garages.
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Policy CP9
Affordable Housing Zones, Housing Development Boundary, SSSI -
Impact Risk Zones,
Applicant: Mr Erwin Davis
Expiry Date: 21st December 2018
Case Officer: Christine Moorfield
To view the case click on the link [here](#).

REPORT

This application is presented to committee as Paulton Parish Council Object to this application on the following grounds

- access is a concern and there appears to be mis-information in the application.

The Chair of DMC has looked at all the information linked to this application which has been going through the process for a period of time with amendments made as it has progressed however comments from the PC, other statutory consultees and third parties highlight the controversial aspect of the application.

The application is recommended to be determined by the DMC so the controversial issues relevant to planning policies can be debated fully.

The applicant is seeking permission to erect two detached 3 bed dwellings and two garages with a bin and cycle store following the demolition of outbuildings located to the rear of 1 Ivy Court Cottage, Tennis Court Road, Paulton.

Ivy Court Cottage is a two storey semi-detached dwelling finished in natural stone. Previously Ivy Court Cottage and the application site were in the same ownership. The application site which is now in separate ownership has an area of approx. 0.1 hectares. There are several buildings within the site that appear to be outbuildings and workshops which have not been used for some years. There are also some trees located in the North Eastern side of the site.

The plot is 'L' shaped and wraps around the boundary of the property to the North. The agent has confirmed that the site, in the past, was used as a yard with lorry and construction vehicles/plant operating from it. The workshops and outbuildings were used for maintenance on these vehicles and an inspection pit is still in place on a building at the rear although it is evident that the site has not been used in this way for several years.

The site is within the housing development boundary for Paulton.

The surrounding area is not characterised by a rigid form or grain of development. There is a mix of two storey and single storey dwellings finished in a mix of natural stone, reconstructed stone and render within the vicinity of the site.

HISTORY

DC - 17/02207/FUL - PERMIT - 15 September 2017 - Erection of detached dwelling and detached garage following demolition of outbuildings.

DC - 18/02911/FUL - PCO - - Erection of 2 no. 3 bed dwellings with associated garages.

DC - 03/02439/PDQ - QNR - - Erection of a conservatory

DC - 15/03704/FUL - APPRET - - Installation of a window to the North elevation at first floor level of 1 Ivy court cottage.

DC - 17/02207/FUL - PERMIT - 15 September 2017 - Erection of detached dwelling and detached garage following demolition of outbuildings.

DC - 18/00743/COND - INSFEE - - Development of a terrace of 3 houses following demolition of various outbuildings and improvement to highway access.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Paulton Parish Council Object to this application on the following grounds - access is a concern and there appears to be mis-information in the application. Paulton Parish

Council would like to make the comment that they were satisfied with the initial application for the proposal of one property on the site.

10 letters of comment/objection have been received in relation to this application.

The letters come from three interested parties.

One of the interested parties has withdrawn all letters of comment/objection.

The main issues raised are as follows

Originally both Ivy Court Cottage and the land at the rear which is the subject of this application were owned by the same person and as such both sites shared a drive.

The application site and Ivy Court Cottage were separated in December 2017

Application for more than one dwelling refused.

There is a covenant attached to the deeds of Ivy Court Cottage which requires a boundary fence or wall to be constructed along their drive. This will be done.

Ivy Court Cottage residents have a right of access along the applicants drive to maintain their garage.

The proposal will increase traffic generation and the access is not suitable.

The development will cause disturbance to neighbours through the coming and going of vehicles.

The site has not been used commercially as claimed and therefore the proposal will increase traffic use of the access.

The drive is to be surfaced with tarmac and as the drive slopes down to the neighbours garage consideration would need to be given to surface water disposal.

Development will cause a loss of privacy to neighbours.

These dwelling are not starter homes as claimed by the applicant.

A high fence will prohibit visibility at the entrance to the site.

A letter of comment has been received clarifying the situation in respect of the building of the boundary walls to the adjacent property Caryina.

Letters and correspondence in respect of the ownership of the boundary wall and pillar on the boundary of Caryina were received. However, the occupier of this property has now withdrawn all their comments and comments submitted on their behalf.

Trees

An arboricultural report has been provided which incorporates an Arboricultural Impact Assessment (AIA) and Detailed Arboricultural Method Statement.

I note that a number of trees have since been removed as identified in the revised tree survey. I note that T2 is shown retained despite its quality and position as illustrated in

Plate A of the arboricultural report. The required measures to retain this tree do not appear proportionate.

I remain of the opinion that the subdivision of the plot into two reduces the garden space for each and reduces the available space not influenced by the trees which in my opinion is illustrated by the 'Shading Plan'.

The reorientation of the buildings means that the trees are in direct view from the lounges and will block morning sunlight and natural skylight. The report acknowledges that future occupants may experience apprehension (2.3.4 of the report).

I note that the report identifies tree pruning to improve the acceptability of the trees for future occupants.

The above points reaffirm my opinion that future occupants are likely to undertake unsympathetic pruning or tree removal to reduce any adverse impact on the living conditions and use of their gardens.

The report goes on to state under 2.3.7 that the tree group (meaning T6, T7, T8, T10, T11 and T12 since removed) have a useful life expectancy of 5-10years yet this is not reflected in the Tree Schedule.

I maintain that Section 3.5 of the Planning Obligations Supplementary Planning Document is appropriate to secure off site replacement planting.

Further discussion have taken place and the tree officer has agreed to the proposals as submitted.

Ecology

There appear to be particular ecological concerns with this proposal, other than issues which are already picked up in the Arboricultural advice (which I support).

The issues raised by the Arboricultural officer should be addressed - any impacts on or losses to trees as a result of these issues failing to be properly addressed would obviously also have ecological implications.

I would request that the Arboricultural issues are properly addressed (via arb advice - ecology does not need to be re consulted).

Drainage

The drainage and flooding team have no objection to the development subject to a condition in respect of details being submitted to indicate the scheme can be developed in accordance with Building Regs part H.

The applicant has indicated that soakaways will be used to manage surface water on site. The British Geological Survey maps state that the area is probably capable of infiltration and SuDs.

Waste

Our waste planning guidance provides the details to ensure adequate space, storage and access for refuse and recycling collections is considered.

Please note collections are made from the edge of the public highway, sufficient space for presentation of wheeled bins and recycling boxes will be required at the edge of the development if the road is not to become an adopted highway.

Contaminated Land

Taking account of the sensitive nature of the proposed development (residential) and the potentially contaminative historical usage of the site understood to be as a yard with lorry and construction vehicles/plant operating from it, with workshops and outbuildings used for maintenance on the vehicles and an inspection pit, conditions in respect of reporting unexpected contamination and a walk over desk study are necessary if permission is granted.

HIGHWAYS

I refer to the revised plan reference SMH/45/18/16-01 Revision E: Proposed Site Plan received on 30th November 2018 on which the agent has overlaid the red line boundary.

The revised plan indicates that the applicant is able to provide a 4.1-metre wide vehicular access for a minimum distance of 5-metres beyond the edge of the highway, thereby satisfying the remaining Highway Development Control (HDC) concern

HDC is aware that the occupier of Ivy Court Cottage has the right to erect a fence along the boundary of their property and the vehicular access to the proposed two dwellings. However, the revised plan indicates that the applicant would still be able to provide an access of the dimensions outlined above, should a fence be erected.

Whilst being outside of the scope of the planning application under consideration, should the occupier of Ivy Court Cottage erect a fence along the boundary line, it would remove their ability to manoeuvre their vehicles on-plot such that they could enter Tennis Court Road in a forward gear.

In summary, HDC raises no highway objection to the proposal, subject Conditions and Advisory notes being attached to any planning permission granted.

POLICIES/LEGISLATION

On 13th July the Council adopted the B&NES Placemaking Plan. It now becomes part of the

statutory Development Plan for the district, against which planning applications are determined.

The statutory Development Plan for B&NES now comprises:

- o Core Strategy (July 2014)
- o Placemaking Plan (July 2017)
- o B&NES Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites
- o Joint Waste Core Strategy
- o Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th

July 2014. The following policies of the Core Strategy are relevant to the determination of this

application:

- o CP6 - Environmental Quality
- o CP2 - Sustainable construction
- SV1 - Somer Valley Spatial Strategy

Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on

13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of

this application:

D1 : General Urban Design Principles

D2 : Local Character and Distinctiveness

D6 : Amenity

D3 Urban fabric

D4 Streets and spaces

D5 Building design

D7 Backland infill development

SCR5 water efficiency

LCR9 Increasing the provision of local food growing

H7 Housing accessibility

ST1 : Promoting Sustainable Travel

ST7 : Transport Requirements For Managing Development

LEGAL FRAMEWORK

o Town and Country Planning Act, 1990

NATIONAL PLANNING POLICY FRAMEWORK, 2018

o 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

The main issues in relation to this application are as follows:

Principle of development

Character and appearance

Highways

Residential amenity

Trees

Ecology

Drainage

Principle of development

The application site is within an identified housing development boundary where in principle residential development would be considered acceptable.

The grain of development is characterised by linear development, set in long narrow plots with small front gardens fronting highways and large rear gardens. Within the locality many properties are two storeys but there are several bungalows around the site. To the east of the site is a development of bungalows. The proposed development would be located within an area of back land space that is accessed via a private access drive between Ivy Cottage and Carinya.

The garden site is surrounded on all sides by residential development. The site appears to have been previously used for vehicle repair purposes but it is evident that the site has not been in this use for many years.

Of particular relevance is application number 17/02207/FUL which was permitted on 15 September 2017 and was for the erection of a detached dwelling and detached garage following demolition of outbuildings. This unit was sited perpendicular to the road to the rear of Ivy Court Cottage. The application site and Ivy Court Cottage are now in separate ownership and therefore the previous shared access way which allowed both sites to have reasonable visibility across an open driveway is no longer available. This proposal indicates an access drive of 4.1m for a 5m length which runs between Ivy Court Cottage and Carinya.

The submitted application form and certificate indicates that the application site is all within the ownership of the applicant.

As submitted, concerns were raised by the adjacent owners and the Parish Council that the land on which the access was shown was not entirely in the ownership of the applicant. Following the lengthy exchanges of information the neighbour at Carinya has now withdrawn their comments in respect of the ownership of the land that adjoins Carinya.

When ownership of the access land was challenged the applicant was advised by the case officer that where there is a possibility of land, as claimed not to be in the applicants ownership it would be inappropriate for a positive planning recommendation to be made. However, it now appears that the land included within the red line is in the applicants ownership.

Following withdrawal of comments from the neighbour and in the absence of the Council having information to the contrary it now appears that the application has been appropriately submitted and the correct certificate has been provided in support of the application.

Character and Appearance

The two detached 3 bedroomed properties sit parallel to the street albeit set back from the properties that front the street.

All elevations are to be finished in a coursed local natural rubble stone and incorporate dressed stone heads and cills.

To ensure minimal visual impact of the new dwellings when viewed from the neighbouring properties Ivy Court Cottage and Carinya, the eaves has been lowered to provide dwellings with a lower height and the 1.5 storey dormer style dwellings will be finished with Clay double roman roof tiles. The walls are shown to be constructed of coursed rubble stone.

In accordance with Policy and Schedule T26, each 3 bed dwelling provides external parking for 2 cars. Adjacent to the parking a bin and cycle store is proposed. The design and materials used are considered appropriate in this location given the mixed character of the surrounding area.

The proposed dwellings by reason of their design, siting, scale, massing, layout and materials are considered acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4

and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

Residential Amenity

The site slopes marginally down to the East. On the eastern boundary is some vegetation and trees screening the site from the residential development to the East.

The proposed garage building is set down marginally from the boundary with Ivy Court Cottage and the property/garden to the south. The two units will sit at a distance of over 30m from Ivy Court Cottage itself and approx 16m from the garden boundary. To the east the properties as proposed have a minimum garden length of 12m. The properties have a maximum height of just under 8m so are not particularly tall dwellings.

The properties have been designed with a reduced ridge line height and the floor levels have been lowered following the topography of the site this results in the upper floor main bedroom view of the garden and Ivy Court Cottage being in part restricted by the proposed and existing garaging. The bathroom windows are shown to be fitted with obscured glazing.

Both properties have a first floor en suite bathroom window on the side elevation (north and south) These windows are to be glazed with obscure glass, a condition to ensure this happens is considered necessary. The northern plot has a secondary first floor bedroom window in the northern elevation. This window is located passed the rear boundary of Carinya and therefore any overlooking would be at a very oblique angle. In a similar way the first floor front windows look towards Carinya but would provide an oblique view at a distance of approx. 24m to the house, although it is recognised that there is a raised terrace at the rear of this property but it is not considered that there would be an unacceptable loss of privacy for the adjacent neighbours given the distance between the dwellings.

The increase in vehicle movement as a result of this development of two 3 bedroomed dwellings as opposed to the previously permitted 4 bedroomed house is considered to be minimal. Of note is the previous historic use of the site which is a material consideration despite the fact that this use has not taken place for some years.

The site is within a sustainable location within the Paulton housing development boundary. Occupiers of the site will have access to local services and amenities as well as public transport links.

Given the design, scale, massing and siting of the proposed development the proposal is not considered to cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

Highways

As originally submitted concerns were expressed by interested parties that the access as shown was not on land within the ownership of the applicant. However, after lengthy

negotiations the access as indicated appears to be within the ownership of the applicant and is assessed on this basis.

Revised plan reference SMH/45/18/16-01 Revision E: Proposed Site Plan received on 30th November 2018 indicates that the applicant is able to provide a 4.1 metre wide vehicular access for a minimum distance of 5 metres beyond the edge of the highway, thereby satisfying the remaining Highway Development Control (HDC) concern.

HDC is aware that the occupier of Ivy Court Cottage has the right to erect a fence along the boundary of their property and the vehicular access to the proposed two dwellings. However, the revised plan indicates that the applicant would still be able to provide an access of the dimensions outlined above, should a fence be erected.

Whilst being outside of the scope of the planning application under consideration, should the occupier of Ivy Court Cottage erect a fence along the boundary line, it would remove their ability to manoeuvre their vehicles on-plot such that they could enter Tennis Court Road in a forward gear.

The means of access and parking arrangements are acceptable and maintain highway safety standards. Therefore the proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 9 of the NPPF.

An arboricultural report has been provided which incorporates an Arboricultural Impact Assessment (AIA) and Detailed Arboricultural Method Statement.

It is noted that a number of trees have since been removed as identified in the revised tree survey. It is noted that T2 is shown retained despite its quality and position as illustrated in Plate A of the arboricultural report. The required measures to retain this tree do not appear proportionate.

The council's tree officer had raised concerns in respect of the scheme however further discussions have taken place.

The agent has confirmed that in the additional information submitted the retention of T2 may well take a bit of forethought and consideration during the construction phase, however, its retention has omitted the need to fell any trees for this application and any subsequent tree replacement costs/planting.

This has been agreed by the Councils Arboriculturalist and conditions in respect of this matter are considered necessary.

There are no particular ecological concerns with this proposal, other than issues which are already picked up in the Arboricultural advice.

The issues raised by the Arboricultural officer should be addressed - any impacts on or losses to trees as a result of these issues failing to be properly addressed would obviously also have ecological implications.

The drainage and flooding team have no objection to the development subject to a condition in respect of details being submitted to indicate the scheme can be developed in accordance with Building Regs part H.

The applicant has indicated that soakaways will be used to manage surface water on site. The British Geological Survey maps state that the area is probably capable of infiltration and SuDs. Conditions in respect of drainage are considered necessary.

The neighbour has raised concerns that the tarmacked drive may create surface water run off issues onto their land/garage.

Conditions in respect of this matter are considered necessary.

Our waste planning guidance provides the details to ensure adequate space, storage and access for refuse and recycling collections is considered.

Land

Taking account of the sensitive nature of the proposed development (residential) and the potentially contaminative historical usage of the site understood to be as a yard with lorry and construction vehicles/plant operating from it, with workshops and outbuildings used for maintenance on the vehicles and an inspection pit, conditions in respect of reporting unexpected contamination and a walk over desk study are necessary if permission is granted.

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.

3 Ground investigations (Precommencement)

No 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 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. 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.

4 Reporting of Unexpected Contamination (Compliance)

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

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 and 15 of the National Planning Policy Framework.

5 In accordance with the method statement (Pre commencement)

No development or other operations shall take place except in complete accordance with the Detailed Arboricultural Method Statement dated November 2018. 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 dwellings.

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

6 Desk Study and Walkover (Compliance)

Where development is proposed, the developer is responsible for ensuring that the development is safe and suitable for use for the purpose for which it is intended. The developer is therefore responsible for determining whether land is suitable for a particular development.

A Desk Study and Site Reconnaissance (Phase 1 Investigation) survey shall be undertaken to develop a conceptual site model and preliminary risk assessment. The Phase I investigation should provide a preliminary qualitative assessment of risk by interpreting information on a site's history considering the likelihood of pollutant linkages being present. The Phase I investigation typically consists of a desk study, site walkover, development of a conceptual model and preliminary risk assessment. The site walkover survey should be conducted to identify if there are any obvious signs of contamination at the surface, within the property or along the boundary of neighbouring properties. Should the Phase 1 investigation identify potential pollutant linkages then further investigation and assessment will be 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 and 15 of the National Planning Policy Framework.

7 Water Efficiency (Compliance)

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 Bath and North East Somerset Placemaking Plan.

8 Use of garages (Compliance)

The garages hereby approved, as indicated on submitted plan reference SMH/45/18/16-01 Revision E, shall be retained for the garaging of private motor vehicles associated with the dwelling and ancillary domestic storage and for no other purpose

Reason: To ensure adequate off-street parking provision is retained in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan

9 Arboriculture - Compliance with Arb Method Statement (Pre-occupation)

The approved development shall be carried out in accordance with the approved Arboricultural Method Statement and Tree Protection Plan. No occupation of the approved development shall commence until a signed certificate of compliance by the appointed Arboriculturalist has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy NE6 of the Bath and North East Somerset Placemaking Plan. To ensure that the approved method statement is complied with for the duration of the development.

10 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 ST7 of the Bath and North East Somerset Placemaking Plan

11 Storage (Pre-occupation)

No occupation of the development shall commence until bicycle storage for at least four bicycles 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.

12 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 D1, D2, D4 and NE2 of the Bath and North East Somerset Placemaking Plan.

13 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 D1, D2 and NE2 of the Bath and North East Somerset Placemaking Plan.

14 Water Efficiency - Rainwater Harvesting (Pre-occupation)

No occupation of the approved dwellings shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (e.g. 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.

15 Obscure Glazing and Non-opening Window(s) (Compliance)

The proposed first floor ensuite bathroom windows in the south and north elevations 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 amenities of adjoining occupiers from overlooking and loss of privacy in accordance with Policy D6 of the Bath and North East Somerset Placemaking Plan.

16 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 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.

17 Sample Panel - Walling (Bespoke Trigger)

No construction of the external walls of the development shall commence until a sample panel of the natural coursed rubble stone external walling to be used has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.

PLANS LIST:

1 PLANS 01E, 02, 03, 04A, 05A, 06 and 07

2 The applicant should be advised to contact the Highways Maintenance Team at Highways@bathnes.gov.uk with regards to securing a license under Section 184 of the Highways Act 1980 for the construction/widening of a vehicular access. The access shall not be brought into use until the details of the access have been approved and constructed in accordance with the current Specification

3 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 an application to Discharge Conditions and pay the relevant fee via the Planning Portal at www.planningportal.co.uk or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

4 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

5 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council before development commences, failure to comply with the regulations can result in surcharges and additional payments. 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

Item No: 02
Application No: 18/03674/FUL
Site Location: Lake View Stoke Hill Chew Stoke Bristol Bath And North East Somerset



Ward: Chew Valley North **Parish:** Chew Stoke **LB Grade:** N/A
Ward Members: Councillor Liz Richardson
Application Type: Full Application
Proposal: Change of use from existing garage with office above into holiday let accommodation.
Constraints: Bristol Airport Safeguarding, Agric Land Class 1,2,3a, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Greenbelt, LLFA - Flood Risk Management, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE5 Ecological Networks, Policy NE5

Applicant: KP
Expiry Date: 7th November 2018
Case Officer: Christine Moorfield
To view the case click on the link [here](#).

REPORT

This application is presented to Committee as the Chew Stoke Parish Council is keen to support the development of small scale tourist accommodation in the Parish.

The Chair of the planning committee has stated that whilst the Parish Council support the application the Officer has

assessed the application against relevant planning policies and it is evident that while it doesn't contravene some policies neither does it adhere to them. Therefore the application is to be determined by the DMC so the issues can be debated fully.

This application is for the conversion of an existing garage with office above, into holiday let accommodation.

The holiday lets will consist of two 1 bed dwellings over two floors. A small open shelter is proposed to the east of the garage to store bicycles.

The application site is located within the Green Belt and Area of Outstanding Natural Beauty to the south of Chew Stoke and relates to a two storey detached stone constructed dwelling and detached garage that sits perpendicular to the roadside. Between the house and road is an existing large gravelled drive and parking area.

DC - 04/03685/FUL - RF - 21 January 2005 - First floor rear extension and single storey rear extension to provide covered swimming pool

DC - 05/03635/FUL - PERMIT - 23 December 2005 - First-floor rear extension (as amended by plan date stamped 21 December 2005)

DC - 07/01730/FUL - RF - 13 July 2007 - Erection of a swimming pool enclosure

DC - 07/02335/FUL - PERMIT - 11 September 2007 - Erection of a swimming pool enclosure (Resubmission)

DC - 12/03005/FUL - PERMIT - 12 September 2012 - Erection of new garage adjacent to the house with work from home office above the unit following demolition of existing garage

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

PARISH COUNCIL -The Parish Council is keen to support the development of small scale tourist accommodation in the Parish.

It was commented by councillors that cars continue to park on the verge in front of house and the Parish Council has made a request to the applicant that this practice ceases given that the land is within highway ownership and that it causes detrimental roadside clutter in an AONB location and at the entrance way to the village.

NEIGHBOURS

No third party comments have been received.

ECOLOGY

The proposal involves conversion of an existing building comprising a garage with office above, which was constructed relatively recently.

The change of use proposal will presumably not require alterations to the roof; the roof space is already used for office accommodation and it would seem unlikely that this space will be used by wildlife in any case but if any wildlife is present (e.g. nesting birds or bats) then it is more likely they would use spaces or crevices on the exterior of the building and therefore be unaffected by the proposal.

It is also unlikely that wildlife share use of the ground floor garage space especially if the garage doors are usually kept shut. If however there is a risk of wildlife such as bats or birds using this space further consideration should be given to avoid harm to them. In this case, provided no new information comes to light to indicate a higher likelihood of use of the building by wildlife, I would recommend precautionary working methods are used in any case, as the risk of wildlife presence can never be completely removed. This should be secured by condition. Subject to this I have no objection.

DRAINAGE

No objection. Proposal will have minimal impact on drainage and flood risk.

HIGHWAYS

As submitted the Highway Engineer raised objections to the scheme. In the light of Highway comments amended plans were submitted.

Initial highway observations were made on 20th September 2018 which recommended that the application be refused on the grounds of insufficient off-street parking, unless the applicant could demonstrate that sufficient off-street parking and turning to accommodate vehicles associated with the main dwelling and proposed holiday lets could be provided

Secure and convenient storage for 4 No bicycles was also recommended

Revised plan reference H5856/100 Revision C indicates the provision of 6No off-street car parking spaces, which is acceptable to the highway authority, allocated as follows:

-3 No. for the existing dwelling;

-2 No. (one each) for the holiday lets; and

-1 No. visitor space

The revised plan also indicates secure and convenient stage for 4 No bicycles, which is acceptable

In summary, the highway authority raises no objection to the planning application, subject to Conditions being attached to any planning permission granted.

POLICIES/LEGISLATION

On 13th July the Council adopted the B&NES Placemaking Plan. It now becomes part of the statutory Development Plan for the district, against which planning applications are determined.

The statutory Development Plan for B&NES now comprises:

- o Core Strategy (July 2014)

- o Placemaking Plan (July 2017)

- o B&NES Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites

- o Joint Waste Core Strategy

- o Made Neighbourhood Plans

The following B&NES Core Strategy policies should be considered:

CP6 Environmental Quality
CP2 Sustainable construction
CP8 Green Belt

The relevant Placemaking Plan policies should be considered:

DW1 District Wide Spatial Strategy
D2 Local character and distinctiveness
D4 Streets and Spaces
D6 Amenity
ST1 Promoting sustainable travel
ST7 Transport Access and Development Management
GB1 Visual Amenities of the Green Belt
GB3 Extensions and Alterations to buildings in the Green Belt
SCR5 Water Efficiency
GB3 Extensions and Alterations to buildings in the Green Belt
RE6 Re-use of Rural Buildings
RE7 Visitor Accommodation
NE2 Conserving and Enhancing the Landscape and Landscape Character
NE3 Sites, Species and Habitats
NE5 Ecological Network

Relevant policies from the Chew Valley Neighbourhood Plan (2016);

HDE1 - Rural Landscape Character
HDE2 - Settlement Build Character
BF1 - Diversification for Tourism and Policy
BF2 - Retention of Small Businesses

LEGAL FRAMEWORK

-Town and Country Planning Act, 1990

NATIONAL PLANNING POLICY FRAMEWORK, 2018

NATIONAL PLANNING PRACTICE GUIDANCE

Due consideration has been given to the NPPF and NPPG

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

OFFICER ASSESSMENT

Principle of the proposal

The proposal is in relation to the conversion of an existing garage/office which is within the residential curtilage and in close proximity of the dwelling, Lake View. The proposed conversion of the garage into two self-contained flats would be capable of being occupied independently of the existing dwelling, and they are not therefore, ancillary. The proposal therefore, is considered to amount to the creation of two residential units within the countryside. A small cycle store is proposed to the east of the garage.

Section 13 of the NPPF establishes that new development in the Green Belt is to be regarded as inappropriate apart from in a number of exceptions. One such exception is the re-use of buildings provided that the buildings are of permanent and substantial construction. However, whilst the creation of a new dwelling is development as defined in Section 55 of the Town and Country Planning Act 1990, the proposal is not considered to amount to the re-use of the building since the house and its curtilage would remain in residential use, but independent rather than ancillary residential accommodation. Consequently, the proposal does not meet any of the exceptions set out in the NPPF. The proposal therefore amounts to inappropriate development in the Green Belt. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Placemaking Plan DW1 and the NPPF allow the provision of new dwellings outside settlements only where these are essential to support existing well established agricultural or forestry enterprises. In this case there is no suggestion that the proposed flats would be essential for workers in agriculture or forestry. The proposal therefore fails to comply with both Placemaking Plan Policies and the NPPF and the principle of new residential properties is not accepted.

This proposal at Lake House fails to comply with the NPPF 2018 and Policies CP8 GB2 and DW1.

The proposed conversion of the garage with office above includes minimal external alterations, the only alterations being the replacement of the garage doors with windows. There is no proposed new built form and the massing and height remains the same. In this respect the proposal would not result in disproportionate extensions or additions to the garage and the building is permanent and of substantial construction. In this respect the proposal is seen to preserve the openness of the Green Belt and does not conflict with the purposes of including land within it.

Holiday lets.

Policy RE7 of the draft Placemaking Plan relates to holiday lets. However, it is not considered relevant in this situation as this development does not involve a new build or the change of use of the house to visitor accommodation. If for example part of the house were to be used for bread and breakfast accommodation then it would be relevant to the consideration of the proposal.

Character and appearance

The proposal is to convert the detached garage/office building which is in a prominent location adjacent to the road and in close proximity of Chew Valley Lake. The visual impact of the garage building with the proposed cycle store is acceptable and this proposal is not considered to have a greater impact on the character and appearance of the locality.

The site lies within the Mendip Hills Area of Outstanding Natural Beauty (AONB) and the Green Belt. The submitted site plan indicates that car parking spaces will be located at the front of the garage between the house and the road. It has also been shown that a turning head can be provided which allows vehicles to exit the site in forward gear.

The proposal is not seen to have a detrimental impact on the natural character and appearance of this rural location.

Residential amenity and highways impacts

There are not considered to be any significant negative implications regarding residential amenity for the current occupiers of Lake View or for neighbours as the site is situated in a relatively secluded position.

Visibility and access are acceptable from the entrance/exit are considered acceptable and the development will have little impact on the highway. The proposed parking levels are considered to be appropriate for this type of development.

Car parking and highway safety.

No changes are proposed to the existing access and the additional plans submitted indicated the provision for car parking spaces and turning. No concerns in respect of car parking or highway safety have been raised subject to any permission being conditioned. The proposed development therefore, complies with Placemaking Plan T.27 and the aims of the NPPF.

Ecology

Subject to a condition requiring precautionary working methods are used no objection to the proposal is raised.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed development is within the Green Belt and outside the nearest housing development boundary, where the principle of residential development is not accepted. The development is inappropriate development in the Green Belt, which is harmful by definition in the absence of very special circumstances to outweigh this harm. The proposal would create two new dwellings capable of independent occupation and the proposal is therefore contrary to Policy DW1 of the Bath & North East Somerset Placemaking Plan 2017, Policy CP8 of the Core Strategy and the aims of the National Planning Policy Framework 2018.

PLANS LIST:

1 Site location plan and plans numbered 100C, 101 and 001.

2 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.

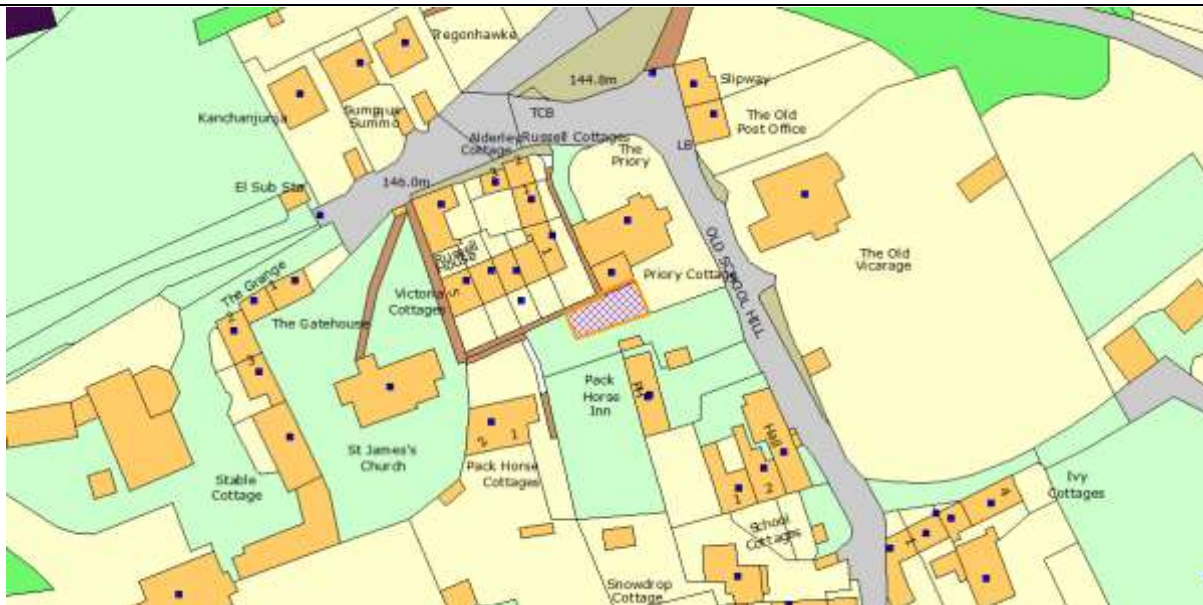
Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at www.planningportal.co.uk or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

3 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council before development commences, failure to comply with the regulations can result in surcharges and additional payments. 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

4 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

Item No:	03
Application No:	18/04158/LBA
Site Location:	The Priory Old School Hill South Stoke Bath Bath And North East Somerset



Ward: Bathavon South

Parish: South Stoke

LB Grade: N/A

Ward Members: Councillor Neil Butters

Application Type: Listed Building Consent (Alts/exts)

Proposal: Exterior alterations to include rebuild & partly relocate & extend dry & mortared rubble bath stone wall. Erection of low rubble stone retaining wall in south east corner. Installation of gates, erection of a wooden fence. Installation of limestone path & garden seat platform & forming of bin/log store. (Retrospective)

Constraints: Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Conservation Area, Conservation Area, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Greenbelt, Housing Development Boundary, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE2A Landscapes and the green set, Policy NE5 Ecological Networks, Policy NE5 Strategic Nature Areas, Neighbourhood Plan, SSSI - Impact Risk Zones,

Applicant: Mr & Mrs John Dominic & Elizabeth Jane Brooks

Expiry Date: 14th November 2018

Case Officer: Laura Batham

To view the case click on the link [here](#).

REPORT

Reason for calling the application to committee:

South Stoke Parish Council have supported the application. The chair of committee has agreed to take the application to committee for the following reason:

I have looked carefully at this application & all related information including photographs of the site with the fencing in position. The change of use & most of the work is acceptable when assessed against relevant planning policy however as the report explains there is a recommendation in the Conservation Area appraisal regarding boundary walls in the area which the fence boundary does not adhere to, however I note SSPC support. I therefore

recommend the application be determined by the DMC so this particular issue can be debated in the public arena.

Site Description:

The Priory and Priory Cottage are both grade II listed buildings located in the conservation area of South Stoke. The detached villa is built in the Tudor Gothic style and dates from c.1840/50. The building has been altered with a recent rear extension. The gardens are currently enclosed by a high stone wall and therefore views of the façade are limited except when viewed from further up the hill. Priory Cottage is attached to The Priory and dated to 1769 and is noted as a mid 18th century barn conversion. To the south of the site is The Packhorse Inn and to the west is Grade II* listed St James' church

Proposal:

Exterior alterations to include rebuild & partly relocate & extend dry & mortared rubble bath stone wall. Erection of low rubble stone retaining wall in south east corner. Installation of gates, erection of a wooden fence. Installation of limestone path & garden seat platform & forming of bin/log store. (Retrospective)

History:

DC - 15/02239/FUL - PERMIT - 30 July 2015 - Erection of single storey rear extension to The Priory, renovation of Priory Cottage and construction of greenhouse structure in the rear garden.

DC - 15/02240/LBA - CON - 30 July 2015 - Internal and External alterations to erect single storey rear extension to The Priory, renovation of Priory Cottage and construction of greenhouse structure in the rear garden.

DC - 18/04157/FUL - PDE - - Change of use from pub garden to private garden including the addition of a fence and wall and erection of a shed. (Retrospective)

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

South Stoke Parish Council:

South Stoke Parish Council have previously written to Support this application in every respect.

In considering grounds for refusal the South Stoke Conservation Area Appraisal (CAA) has been used, a document authored by the Parish Council and pressed for adoption by B&NES Planning Authority.

The only really relevant statement in the CAA is 'Any future boundary treatments should consider the local Cotswold vernacular style of dry stone walling with cock and hen capping.' That is the case in this instance, the use of such a wall has been considered at length, but rejected as inappropriate, and obtrusive in this location. A dry stone wall of height 1.5 metres would in any event be quite out of character with others in the vicinity, all of much less height, and a dry stone wall of 1.5 metres is of risk of collapse in years to come, particularly on a sloping site like this.

There is a significant and pressing requirement for adequate screening for all the boundaries of the pub, now that it is re-opened, both for customers of the pub, and the neighbouring residents. It is difficult to see how this can be achieved other than by a fence of the type used here, and indeed along other boundaries of the pub.

The sale of this plot of land for use as a garden of Priory Cottage, the fencing of this, and of the other boundaries of the Packhorse Pub, were and are critical elements of 'Saving the Packhorse' and bringing it back to life as a Community Asset, and saving it as a historic Listed Building. These very minor works must be viewed in the light of the bigger picture of saving the 'Jewel in the Crown' of the Conservation Area, the village and the Community.

Mr. & Mrs Brooks have given great consideration to this boundary, assessing that hedgerow and/or estate fencing would not provide the necessary screening, and then choosing at length the very best fence panels available. The Parish Council entirely agree with their assessment and wholeheartedly support the use of these materials.

The fence is in place and nobody in the village, and particularly neighbours, the pub, and the Parish Council have anything but complete support for what has been done. We do not see this as a prominent addition to the conservation area, and it is not noticeable or really included within the setting of the grade II* church. We do not consider it out of keeping, but rather just a normal garden fence. Nor do we consider it particularly prominent in the views from Old School Hill to the south east of the site, as it weathers over time, or from the Packhorse Inn garden. Certainly no more so than any other boundary at this point, such as hedgerow.

Cllr Butters:

Full support the Parish Council's stance on this matter.

Two letters of support received outside of the consultation period raising the following points:

- This fence was required by us as a legal requirement of the sale of the garden plot, as we do not want a large stone wall "looming" over our pub garden and distracting in any way from the architectural merits of our ancient pub. We feel that a normal boundary fence of the type in place is much less conspicuous and takes up less space, and, in the longer term, will be safer and less onerous to maintain.
- Previous works have been completed sympathetically.
- The stone wall is sensitive
- The timber fence is temporary
- A stone wall to replace the timber fence would be an unacceptable intrusion into the conservation area.
- The fence is stark but it is preferable to break up the façade by planting more fruit trees/shrubs.

POLICIES/LEGISLATION

The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in 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 possesses.

With respect to any buildings or other land in a conservation area the Council has a statutory requirement under Section 72(1) of the Planning (Listed Buildings and

Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.

The Revised National Planning Policy Framework (NPPF) 2018 is national policy in the conservation and enhancement of the historic environment which must be taken into account by the Council together with the related guidance given in the Planning Practice Guidance (PPG).

The Council must have regard to its development plan where material in considering whether to grant listed building consent for any works.

The statutory Development Plan for B&NES comprises:

- Core Strategy (July 2014)
- Placemaking Plan (July 2017)
- B&NES Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites
- Joint Waste Core Strategy
- Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

- CP6 - Environmental quality

Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

HE1 Historic Environment

OFFICER ASSESSMENT

The application seeks retrospective consent for works as part of a parallel change of use planning application to create a residential garden. The planning application will assess the change of use proposals as well as the physical alterations. The area of land is adjacent to Priory Cottage and The Priory which are both listed buildings. One side of the land is bounded by an existing high stone wall serving The Priory. A further wall has been re-built in a traditional dry walling with cock and hen capping to another side. The two further boundaries have been demarcated by a high timber fence.

The application seeks consent for the following works within the new garden which has been created:

- a shed
- a low stone wall and patio
- a fence

The erection of a low stone boundary wall separating the patio from the garden is acceptable as it has been constructed in a traditional manner using local stone with a cock and hen capping. This design and use of materials is traditional for South Stoke. . The

provision of the small shed adjacent to Priory Cottage has not caused harm to the setting of the listed buildings or to any fabric of the wall to which it is attached due to the use of materials and the small scale of the addition.

The timber fence which has been erected and which makes up two sides of the garden is considered to cause harm to the character of the conservation area and the setting of the adjacent listed buildings including the setting of the Grade II* listed St James' church, The Priory, Priory Cottage and the Packhorse Inn. The character of the area is dominated by stone wall boundaries and aside from this other boundaries are generally natural boundaries. The conservation area appraisal identifies that one of the special interests of the village is:

'The prevalence of historic buildings and boundary walls built of local Oolitic limestone including the Parish Church of St James The Great of Norman origin'. The Appraisal goes on to advise: 'Boundary walls are traditionally constructed in dry stone style, indicative of the Cotswold region, and any new or replacement walling should be constructed with reference to this vernacular style'.

When viewed from the surrounding area, the fence is a prominent and discordant feature in the conservation area. Key and prominent views of concern are from Old School Hill to the south east of the site and from the Packhorse Inn garden. The conservation area appraisal recommends that 'any future boundary treatments should consider the local Cotswold vernacular style of dry stone walling with cock and hen capping'. As explained, this has been used for part of this work but was not continued.

The parish council and the applicants raised concerns about following the conservation area appraisal guidance to continue a stone wall around the new garden. It was therefore suggested that, as an alternative, the applicant might consider low level fencing such as estate fencing together with hedging to mark the boundary and provide enclosure. (A stock fence could also be used whilst the hedge developed if necessary) This would have a more appropriate and significantly less strident character and appearance in these important views in the conservation area.

The applicant has advised that they have agreement from the Packhorse Inn to plant some trees on their land in order to screen the fencing. Localised planting of trees would not effectively screen the extent of the fence from view and in addition, the planting of trees on land outside the ownership of the applicant could not be controlled as part of this application.

The NPPF advises that great weight should be given to the conservation of an asset, irrespective of the level of harm caused. Any harm should require clear and convincing justification. In Paragraph 196 the NPPF states that where the works would lead to less than substantial harm this harm should be weighed against the public benefits of the proposal. In this case, the benefits of providing amenity for both neighbouring land owners could be provided by alternative less harmful means and are considered to be private benefit for the applicant. The harm cannot therefore be considered to be outweighed by any public benefits associated with the proposal.

Conclusion:

There is a duty 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 possesses. Here it is considered that the timber fence is a prominent and discordant feature which is harmful to the special character of the conservation area and setting of the adjacent listed buildings including The Priory, Priory Cottage, The Packhorse Inn and The Parish Church of St James. Therefore the proposal is considered contrary to Policy HE1 of the Placemaking Plan and Paragraphs 193, 194 and 196 of the NPPF.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The fence, as a result of its strident and inappropriate character is fails to preserve the setting of the adjacent listed buildings. As such the proposal would be contrary to policy CP6 of the adopted Core Strategy (2014), policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 16 of the NPPF

PLANS LIST:

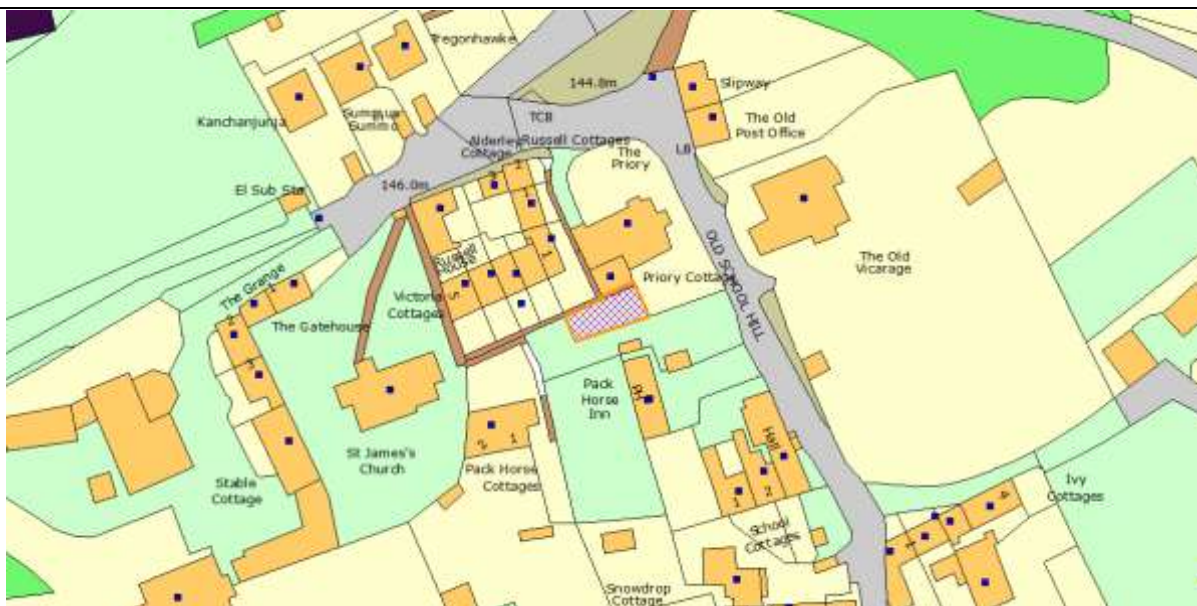
1 This decision relates to drawings P202 2, P21, P22 and P23 received on 19th September 2018.

2 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

3 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. The Local Planning Authority acknowledges the approach outlined in paragraphs 39-43 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:	04
Application No:	18/04157/FUL
Site Location:	The Priory Old School Hill South Stoke Bath Bath And North East Somerset



Ward: Bathavon South

Parish: South Stoke

LB Grade: N/A

Ward Members: Councillor Neil Butters

Application Type: Full Application

Proposal: Change of use from pub garden to private garden including the addition of a fence and wall and erection of a shed. (Retrospective)

Constraints: Article 4 Bath Demolition Wall, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Conservation Area, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Greenbelt, Housing Development Boundary, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE2A Landscapes and the green set, Policy NE5 Ecological Networks, Policy NE5 Strategic Nature Areas, SSSI - Impact Risk Zones,

Applicant: Mr & Mrs John Dominic & Elizabeth Jane Brooks

Expiry Date: 14th November 2018

Case Officer: Laura Batham

To view the case click on the link [here](#).

REPORT

Reason for calling the application to committee:

South Stoke Parish Council have supported the application. The chair of committee has agreed to take the application to committee for the following reason:

I have looked carefully at this application & all related information including photographs of the site with the fencing in position. The change of use & most of the work is acceptable when assessed against relevant planning policy however as the report explains there is a recommendation in the Conservation Area appraisal regarding boundary walls in the area which the fence boundary does not adhere to, however I note SSPC support. I therefore recommend the application be determined by the DMC so this particular issue can be debated in the public arena.

Site Description:

The Priory and Priory Cottage are both grade II listed buildings located in the conservation area of South Stoke. The detached villa is built in the Tudor Gothic style and dates from c.1840/50. The building has been altered with a recent rear extension. The gardens are currently enclosed by a high stone wall and therefore views of the façade are limited except when viewed from further up the hill. Priory Cottage is attached to The Priory and dated to 1769 and is noted as a mid-18th century barn conversion. The site is located in the greenbelt and the AONB and to the north, east and west is further residential development. To the south of the site is the Packhorse Inn.

Proposal:

Change of use from pub garden to private garden including the addition of a fence and wall and erection of a shed. (Retrospective)

History:

DC - 15/02239/FUL - PERMIT - 30 July 2015 - Erection of single storey rear extension to The Priory, renovation of Priory Cottage and construction of greenhouse structure in the rear garden.

DC - 15/02240/LBA - CON - 30 July 2015 - Internal and External alterations to erect single storey rear extension to The Priory, renovation of Priory Cottage and construction of greenhouse structure in the rear garden.

DC - 18/04158/LBA - PDE - - Exterior alterations to include rebuild & partly relocate & extend dry & mortared rubble bath stone wall. Erection of low rubble stone retaining wall in south east corner. Installation of gates, erection of a wooden fence. Installation of limestone path & garden seat platform & forming of bin/log store. (Retrospective)

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

South Stoke Parish Council:

South Stoke Parish Council have previously written to Support this application in every respect.

In considering grounds for refusal the South Stoke Conservation Area Appraisal (CAA) has been used, a document authored by the Parish Council and pressed for adoption by B&NES Planning Authority.

The only really relevant statement in the CAA is 'Any future boundary treatments should consider the local Cotswold vernacular style of dry stone walling with cock and hen capping.' That is the case in this instance, the use of such a wall has been considered at length, but rejected as inappropriate, and obtrusive in this location. A dry stone wall of height 1.5 metres would in any event be quite out of character with others in the vicinity, all of much less height, and a dry stone wall of 1.5 metres is of risk of collapse in years to come, particularly on a sloping site like this.

There is a significant and pressing requirement for adequate screening for all the boundaries of the pub, now that it is re-opened, both for customers of the pub, and the neighbouring residents. It is difficult to see how this can be achieved other than by a fence of the type used here, and indeed along other boundaries of the pub.

The sale of this plot of land for use as a garden of Priory Cottage, the fencing of this, and of the other boundaries of the Packhorse Pub, were and are critical elements of 'Saving the Packhorse' and bringing it back to life as a Community Asset, and saving it as a historic Listed Building. These very minor works must be viewed in the light of the bigger picture of saving the 'Jewel in the Crown' of the Conservation Area, the village and the Community.

Mr. & Mrs Brooks have given great consideration to this boundary, assessing that hedgerow and/or estate fencing would not provide the necessary screening, and then choosing at length the very best fence panels available. The Parish Council entirely agree with their assessment and wholeheartedly support the use of these materials.

The fence is in place and nobody in the village, and particularly neighbours, the pub, and the Parish Council have anything but complete support for what has been done. We do not see this as a prominent addition to the conservation area, and it is not noticeable or really included within the setting of the grade II* church. We do not consider it out of keeping, but rather just a normal garden fence. Nor do we consider it particularly prominent in the views from Old School Hill to the south east of the site, as it weathers over time, or from the Packhorse Inn garden. Certainly no more so than any other boundary at this point, such as hedgerow.

Cllr Butters:

Full support the Parish Council's stance on this matter.

POLICIES/LEGISLATION

The Development Plan for Bath and North East Somerset comprises:

- Bath & North East Somerset Core Strategy (July 2014)
- Bath & North East Somerset Placemaking Plan (July 2017)
- West of England Joint Waste Core Strategy (2011)
- Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
- Policy GDS.1 Site allocations and development requirements (policy framework)
- Policy GDS.1/K2: South West Keynsham (site)
- Policy GDS.1/NR2: Radstock Railway Land (site)
- Policy GDS.1/V3: Paulton Printing Factory (site)
- Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)

RELEVANT CORE STRATEGY POLICIES

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP6: Environmental quality

CP8: Green belt

RELEVANT PLACEMAKING PLAN

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

HE1: Historic environment
D1: General urban design principles
D2: Local character and distinctiveness
D5: Building design
D6: Amenity
NE2: Conserving and enhancing the landscape and landscape character
GB1: Visual amenities of the green belt
GB2: Extensions and alterations to buildings in the green belt
GB3: Development in Green Belt Villages

Revised National Planning Policy Framework (July 2018) and the National Planning Practice Guidance (March 2014) can be awarded significant weight.

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

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

OFFICER ASSESSMENT

The application seeks consent for the change of use of land from a pub garden to a residential garden. As part of the development works also include the addition of a terraced area, low stone walls and the erection of a fence. There is a corresponding listed building application which will assess the impact upon the character and setting of the listed building. The main issues are the impact upon the character of the conservation area, the setting of the nearby listed buildings and the green belt.

The application seeks consent for the following works within the new garden which has been created:

- the change of use of land to create a residential garden
- a shed
- a low stone wall and terracing
- a fence

Green Belt:

Paragraph 146 of the NPPF states that certain forms of development are not inappropriate within the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. One of these forms of development is the material change in use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds). The change of use from a pub garden to a residential garden is not considered to impact upon the Green Belt as the two uses and their impact upon the designation of the Green Belt is similar.

However, notwithstanding this Policy GB1 of the Placemaking Plan advises that development in the Green Belt should seek to enhance the visual amenities of the Green

Belt by reason of its siting, design or materials. 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. This definition therefore includes the fence and walls which are the subject of this application.

Paragraph 145 of the NPPF states that a Local Planning Authority should regard the construction of new buildings as inappropriate in the Green Belt. There are exceptions to this, for example buildings for agriculture and forestry but there is no exception for the construction of boundary walls and fencing. There is therefore an objection in principle to the proposal as it is considered contrary to the guidance set out in the NPPF and therefore constitutes inappropriate development in the Green Belt. As a consequence the proposal is also contrary to Policy CP8 of the Bath and North East Somerset Council Core Strategy (2014) and the provisions of the National Planning Policy Framework (2012).

Paragraph 143 of the NPPF (2012) states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 144 explains that when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt and 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of appropriateness, and any other harm, is clearly outweighed by other considerations.

The applicants have considered this and requested that the following points be considered as very special circumstances:

- The Priory and Priory Cottage were restored and Priory Cottage saved from demolition. The garden to the pub lay between The Packhorse and Priory Cottage and had only ever been used for growing vegetables. The land became disused and very unsightly in a central part of the village.
- The purchase of the land for a garden for Priory Cottage made a significant contribution to The Packhorse's revitalisation.
- It was essential that privacy was afforded to both. In the conditions of sale, we were therefore required to create a 1.5 metre high boundary fence in accordance with the other fences around The Packhorse garden. The original boundary walls to what would become the cottage garden were falling down and threaded with ivy and other trunks. They were rebuilt using existing materials and capped in the same way as the churchyard walls.
- A substantial stone wall would have broken up the ancient field pattern and so been inappropriate. Hedging was rejected on the grounds of long term maintenance and there were no metal fences within this part of the village.
- We specifically chose a fence that had an "airiness" to it to allow wind and light to pass through, that had a texture to reflect the texture of the rough stone walls which it abutted and that, because of the quality of material, would soften in colour with age - unfortunately it was also the most expensive
- We believe that the huge benefits of assisting the regeneration of The Packhorse (an important asset of community value) and enabling the regeneration of the derelict Priory Cottage, do truly constitute very special circumstances because they provide benefits that far outweigh any perceived harm created by the new boundary fence.

It is considered that privacy for both the applicant and adjacent neighbours could apply to many other cases where people wish to erect fences within the Green Belt and therefore cannot be regarded as very special circumstances in this case. The addition of the fence has harmed the openness of the green belt with a feature which is out of keeping. The benefits of the fence outlined by the applicant are not considered to represent very special circumstances. The open character of a village contributes to the character of the Green Belt.

Heritage:

The use of land as a garden has not harmed the character of the area given the close proximity of residential gardens and the pub garden surrounding the site. The erection of a low stone boundary wall separating the patio from the garden is acceptable as it has been constructed in a traditional manner using local stone with a cock and hen capping. This design and use of materials is traditional for South Stoke. The provision of the small shed adjacent to Priory Cottage has not caused harm to the setting of the listed buildings or to any fabric of the wall to which it is attached due to the use of materials and the small scale of the addition. .

The timber fence which has been erected and which makes up two sides of the garden is considered to cause harm to the character of the conservation area and the setting of the adjacent listed buildings including the setting of the Grade II* listed St James' church, The Priory, Priory Cottage and the Packhorse Inn. The character of the area is dominated by stone wall boundaries and aside from this other boundaries are generally natural boundaries. The conservation area appraisal identifies that one of the special interests of the village is:

'The prevalence of historic buildings and boundary walls built of local Oolitic limestone including the Parish Church of St James The Great of Norman origin'. The Appraisal goes on to advise: 'Boundary walls are traditionally constructed in dry stone style, indicative of the Cotswold region, and any new or replacement walling should be constructed with reference to this vernacular style'.

When viewed from the surrounding area, the fence is a prominent and discordant feature in the conservation area. Key and prominent views of concern are from Old School Hill to the south east of the site and from the Packhorse Inn garden. The conservation area appraisal recommends that 'any future boundary treatments should consider the local Cotswold vernacular style of dry stone walling with cock and hen capping'. As explained, this has been used for part of this work but was not continued.

The parish council and the applicants raised concerns about following the conservation area appraisal guidance to continue a stone wall around the new garden. It was therefore suggested that, as an alternative, the applicant might consider low level fencing such as estate fencing together with hedging to mark the boundary and provide enclosure. (A stock fence could also be used whilst the hedge developed if necessary) This would have a more appropriate and significantly less strident character and appearance in these important views in the conservation area.

The applicant has advised that they have agreement from the Packhorse Inn to plant some trees on their land in order to screen the fencing. Localised planting of trees would not effectively screen the extent of the fence from view and in addition, the planting of

trees on land outside the ownership of the applicant could not be controlled as part of this application.

The NPPF advises that great weight should be given to the conservation of an asset, irrespective of the level of harm caused. Any harm should require clear and convincing justification. In Paragraph 196 the NPPF states that where the works would lead to less than substantial harm this harm should be weighed against the public benefits of the proposal. In this case, the benefits of providing amenity for both neighbouring land owners could be provided by alternative less harmful means and are considered to be private benefit for the applicant. The harm cannot therefore be considered to be outweighed by any public benefits associated with the proposal.

Amenity:

The erection of the fence has not impacted upon the amenity of any nearby neighbour. The proposal to create a small patio area and shed has provided additional amenity space and storage space for Priory Cottage.

Conclusion:

The harm to the character of the conservation area and the setting of adjacent designated heritage assets is considered significant. The benefits of the fence in particular are linked to the private amenity space of the applicant and the harm caused by the fence is not outweighed by any public benefits as required within paragraph 196 of the NPPF. In addition to this the addition of the fence is considered to harm the openness of the Green Belt and is considered to be inappropriate development as defined by the NPPF.

There is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Here it is considered that the timber fence is a prominent and discordant feature which is harmful to the setting of the adjacent listed buildings including Priory Cottage, The Priory, The Packhorse Inn and The Parish Church of St James.

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. Again in this context, it is considered that the timber fence is a prominent and discordant feature which is harmful to the character of the conservation area and is contrary to the recommendations of the conservation area appraisal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The fence, as a result of its strident and inappropriate character, fails to preserve the setting of the adjacent listed buildings and this part of the South Stoke Conservation Area and is contrary to policy CP6 of the adopted Core Strategy (2014), policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 16 of the NPPF

2 The proposal amounts to inappropriate development in the Green Belt, which is harmful by definition. In the absence of very special circumstances to outweigh this harm, the proposed development is contrary to Policy CP8 of the Core Strategy (2014) and part 13 of the National Planning Policy Framework 2018.

PLANS LIST:

1 This decision relates to drawings P202 2, P21, P22 and P23 received on 19th September 2018.

2 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

3 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. The Local Planning Authority acknowledges the approach outlined in paragraphs 39-43 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:	05
Application No:	18/03359/FUL
Site Location:	6 Richmond Road Beacon Hill Bath Bath And North East Somerset BA1 5TU



Ward: Lansdown

Parish: N/A

LB Grade: N/A

Ward Members: Councillor Patrick Anketell-Jones Councillor Anthony Clarke

Application Type: Full Application

Proposal: Erection of replacement split level four bedroom dwelling and attached garage following demolition of existing two bedroom bungalow and garage.

Constraints: Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, SSSI - Impact Risk Zones,

Applicant: Mr Robert McLuhan

Expiry Date: 21st September 2018

Case Officer: Rae Mephram

To view the case click on the link [here](#).

REPORT

Reason application going to committee

Application referred to the Chair due to request from Cllr Clarke. The Chair determined the application should be heard by the Development Management Committee for the following reason:

I have studied the application carefully noting comments from statutory, third party consultees & the Ward Cllr. Although the proposal has been reduced following pre-app advice controversy remains over the size & massing of the proposal & as the report explains it is a matter of balance as to how much harm it may cause to the residential amenity of neighbours.

I therefore recommend the application be determined by the DMC allowing points raised to be debated in the public arena.

Site description and proposal

6 Richmond Road is a bungalow located within the Bath World Heritage Site. This application is for the demolition of the existing building and replacement with a split level 3 storey dwelling.

Planning history

5 Richmond Road:

13/00842/FUL - PERMIT - 2 May 2013 - Replacement and re-proportioning of all openings to the front/road and rear elevations, re-rendering of all elevations, erection of a new boundary and gate to the road and installation of bi-fold glazed doors to the rear opening onto the existing deck.

14/02518/NMA - RF - 20 June 2014 - Non-material amendment to application 13/00842/FUL. (Replacement and re-proportioning of all openings to the front/road and rear elevations, re-rendering of all elevations, erection of a new boundary and gate to the road and installation bi-fold glazed doors to the rear opening onto the existing deck.)

14/02888/FUL - PERMIT - 18 August 2014 - Replacement and re-proportioning of all openings to the front/road and rear elevation, re-rendering of all elevations, construction of new boundary/gate to the road, installation of glazed french doors to the rear opening onto the existing deck and rooflight added to the master ensuite.

17/05554/FUL - APPRET - - Internal refurbishment with external re-proportioning of openings and insulating and over-cladding

17/05556/FUL - PERMIT - 19 February 2018 - Erection of a front single storey porch extension and a single storey rear extension below the existing raised deck, erection of a timber boundary fence, re-proportioning of the window and door openings

7 Richmond Road:

17/00178/FUL - PERMIT - 30 June 2017 - Erection of single storey side and rear extension and two storey rear extensions, loft conversion, demolition of existing garage, alterations to the main roof profile and redevelopment of entrance and front parking area.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation responses

None received.

Cllr representations

Cllr Anthony Clarke:

I visited the site several days ago and discussed the application with Samantha Jennings, who has submitted, since we met, her objection.

I am particularly concerned by the new mass of the application and the present design leading to significant over-view of the Jennings property.

If you are minded to approve, I would be grateful if the application could go to the Development Control Committee for consideration.

Third party representations

Nine objection comments have been received, summarised as:

- Proposal subject to negative pre-application
- Overdeveloped
- Overlooking from balcony
- Dominant
- Overbearing boundary wall
- Unneighbourly development
- Out of character with the road
- Reduction in balcony only alleviates some overlooking
- Awkward rear elevation
- Too big and intrusive
- Garage forward of building line
- Construction too near boundary
- Uncharacteristic density

POLICIES/LEGISLATION

The Council's Development Plan comprises:

- Bath & North East Somerset Core Strategy (July 2014)
- Bath & North East Somerset Placemaking Plan (July 2017)
- West of England Joint Waste Core Strategy (2011)
- Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

- B1 - Bath Spatial Strategy
- B4 - The World Heritage Site and its Setting
- DW1 - District Wide Spatial Strategy
- SD1 - Sustainable Development

Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

- BD1 - Bath Design Policy
- D1 - General Urban Design Principles
- D2 - Local Character & Distinctiveness
- D3 - Urban Fabric
- D4 - Streets and Spaces
- D5 - Building Design
- D6 - Amenity

H7 - Housing Accessibility
LCR9 - Increasing the Provision of Local Food Growing
SCR5 - Water Efficiency
ST1 - Promoting sustainable travel
ST7 - Transport requirements for managing development

The Revised National Planning Policy Framework (NPPF) 2018 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

OFFICER ASSESSMENT

Principle of development

The property is located within the Urban Area of Bath, and proposes a replacement dwelling. The principle of development is therefore considered to be acceptable, subject to other material considerations.

Character and appearance

The existing building is comprised of a bungalow, set down from road level. This application is intended to replace the existing building with a 3no. storey house.

Richmond Road is within a residential part of Lansdown, bordered on one side by the Royal High School. The road has been the subject of large housing developments in recent years; of note are 1 Richmond Road and 4 Richmond Road. The dwellings within Richmond Road have no defining character or house type, other than their detached nature.

The adjacent properties at 5 and 7 Richmond Road have recently been granted permission for alterations. The application at number 5 granted alterations to exterior materials and fenestration, as well as the addition of an undercroft. The application at number 7 gave permission for an increase in the roof height, provision of gable ends, and erection of a two storey side and single storey rear and side extension.

The proposal has been designed so the ridgeline and eaves sit between 5 and 7 in order to step down with the natural topography of the area. The build is substantial and concerns were raised at pre-application in terms of the overall massing and size of the property.

Some alterations have been made, including a slight reduction in height, design alterations to the rear elevation, and alterations to the garage at the front of the property. The dwelling is still large, but fits within the confines of the plot without constituting overdevelopment, reflects the developed grain of the area, and does not appear out of character in terms of height.

The rear elevation of the property has two gable ends which break up the massing, as well as utilising a variety of local materials to create depth.

A garage has been proposed to the front of the property, which adds a large flat roof projection to the front of the property. This has been detached from the house with the

exception of a boundary wall. The garage sits lower than road level, and is not considered to overly obscure the front elevation of the property.

The appearance of the property is contemporary, and there is no objection to this.

On balance, despite the large size of the proposal, the dwelling is considered to be acceptable in terms of character and appearance.

Residential amenity

The proposal is largely built in line with its neighbouring properties, and the main bulk of the property will not cause significant harm to residential amenity due to overlooking or an overbearing impact.

Two balcony areas have been proposed, one set within a recess in the middle of the property, and one located on top of a single storey projection located adjacent to number 5. The balcony has been reduced to a smaller area and no longer sits immediately adjacent to the neighbouring property. A full height privacy screen has also been proposed. There will be some overlooking possible from this area, however day to day use of the balcony is unlikely to cause significant harm. Subject to a condition restricting the use of the flat roof area, and details of the screen being submitted, the balcony in this location is not considered to cause significant harm to residential amenity.

Concerns have been raised regarding the boundary wall at the front of the property used in the construction of the garage. The wall is between 2.5m - 3m high depending on ground level, and is adjacent to the driveway of the neighbouring property. It is not considered that this wall would have an overbearing impact upon no. 7, nor cause a significant loss of light to the property.

Highways

The proposal provides sufficient parking in line with the parking standards set out in ST7.

Ecology

The proposal has been submitted with a bat activity/emergence survey which also covers nesting birds and badgers. Bat activity has been detected on site, but no bats or indication of bats have been found within the building, and there is a negligible potential for a roost. Subject to the recommendations within the survey being followed, including the provision of a bat box and two bat shelters, the application is considered to be acceptable.

Increasing the provision of Local Food Growing

Policy LCR9 states that all residential development will be expected to incorporate opportunities for informal food growing where possible. The proposal site benefits from garden areas where future occupiers could grow food if they wished.

Water Efficiency

All dwellings will be expected to meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day.

Rainwater harvesting or other methods of capturing rainwater for use by the residents (e.g. water butts) will be required for all residential development, where technically feasible.

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 D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.

3 No Terrace/Balcony Use (Compliance)

The roof area of the development hereby approved shall not be used as a balcony, terrace, roof garden or similar amenity area, other than the lined areas on the rear elevation as shown on drawing 004 A.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy in accordance with Policy D6 of the Bath and North East Somerset Placemaking Plan.

4 Details of Means of Enclosure (Compliance)

No construction of the external walls of the development shall commence until details of the privacy screens have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of privacy and/or visual amenity in accordance with Policy D6 of the Bath and North East Somerset Placemaking Plan.

5 Erection of Means of Enclosure (Compliance)

The dwelling shall be occupied until its associated screen walls/fences or other means of enclosure have been erected in accordance with the approved plans and thereafter retained.

Reason: In the interests of privacy and/or visual amenity in accordance with Policy D6 of the Bath and North East Somerset Placemaking Plan.

6 Green Roof Details (Bespoke Trigger)

Prior to the construction of the roof of the approved development a detailed specification of the proposed green roof shall be submitted to and approved in writing by the Local Planning Authority. These details shall include section drawings of the roof, a planting schedule, a timetable for implementation and a maintenance schedule. The green roof shall be implemented in accordance with the approved details prior to the occupation of the development or in accordance with the approved timetable for implementation.

Reason: To ensure the successful implementation of the green roof in the interests of preserving the character and appearance of the area in accordance with policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan and policy CP6 of the Bath and North East Somerset Core Strategy.

7 Implementation of Wildlife Scheme (Pre-occupation)

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced ecologist confirming and demonstrating, using photographs where appropriate, implementation of the recommendations of the Bat Emergence/Activity Survey has been submitted to and approved in writing by 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.

8 Water Efficiency - Rainwater Harvesting (Pre-occupation)

No occupation of the approved dwellings shall commence until rainwater harvesting or other methods of capturing rainwater for use by the residents (e.g. Water butts) has been provided.

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

9 Water Efficiency (Compliance)

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 Bath and North East Somerset Placemaking Plan.

10 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:

1 This decision relates to:

27 Jul 2018 006 STREET SCENES
27 Jul 2018 001 LOCATION PLAN
03 Oct 2018 004A PROPOSED PLANS
08 Oct 2018 005 REV A PROPOSED ELEVATIONS
16 Nov 2018 007 B REAR ELEVATIONS

2 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

3 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council before development commences, failure to comply with the regulations can result in surcharges and additional payments. 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

4 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.

The application had been referred to the Committee chair following comments made by the parish council who had written in support of the application. The Committee chair has made the following comments:

'I have read through the application & all related documents carefully noting statutory consultee comments which when assessed against relevant planning policies come to different conclusions, regarding Green Belt the proposed position is unacceptable but to move it to overcome this issue it then has an unacceptable impact on the listed building. I therefore recommend the application be determined by the DMC.'

Site Description and Proposal:

The proposal is set to be associated with a Grade II Listed Barn situated within the residential area of Chelwood. The site is also located within the Green Belt.

The application seeks consent for the erection of a detached double garage.

Relevant Planning History:

98/02719/FUL - PERMIT- Conversion of barn to form dwelling as amplified by letter received on the 24th August 1998.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses:

Chelwood Parish Council

'Parish Council support the application. The proposed changes do not represent inappropriate development in the Green Belt.'

Highways

'Highways DC do not anticipate the proposed development having an unacceptable impact on the public highway. There will be no loss of existing on-site parking plus access from the public highway will remain unaltered.'

It is therefore recommended that the application be approved subject to conditions.'

Conservation

'The proposed garage is acceptable in this location, which is at a distance from the protected building and not within its immediate vicinity. However, the detailing and design of the garage, including use of materials, requires revision. As an alternative to the use of natural stone masonry walls I suggest timber. The approach could be either timber frame and cladding or concrete block with timber cladding. In either case I suggest the timber cladding should be laid horizontally using wide boards. The timber could be either painted a dark recessive colour or allowed to weather naturally.'

Regarding the door and window I suggest increasing the depth of the reveal.'

Representations Received:

None received.

POLICIES/LEGISLATION

On 13th July the Council adopted the B&NES Placemaking Plan. It now becomes part of the statutory Development Plan for the district, against which planning applications are determined. The statutory Development Plan for B&NES now comprises:

- o Core Strategy (July 2014)
- o Placemaking Plan (July 2017)
- o B&NES Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites
- o Joint Waste Core Strategy
- o Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP6: Environmental Quality

CP8: Green Belt

Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General Urban Design Principles

D2: Local Character and Distinctiveness

D3: Urban Fabric

D5: Building Design

D6: Amenity

GB1: Visual Amenities of the Green Belt

GB3: Extensions and Alterations to Buildings in the Green Belt

HE1: Historic Environment

ST7: Transport requirements for managing development

The National Planning Policy Framework (NPPF) was published in July 2018 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

The Existing Dwellings in the Green Belt SPD is also relevant in this instance.

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

desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

OFFICER ASSESSMENT

Planning permission is sought for the erection of detached double garage. The proposal is set to be associated with a Grade II Listed Barn situated within the residential area of Chelwood. The site is also located within the Green Belt.

Principle of Development

As mentioned the site is located within the Green Belt. Policy GB1 of the Placemaking Plan requires that development within or conspicuous from the Green Belt should not prejudice but seek to enhance the visual amenities of the Green Belt. This is when considering its siting, design or materials used for its construction.

Paragraph 145 of the National Planning Policy Framework can also be considered, this states that the construction of new buildings is regarded as inappropriate in the Green Belt. However, the exceptions to this, amongst other things, are the extension or alteration of a building provided that it does not result in disproportionate addition over and above the size of the original building. This is in addition to the replacement of existing buildings provided the new building is in the same use and not materially larger than the one it replaces.

The proposed garage is to be placed forward of the associated dwelling, and situated at a distance of (approximately) 14.5 metres from the dwelling. It is considered that due to the sitting of the garage it would not be seen as an extension to the main dwelling, rather it is considered that the proposal would be seen as a separate detached building.

In some situations the development of garages/ outbuildings can be regarded as 'permitted development' under Class E of the General Permitted Development Order (GPDO). However, in this instance the proposal is situated forward of the main dwelling, and is within the curtilage of a Listed Building. As such the development of a garage under permitted development would not be applicable for this site.

As a result the proposed garage is considered to be inappropriate development of a new building within the Green Belt. This would also result in harm to the openness of this part of the Green Belt. This is especially considering the sitting of the proposed garage, which is set at such a distance from the associated dwelling. No very special circumstances have been put forward by the applicant and none have been identified by the planning case officer. As such the proposal is considered contrary to policy GB1, GB3 of the Placemaking Plan and paragraph 145 of the NPPF.

Design and Character- Impact on the setting of the Listed Building

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.

As the proposal is situated within the curtilage of a listed building the BATHNES Historic Environment Team has been consulted. Within the response received it was noted that the sitting of the garage is acceptable from a Historic Environment consideration. However, it was also noted that alterations would be needed to the choice of materials with a suggestion of timber cladding as opposed to the use of render and stone. Following these comments revised plans have been submitted and the proposed garage now incorporates Waney Edge Timber Boarding with recessed doors and windows. As such the concerns in regards to the proposals visual appearance in relation to the Listed Building have been addressed.

Although the sitting of the garage is considered acceptable when considering its impact on the Listed Building, the proposal would still however, be unacceptable when considering its impact on the openness of the Green Belt. Conversations have been held with the Historic Environment Team as to whether the proposed garage would be acceptable from a Listed Building perspective if moved closer to the dwelling. This would be in order to present a closer visible relationship between the dwelling and the garage while allowing it to be considered as a proportionate extension. This would allow the proposal to overcome Green Belt concerns. However, if the garage's location were to be moved closer to the dwelling this would result in an unacceptable impact to the setting of the Listed Building.

As such the proposed garage is acceptable in regards to the setting of the Listed Building, however, as mentioned the sitting of the proposed garage would amount to inappropriate development within the Green Belt.

Residential Amenity

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. As such the proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph part 12 of the NPPF.

Highways

As noted Highways DC have been consulted and have raised no objection to the proposal. As such the means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 9 of the NPPF.

Conclusion

For the reasons set out in the above report the application is recommended for refusal. The proposed detached garage will represent inappropriate development of a new building within the Green Belt. This would result in harm to the openness of the Green Belt. This is due to the sitting of the proposed garage, which is set at such a distance from the associated dwelling. Very special circumstances have also not been displayed to overcome the harm to the openness of the Green Belt.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed detached garage represents inappropriate development which is by definition harmful to the Green Belt. Due to its' location the proposal would also result in harm to the openness of this part of the Green Belt. In the absence of very special circumstances the proposal is contrary to policy CP8 of the Core Strategy, policy GB1 of the Placemaking Plan and paragraph 145 of the NPPF.

PLANS LIST:

1 This decision relates to the following plans received 18th September 2018:

Drawing Number: 2 - Proposed Site Plan

Plans received 21st November 2018:

Drawing Number: 1/1 - Proposed Garage Plans and Elevations

2 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy 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.

3 Community Infrastructure Levy

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this decision may become subject to CIL. Full details are available on the Council's website www.bathnes.gov.uk/cil

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Bath & North East Somerset Council	
MEETING/ DECISION MAKER:	Development Management
MEETING/ DECISION DATE:	19 December 2018
TITLE:	Concurrent Creation and Extinguishment Orders affecting Public Footpaths BA5/35, BA5/37, BA5/43, BA5/45 and BA5/46 at Bath Racecourse
WARD:	Bathavon North
AN OPEN PUBLIC ITEM	
List of attachments to this report: Appendix 1 - Decision Plan	

1 THE ISSUE

- 1.1 An application has been made to divert sections of Public Footpaths (FP) BA5/35, BA5/46 and BA5/45 at Bath Racecourse in the Parish of Charlcombe. The intention is to divert the footpaths away from the Racetrack and provide routes which do not cross the Racetrack surface. An informal consultation was held and a total of 13 letters/emails were received from members of the public in opposition to the proposals. The decision whether to progress the proposal must therefore be made by the Development Management Committee. The issue is whether the Authority should concurrently make a public path creation order under section 26 of the Highways Act 1980 and a public path extinguishment order under section 118 of the Highways Act 1980 to remove sections of public footpaths from the Racetrack at Bath Racecourse and provide new public footpaths in their place.

2 RECOMMENDATION

The Committee is asked to:

- 2.1 grant authorisation for a concurrent Public Path Creation Order and Public Path Extinguishment Order to be made to create new sections of public footpath around the perimeter of the Racetrack at Bath Racecourse and to extinguish current public footpaths from the centre of the Racetrack as detailed on the plan attached at Appendix 1 ("the Decision Plan").

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 The Applicant has agreed to pay the cost for processing the Orders and the cost of any required notices in a local newspaper. The Applicant has agreed to pay for any works required to bring the Proposed Footpaths into fit condition for use by the public. Should Orders be made and confirmed, the Existing Footpaths will cease to be maintainable at public expense and the Proposed Footpaths will become maintainable at public expense.
- 3.2 Should Orders be made and objections received and sustained, then the Orders will either be referred back to the Team Manager - Highways Maintenance and Drainage or to the Development Management Committee to consider the matter in light of those objections. Should the Team Manager - Highways Maintenance and Drainage or Committee decide to continue to support the Orders, then the Orders will be referred to the Secretary of State for the Environment, Food and Rural Affairs for determination. The Authority would be responsible for meeting the costs incurred in this process, for instance at a Public Inquiry.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Authority has a statutory duty to ensure that all public rights of way are unobstructed and a discretionary power to make public path orders. When considering a proposal for a public path order, the Authority should first consider whether the proposals meet the requirements set out in the legislation (which is reproduced below).
- 4.2 Before making a public path creation order under section 26 of the Highways Act 1980 ("the Act") the Authority must be satisfied that there is a *need* for a right of way in the area. In reaching its decision, the Authority must have regard to:
- the extent to which the path or way would add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area,
 - the effect which the creation of the path or way would have on the rights of persons interested in the land, account being taken of the provisions to compensation,
 - the effect which the creation of the path would have on members of the public with protected characteristics under the Equality Act 2010,
 - the contents of the Rights of Way Improvement Plan,
 - the needs of agriculture and forestry and the keeping and breeding of horses,
 - and the desirability of conserving flora, fauna and geological and physiological features.
- 4.3 Before making a public path extinguishment order under section 118 of the Act the Authority must be satisfied that it is expedient that the path is stopped up on the ground that the footpath is *not needed* for public use. Before confirming the order, the Authority (or in the case of an opposed order, the Secretary of State) must consider that it is expedient to do so having regard to the extent to which it appears that the path would, apart from the order, be likely to be used by the public and have regard to the effect which the extinguishment would have on the land served by the path.

- 4.4 Where a creation order and extinguishment order is to be made concurrently s118(5) of the Act provides that, when considering the extent to which the extinguished paths would be likely to be used by the public, regard may be given to the extent to which the creation order would provide alternative paths. This means that consideration must firstly be given by the Authority to the creation order on its own merits, and if satisfied that it should be made, then the prospective creation order can be taken into consideration when considering the criteria for the extinguishment order.
- 4.5 In addition to the legislative tests detailed above, the proposals must also be considered in relation to the Authority's adopted Public Path Order Policy ("PPO Policy"). The PPO Policy sets out the criteria against which the Authority will assess any Public Path Order proposal and stresses that the Authority will seek to take a balanced view of the proposal against all the criteria as a whole.
- 4.6 The criteria are:
- Connectivity,
 - Equalities Impact,
 - Gaps and Gates,
 - Gradients,
 - Maintenance.
 - Safety,
 - Status,
 - Width,
 - Features of Interest.
- 4.7 The Human Rights Act incorporates the rights and freedoms set out in the European Convention on Human Rights into UK law. So far as it is possible all legislation must be interpreted so as to be compatible with the convention. The Authority is required to consider the application in accordance with the principle of proportionality. The Authority will need to consider the protection of individual rights and the interests of the community at large. In particular the convention rights which should be taken into account in relation to this application are Article 1 of the First Protocol (Protection of Property), Article 6 (the right to a fair hearing) and Article 8 (Right to Respect for Family and Private Life).

5 THE REPORT

- 5.1 In this report Bath Racecourse means the whole of the grounds managed by Bath Racecourse ("the Applicant") and the Racetrack means the horseracing arena used by Bath Racecourse, delineated and labelled "Racetrack" on the Decision Plan.
- 5.2 Bath and North East Somerset Council ("the Authority") has worked with the Applicant in order for the proposed routes to be as beneficial to the public as possible. The Applicant has therefore proposed a route (5C) that improves connectivity to FP BA5/57 and improves visibility at the crossing with Lansdown Lane when connecting with FP BA5/57. A new link (6C) is to be provided from the FP to the north east of Bath Racecourse to improve connectivity with FPs BA5/18 and BA5/15 on the northeast side of Lansdown Road.

- 5.3 Whilst the consultation was in progress it came to light that sections of FPs BA5/37 (2E), BA5/43 (3E) and BA5/45 (4E) to the north of Bath Racecourse are not aligned with the route the public actually walk. It was subsequently decided to include an amendment to the proposal in order to align the recorded routes with the routes which are actually walked.
- 5.4 Once the consultation was complete further consideration was given to the proposal by the Authority and the Applicant. As a result, an amendment was made to the proposed diversion of FP BA5/35 (1C) to “round out” the route in the northeast corner of Bath Racecourse. The Authority also decided that the most appropriate way to achieve the package of changes is by concurrent extinguishment and creation orders rather than by a diversion order as it appears the legislative criteria is more appropriate in this case.
- 5.5 FPs BA5/35, BA5/37, BA5/43, BA5/45 and BA5/46 are recorded on the Definitive Map and Statement which have a relevant date of 26th November 1956. The legal alignment has remained unchanged ever since.
- 5.6 The Existing FPs are shown on the Definitive Map as running over the Racetrack. An application has been made by Bath Racecourse as landowner to divert the Existing FPs away from traversing the Racetrack to alternative routes around the perimeter of the Racetrack. The Applicant proposes to move Racetrack barriers at the east of Bath Racecourse so that it will be possible to walk freely on the proposed routes on the inside of a dry stone wall running parallel to Lansdown Lane, to smooth out any ground as required and make appropriate gaps and repairs in the stone walls at Lansdown Lane and Lansdown Road. The Applicant wishes to keep Racetrack barriers in place throughout the year and will alter current barriers should the proposals come into effect making the Proposed FPs permanently unobstructed and available for public use. The Applicant has stated that the proposals will improve safety for the public, racehorses and riders on Race Days, improve links to the Cotswold Way long distance trail and other public footpaths and provide improved views and safer road crossings. Additional proposals have been added for FPs BA5/37 (2C), BA5/43 (3C) and BA5/45 (4C) as it was discovered during consultation that the legal line of FP BA5/45 (4E) is currently obstructed by the edge of Racecourse fencing by the Racecourse buildings opposite the stable block. This has been in situ for many years. The proposed changes to FPs BA5/45, BA5/43 and BA5/37 to the north of Bath Racecourse are to ensure the definitive lines align with where the public currently walk.
- 5.7 It is recommended that the various tests outlined in section 4 above are considered in relation to the creation order, in turn. Issues raised during consultation are also addressed below. The various tests in relation to the extinguishment order will then be considered.
- 5.8 **Creation Order**
- 5.9 **The Authority must be satisfied that there is a need for a right of way in the area.**
- 5.10 The nature of use of the FPs in this area is considered to primarily be two-fold; either for longer-distance walkers (e.g. walkers using the adjacent Cotswold Way (a 100 mile National Trail which runs between Bath and Chipping Campden) or the large network of footpaths over the southern end of the Cotswolds) or for

shorter-distance leisure walkers (e.g. local walkers wanting to enjoy the views (especially the views of Bath from nearby Prospect stile), skylarks and an easy flat walk which may include residents or tourists from nearby Bath or dog-walkers. The FPs in the area are described as 'a network' as they do not particularly go from A to B and are restricted by the steep contours of the area surrounding the Racecourse. The Authority promotes two FPs in the area. One as part of the long distance promoted walk (Cotswold Way National Trail) and one as a shorter 6 mile walk (Cotswold Way Circular Walk). The purpose of use for long- or short-distance is therefore considered to be for pleasure rather than utility. The Cotswold Way is not affected by the proposals. The Cotswold Way Circular Walk starts from Lansdown Park & Ride, heading along the 'busy road' (Lansdown Road) towards FP BA5/36 just past the public house, then using BA5/46 to BA5/34.

- 5.11 There is therefore a need for rights of way in the area.
- 5.12 The Authority must have regard to the extent to which the path or way would **add to the convenience or enjoyment of a substantial section of the public, or to the convenience of persons resident in the area.**
- 5.13 Convenience of a substantial section of the public - Matters such as length, difficulty of walking and the purpose of the path pertain to the convenience to the public.
- 5.14 Length – The total length of Existing FPs is approximately 1615 metres. The total length of Proposed FPs is approximately 2508 metres. The total length of recorded public footpath would therefore increase by approximately 893 metres although this does not necessarily mean that individual journeys from start point to destination are increased. Comparative calculations have been made with regard to likely routes taken by walkers from each direction. The comparative calculations show that the majority of the proposed routes are less distance than using the existing routes. The proposed route from north to south is the only route which increases the distance from one point to another. However, the distance of recorded rights of way is increased thereby offering more flexibility and availability of walking than currently available.
- 5.15 Difficulty of walking - The terrain of the Existing FPs and Proposed FPs is predominantly over open grass and there is therefore no change to the difficulty of walking. There is one short incline towards the eastern end of FP 5C. One objector asserted that this is not as suitable for people with mobility limitations. However, it is considered that when taking account of the nature and terrain of the area as a whole the surface is acceptable for people with mobility limitations.
- 5.16 Purpose of the paths – The nature of use of the FPs in this area is stated in paragraph 5. 10. Individual objectors have stated that there is less flexibility with the proposed routes. However, it has been noted that many of the routes that the objectors use are not public footpaths but 'customary paths' and that their concern is that they will only be able to walk on public footpaths, thus reducing their flexibility. However, it should be noted that the public may be trespassing if they walk on private land without permission and this is the situation whether the proposals go ahead or not. Customary paths which are not recorded as public rights of way or walking randomly cannot be taken into account in the proposal. Any comparison is to be made between Existing FPs and Proposed FPs, as customary paths cannot be considered a permanent public amenity. It is considered

that providing a further approximately 893 metres more recorded length of public footpath will add to public amenity rather than detract from it.

- 5.17 Enjoyment of a substantial section of the public - The Proposed FPs remove the walker from the Racetrack but are still within Bath Racecourse site. Enjoyment of the wildlife (e.g. skylarks) or grassland is therefore not affected by the Proposals. There is no change to 'Prospect Stile' or views over Bath. FP 4C provides enhanced views to the west over the River Severn and the Welsh Mountains beyond on a clear day and is closer to the earthwork and tumuli to the northwest. The Proposed FPs provide a circular route which may add to the enjoyment of the public including those walking dogs. Increasing the length of recorded FPs will provide more possibilities for the public to enjoy the area. One Objector stated that there will be fumes associated with traffic on Lansdown Lane. However, FP 1C is separated from Lansdown Lane by a dry stone wall and verge, rather than running immediately contiguous with the road. Lansdown Lane has not been identified as requiring monitoring as part of the Council's Air Quality Annual Status Report. FP 5C provides a route to the south of the Racetrack providing an alternative to walking over the Golf Course to the north of Bath Racecourse buildings. There are continuous views towards Bath provided by FP 5C. The nature of the FPs mean it is likely that the public are walking for pleasure and public enjoyment of the Proposed FPs as a whole should be enhanced.
- 5.18 Convenience of persons resident in the area - Bath Racecourse is not in a densely populated area and the Existing FPs do not provide direct routes to shops or workplaces. Most walkers appear to be recreational walkers. It is therefore considered that there will be no adverse effect on the convenience of persons resident in the area.
- 5.19 Summary Although the length of the recorded FPs will be increased, this may be seen as a benefit if a walker wishes to enjoy the amenity of the area and is not using the FPs to get from 'A to B' by the quickest route. The Proposed FPs will remove the walker from the Racetrack to traverse the perimeter of the Racetrack without changing the difficulty or purpose of the walk; provide better links with other FPs; provide a choice of walking to the south of the Racetrack or to the north via the golf course (the unaffected route) and provide the option of a circular walk. Bath Racecourse has advised that the proposed routes will be unobstructed by any barriers including during racing events. The Proposed FPs would therefore add to the convenience or enjoyment of a substantial section of the public, and have no adverse effect on the convenience of persons resident in the area. This test should therefore be considered to have been met.
- 5.20 **The Authority must have regard to the effect which the creation of the paths would have on the rights of persons interested in the land, account being taken of the provisions to compensation.**
- 5.21 FPs 1E, 4E and 5E currently cross the Racetrack which causes management problems and safety issues for the Landowner during Race Days. The landowner wishes to retain plastic safety barriers across FPs 1E, 4E and 5E throughout the year which creates obstructions to the Existing FPs. The definitive line of FP 4E runs through Racecourse fencing in the vicinity of the stables to the north of the site. An alternative route (part of FP 4C) has been set out which has been used by the public for a number of years and the landowner wishes to formalise this arrangement. FPs 2E and 3E are to be realigned to follow the routes already in use. The landowner has applied to divert the Existing FPs so that they run outside

the vicinity of the Racetrack in order to improve management of the Racetrack throughout the year, improve safety on race days and align the legal route with what is currently walked. There is no adverse effect on land affected by the Proposed FPs with regard to compensation as the Existing and Proposed FPs are all owned by the Applicant who supports the proposals. This test should therefore be considered to have been met.

5.22 The Authority must have regard to the effect which the creation of the paths would have on members of the public with protected characteristics under the Equality Act 2010.

5.23 The following will provide a positive impact for those path users with visual, hearing or mobility impairments: providing routes around the perimeter of the Racetrack rather than over the Racetrack; pedestrian kissing gates will be erected on the boundary of Bath Racecourse with Lansdown Road and Lansdown Lane for safety reasons; re-siting the junction of FP BA5/35 with Lansdown Lane will provide improved visibility when crossing to FP BA5/57 as it moves the junction away from a bend in the road and avoids the need to walk along Lansdown Lane; the additional FP proposed onto Lansdown Road provides improved connectivity with FPs BA5/15 and BA5/18 ensuring walkers will not have to walk along Lansdown Road.

5.24 There is a shallow gradient on a short section of FP 5C towards its eastern end. It is considered that this will be an acceptable gradient when taking the nature and terrain of the whole area into consideration. All other Existing and Proposed FPs are on a level surface.

5.25 The proposed diversion has a neutral effect on those with other protected characteristics.

5.26 The Authority must have regard to the contents of the Rights of Way Improvement Plan.

5.27 The proposal would contribute towards the Authority achieving the following actions which are identified in the Rights of Way Improvement Plan's Statement of Actions including:

- Action 4.3 - *"Identify and carry out improvements for people with mobility difficulties and visual impairments"* (i.e. connectivity with other FPs)
- Action 4.4 - *"Identify road safety improvements that enable increased use of routes"* (i.e. improved visibility when crossing of Lansdown Lane and less distance required to be walked along Lansdown Road between FPs)
- Action 4.6 - *"Identify gaps in the wider recreational network that will improve accessibility and connectivity"* (i.e. improved connectivity between FPs and providing an alternative route to the south of the Racetrack)

5.28 It is therefore considered that the Proposals are in keeping with the Rights of Way Improvement Plan.

5.29 The Authority must have regard to the needs of agriculture and forestry and the keeping and breeding of horses.

5.30 A telephone conversation was held with an adjacent farm manager who was concerned about dogs not under control roaming onto his farmland. However, he agreed that the problem exists from the Existing FPs and that the way to avoid the

issue would be to improve fencing between the farmed field and Bath Racecourse. He may pursue this directly with the Applicant. He acknowledged that the issue with dogs is not a result of the proposals and that the proposals could not be altered to improve the situation. No written objection was received from the farm manager. It is considered that the proposals will not have an adverse effect on farming as there are no proposed FPs on farmland. The proposal will have a neutral effect on forestry. The Proposals are designed to improve the safety of the public, horses and their riders on event days; this test should therefore be considered to have been met.

- 5.31 **The Authority must have regard to the desirability of conserving flora, fauna and geological and physiological features.**
- 5.32 Objections have been raised regarding the condition of the surface of the Proposed FPs, i.e. that they would become muddier than the Existing FPs. The Objectors use descriptions such as narrowing, channelling, funnelling, restricting the path and being corralled which suggest that current PROW are wider than the Proposed FPs which is not the case. It suggests the objectors are not comparing the Proposed FPs with the Existing FPs but comparing with walking randomly over Bath Racecourse. The Proposed FPs will have a wider legal width than the assumed current width, thereby providing a wider surface for walking; please see paragraph 5.41. It is considered that as the Proposed FPs are over similar terrain to the Existing FPs there is no adverse effect of the proposals on conservation of flora, fauna, geological or physiological features.
- 5.33 **The effect of the Proposed FPs on the additional criteria identified in the Authority's Public Path Order Policy; namely, Connectivity, Equalities Impact, Gaps and Gates, Gradients, Maintenance, Safety, Status, Width and Features of Interest**
- 5.34 Connectivity - FPs 1C and 5C improve connectivity to the east by moving the junction closer to FP BA5/57. Improved connectivity to the north is to be provided by FP 6C creating a junction closer to FPs BA5/15 and BA5/18. FP 4C provides improved connectivity from the west to the north. FP 5C provides improved connectivity from the south to the east.
- 5.35 Equalities Impact - Please see paragraphs 5.22 - 5.25.
- 5.36 Gaps & Gates - FPs 1E, 1C and 6C cross field boundaries. It is intended to authorise kissing gates under section 66 of the Act for public safety at Racecourse boundaries. Authorisation of the gates is in keeping with the principles of 'Least Restrictive Access'. The Proposed FPs will be unimpeded by Racetrack barriers.
- 5.37 Maintenance - The whole of Bath Racecourse area is maintained by Bath Racecourse. Although it is proposed to increase the length of recorded FP it is considered that the proposals will have a negligible effect on maintenance. Signage will be looked at and improved whether the proposals go ahead or not.
- 5.38 Safety - The Applicant is concerned with safety of the public and of horses and riders on the Existing FPs on Race Days or other organised events. Diverting the routes to the perimeter of the grounds will avert safety issues on days when events are taking place as it will be safer to walk around the perimeter than to walk across the Racetrack. There will be a neutral effect on safety on the Proposed FPs at times when there are no events taking place. FP BA5/36 runs

across the edge of the golf course and objectors have commented on the safety of walking this part of the FP which is not part of the proposal. The Authority is in separate dialogue with the golf course management regarding use of FPs on the golf course but this is a separate issue not related to the proposal. One objector is concerned about safety on FP 1C, being adjacent to Lansdown Lane. However, there is a dry stone wall and verge between the Proposed FP and the highway and this is therefore not considered an issue.

- 5.39 FP 1C will join Lansdown Lane further north to a point opposite FP BA5/57. This moves the walker further away from a bend in Lansdown Lane which will make a safer crossing of the highway.
- 5.40 FP 6C will provide a new junction with Lansdown Road opposite FPs BA5/15 and BA5/18. Walkers will not have to use Lansdown Road to get from one FP to the other, thereby improving safety.
- 5.41 Width – The Existing FPs have no recorded width; it is therefore assumed that they are wide enough for two people to pass comfortably, which the Authority considered to be a width of 1.8m. The Proposed FPs will be 2.0m wide throughout which provides an improvement to the available width.
- 5.42 The Proposals have no impact on Status as all affected routes are public footpaths.
- 5.43 Features of Interest – FP 4C provides improved views to the west over the River Severn and the Welsh Hills and is closer to the Earthwork, Tumuli and Pillow Mound in the adjoining field. FP 5C provides an improved view to the south over Bath.
- 5.44 It is considered that on balance the Proposed FPs are in accordance with the Policy.
- 5.45 **Extinguishment Order**
- 5.46 Where a creation order and extinguishment order is to be made concurrently s118(5) of the Act provides that, when considering the extent to which the extinguished paths would be likely to be used by the public, regard may be given to the extent to which the creation order would provide alternative paths. It is recommended that the various tests in relation to the Extinguishment Order are considered in turn:
- 5.47 The Authority must be satisfied that it is expedient that the paths are stopped up on the ground that the footpaths are not needed for public use.
- 5.48 It is considered that the creation order will provide suitable alternative paths to the extent that the Existing FPs will not be needed for use by the public.
- 5.49 **Before confirming the order the Authority (Council or Secretary of State) must consider that it is expedient to do so having regard to the extent to which it appears that the paths would, apart from the order, be likely to be used by the public**
- 5.50 It is considered that the creation order will provide improved routes to the extent that the existing FPs will be unlikely to be used by the public.

- 5.51 **Before confirming the order the Authority (Council or Secretary of State) must consider that it is expedient to do so having regard to the extent to which it appears that the effect the extinguishment would have on the land served by the paths**
- 5.52 The Existing FPs do not provide the means of access for the landowner to any parcel of their land and, in any case, the landowner supports the proposals which will not therefore have a detrimental effect on the land served by the FPs.
- 5.53 **The effect the extinguishment will have on the Authority's Public Path Order Policy.**
- 5.54 Paragraph 2.5 of the Authority's Public Path Order Policy states that; *"The Authority does not generally support applications for extinguishment orders unless they are part of a wider package with compensating public benefit"* and paragraph 2.2 states that *"the Council will seek to enhance the network whenever possible by improvement to the current route and network"*.
- 5.55 It is considered that the benefits of the Proposed FPs outlined in paragraphs 5.9 to 5.43 above will enhance the FP network by adding improved routes and therefore complies with the Authority's Public Path Order Policy.
- 5.56 It is therefore considered on balance that extinguishment of the Existing FPs is in accordance with the Policy when considered in the context of the whole package and that the Existing FPs are no longer needed for public use.

6 RATIONALE

- 6.1 Making an order to create the Proposed FPs around the perimeter of Bath Racecourse land and concurrently making an order extinguishing the Existing FPs is recommended on the grounds that the relevant statutory tests appear to have been met and the proposal is in line with the Public Path Order Policy.
- 6.2 Objections from individuals and North Stoke Parish Meeting should be balanced against positive support from individuals, Charlcombe Parish Council, the Ramblers and Cotswold Voluntary Wardens. No comments were received from the Ward Councillors.
- 6.3 The Proposed FPs will improve connectivity within the public rights of way network.

7 OTHER OPTIONS CONSIDERED

- 7.1 It is an option to not go forward with the proposed Creation and Extinguishment Orders. Bath Racecourse would then be required to open up the routes that are currently obstructed. However, this option would not deliver any improvements for the public and is therefore not recommended.
- 7.2 It is an option to progress the proposals as a Public Path Diversion Order under s119 of the Act. However, this mechanism is not as appropriate for altering a network of paths, as opposed to individual paths.

8 CONSULTATION

- 8.1 Affected landowners, Charlcombe Parish Council, national and local user groups, Natural England, the Ward Councillors and statutory consultees were all consulted about the proposed diversion for a period of six weeks ("the Consultation Period"). Additionally site notices were erected at each end of the proposed diversions and on the Authority's website to seek the views of members of the public.
- 8.2 In response to the consultation, a number of statutory undertakers stated that their plant would not be affected. Openreach BT advised they had apparatus running across the area but did not object to the proposals providing their rights were maintained. These rights will therefore be preserved in the Extinguishment Order.
- 8.3 Charlcombe Parish Council (which covers the whole of the original consultation site) give their full support to the proposals, stating that the proposals are "*eminently sensible and will improve the overall layout and connectivity of the paths whilst at the same time enhancing safety on race days and safety when crossing Lansdown Lane.*"
- 8.4 A representative from North Stoke Parish Meeting (which is adjacent to the original consultation site) emailed to say they had expressed concerns to the Ward Councillors regarding moving a footpath closer to the boundary of farm land and asked for a site meeting. A telephone conversation was held with the farm manager who stated there is a current problem with dogs not on leads from all over Bath Racecourse area. He stated that wherever the footpath is will be a problem unless more substantial fencing is erected, which he couldn't afford. However, he has no problem with dogs from FP BA18/25 which runs within the farm field. It was agreed a site meeting was unnecessary but that the farm manager would contact the Applicant to see if more robust fencing could be arranged. The farm manager did not contribute in writing to the consultation.
- 8.5 Cotswold Voluntary Wardens Parish Warden (in the parish of Charlcombe) responded, saying "*This proposal will regularise those routes and make it clearer for people who want to walk the legal paths to do so without the uncertainty of crossing Racecourse barriers*". The overall response was – "*At last, I am pleased to see these proposals materialise in a way that will lead to better clarity for all concerned and safer access, without limiting much of the activity that people already do. I hope that these proposals can be given whole-hearted support to enable progress as quickly as possible.*"
- 8.6 The local Ramblers representative stated that he supported the Cotswold Wardens views and "*On behalf of Ramblers I have no objections and hope that these proposed changes can be effected*".
- 8.7 Individual supporting comments are summarised below, covering safety, connectivity, views and general support:
- Improved Safety - Improved visibility for crossing Lansdown Lane away from the brow of the hill (2 respondents). This will also put it opposite the entrance to BA5/57, which should make it safer to cross the road.
- Improved Connectivity – New exit at Lansdown Lane provides a better link. New link at Lansdown Road is a welcome addition improving access (2 respondents).

Improved Views - FP4C is fantastic, enjoyable through many seasons, looks across to Wales and an improvement for viewing different species of birds.

General Support - Proposed changes at the east side seem to be sensible and are supported. It will also allow Bath Racecourse to manage race days better.

8.8 A total of 13 letters/emails were received from members of the public in opposition to the proposals.

8.9 Individual's objections are summarised below, covering distance, safety, environment, views/enjoyment and criteria for changing the routes:

Distance - Reduces access from the south and west to those wishing to frequent the Public House. Adds distance (2 respondents). Reduces flexibility (2 respondents) and is more inconvenient.

Safety - Will not improve public safety (2 respondents) and walkers and dogs may stray onto track (2 respondents). Crossing the course causes no damage. Disagreement that a new entrance onto Lansdown Rd will make crossing safer. Walking closer to Lansdown Lane unsafe and increases risk of dogs straying into busy road. More likely to be breathing in exhaust fumes (2 respondents). Dog will be nearer to livestock (3 respondents) and BA5/36 is often blocked with vehicles. Increases need to use golf course and golf balls are a hazard.

Environment/Difficulty of walking - FP 5C is extremely boggy/muddy/treacherous for most of the year (4 respondents). Doesn't want to walk on the road/golf course and creates a longer circular route. Extremely slippery, dangerous for unsuspecting walker and more hazardous due to narrow width and an incline. Restricts options for walking and substantially less convenient. Won't be able to walk freely and allow dogs off the lead. Muddy tyre tracks/cars visiting will cause obstruction and cars park by the stables.

Views/Enjoyment - No direct link to Prospect Stile (2 respondents). Wishes to continue the 'open access feel' and to 'enjoying the wide open space'.

Criteria for changing the routes - These paths have existed since before the racecourse. Footpath amendments should only be undertaken if they improve the quality of the walk. Prefers the FPs to just be closed on the 20-25 race days. Making changes just for a few race meetings per year is not justified/FPs do not impinge upon the Racecourse. Inconvenient/impractical (2 respondents) and people won't walk around the edge (FP6C). Counter to B&NES PPO Policy for extinguishment orders with no public benefit. Changes should be considered individually not as a package. I do not consider Racecourse barriers cause a problem (2 respondents). 'A nonsense' and impossible to enforce. Signs should be improved.

8.10 The Applicant was further consulted and the general objections discussed. It had come to light during the Consultation Period that the definitive line of FP BA5/45 northeast of the advertised change (FP 4E) is obstructed by the edge of Racecourse fencing which has been in situ for many years and short sections of the definitive line of FPs BA5/37 (FP 2E) and BA5/43 (FP 3E) do not align with where the public walk. It was therefore agreed to amend the package to include changes to FPs BA5/45, BA5/43 and BA5/43 so that the definitive lines are the same as the routes currently walked by the public, thus becoming FPs 2C, 3C and 4C. FP 4C will therefore move to just inside the boundary of the parish of North Stoke. It was also agreed to amend FP 1C from the original proposal so that the corner was more 'rounded off'. No other alternative proposals could be accommodated as the

remaining area under consideration (e.g. the area to the north of the Racetrack but south of the Racecourse buildings) has to be kept free as an emergency route for medical staff when an event is taking place.

9. RISK MANAGEMENT

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

Contact person	Wendy Robbins 01225 394161 wendy_robbins@bathnes.gov.uk
Background papers	<p><i>Background papers are available online at:</i> http://www.bathnes.gov.uk/services/streets-and-highway-maintenance/public-rights-way/prow-legal-order-case-documents/bath</p> <ul style="list-style-type: none"> • <i>B&NES Public Path Order Policy</i> • Large scale plan • Description of Public Footpaths to be created and extinguished and Limitations and Conditions • Consultation Responses • Comparative Distances • Benefits of the Footpaths to be Created • Photographs • Consultation Plan
Please contact the report author if you need to access this report in an alternative format	

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Appendix 1 Decision Plan

Public footpath to be created (C) _____

Unaffected public byway open to all traffic

Public footpath to be extinguished (E)

Parish Boundary —————

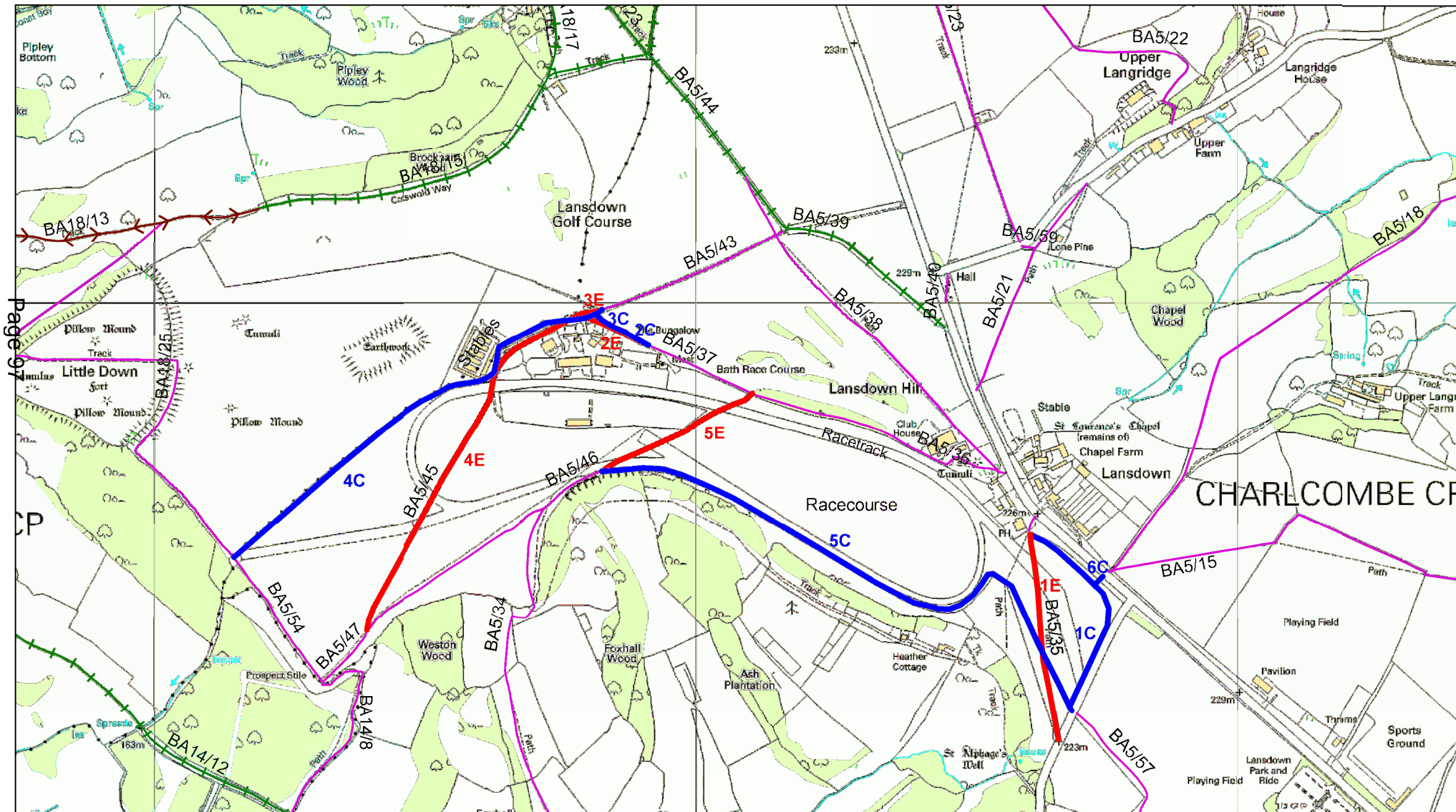
Unaffected public footpath

Unaffected public footpath

Unaffected public bridleway



Scale: 1:10,000



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Bath & North East Somerset Council		
MEETING:	Development Control Committee	<div>AGENDA ITEM NUMBER</div> <div></div>
MEETING DATE:	19th December 2018	
RESPONSIBLE OFFICER:	Simon de Beer – Head of Planning	
TITLE:	NEW PLANNING APPEALS, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES	
WARD:	ALL	
BACKGROUND PAPERS: None		
AN OPEN PUBLIC ITEM		

APPEALS LODGED

App. Ref: 18/01885/FUL
Location: 35 Waterside Road Westfield Radstock Bath And North East Somerset BA3 3YE
Proposal: Provision of new vehicular access and hardstanding for car parking on front of neighbouring terraced houses
Decision: REFUSE
Decision Date: 20 June 2018
Decision Level: Delegated
Appeal Lodged: 8 November 2018

App. Ref: 18/00521/FUL
Location: 18 Churchways Whitchurch Bristol Bath And North East Somerset BS14 0PL
Proposal: Erection of 1no. attached dwelling to no. 18.
Decision: REFUSE
Decision Date: 9 April 2018
Decision Level: Delegated
Appeal Lodged: 12 November 2018

App. Ref: 18/01739/AR
Location: Marks And Spencer 19 Stall Street City Centre Bath BA1 1QG
Proposal: Display of 4no non-illuminated fascia signs, 4no illuminated ATM

signs (two for each ATM), 2no non-illuminated logo door handles, 3no non-illuminated 'Open 7 Days' signs and 1no non-illuminated projecting sign (Resubmission)

Decision: Split decision - check file/certificate

Decision Date: 12 June 2018

Decision Level: Delegated

Appeal Lodged: 27 November 2018

App. Ref: 18/01002/FUL

Location: 15 The Mead Clutton Bristol Bath And North East Somerset BS39 5RQ

Proposal: Erection of detached dwelling and associated parking following relocation of parking area for 15 and 15a The Mead

Decision: REFUSE

Decision Date: 30 April 2018

Decision Level: Delegated

Appeal Lodged: 5 December 2018

APPEALS DECIDED

App. Ref: 18/02457/FUL

Location: Weathertop Claverton Down Road Claverton Down Bath Bath And North East Somerset

Proposal: Erection of single storey front garden room extension

Decision: REFUSE

Decision Date: 1 August 2018

Decision Level: Delegated

Appeal Lodged: 28 September 2018

Appeal Decision: Appeal Allowed

Appeal Decided Date: 13 November 2018

App. Ref: 18/02502/FUL

Location: 74 Entry Hill Combe Down Bath Bath And North East Somerset BA2 5NA

Proposal: Loft conversion to include dormer window extension to the rear elevation, and roof lights to the front elevation.

Decision: REFUSE

Decision Date: 31 July 2018

Decision Level: Delegated

Appeal Lodged: 28 September 2018

Appeal Decision: Appeal Allowed

Appeal Decided Date: 13 November 2018

App. Ref: 17/04279/CLPU
Location: Middle Field Charlton Road Queen Charlton Bristol
Proposal: Reinstatement of Queen Charlton quarry involving the restoration of the land to agricultural use (Certificate of Lawfulness of Proposed Use).
Decision: REFUSE
Decision Date: 19 December 2017
Decision Level: Non-Planning applications
Appeal Lodged: 13 June 2018
Appeal Decision: Appeal Dismissed
Appeal Decided Date: 16 November 2018

App. Ref: 18/00952/FUL
Location: 108 Ivy Avenue Southdown Bath Bath And North East Somerset BA2 1AN
Proposal: Retrospective Change of use of 108 Ivy Avenue, Bath BA2 1AN from an HMO (C4) to an HMO (Sui Generis)
Decision: REFUSE
Decision Date: 4 May 2018
Decision Level: Delegated
Appeal Lodged: 27 July 2018
Appeal Decision: Appeal Allowed
Appeal Decided Date: 20 November 2018

App. Ref: 18/00906/FUL
Location: Former Parking Area Between 4 And 6 Greenvale Drive Timsbury Bath
Proposal: Erection of 1 no. attached dwelling with integral carport
Decision: REFUSE
Decision Date: 23 April 2018
Decision Level: Delegated
Appeal Lodged: 23 August 2018
Appeal Decision: Appeal Dismissed
Appeal Decided Date: 27 November 2018

App. Ref: 18/01149/OUT
Location: 9 Britten's Close Paulton Bristol Bath And North East Somerset BS39 7RZ

Proposal: Outline application for the erection of detached bungalow in land adjacent to existing property
Decision: REFUSE
Decision Date: 8 May 2018
Decision Level: Delegated
Appeal Lodged: 12 September 2018
Appeal Decision: Appeal Allowed
Appeal Decided Date: 4 December 2018

Case Ref: 16/00694/UNDEV

Location: Land Between Convergence of Durley Park Durley Lane Durley Hill Keynsham

Breach: Without planning permission the change of use of land from agriculture to a mixed use of agriculture and the siting of a mobile home for residential purposes.

Notice Date:

Appeal Lodged: 11 September 2018

Appeal Decision: Appeal Dismissed

Appeal Decided Date: 27th November 2018

Case Ref: 16/00534/UNDEV

Location: 9 Wells Square Westfield Radstock Bath And North East Somerset BA3 3UF

Breach: Without planning permission, the formation of a vehicle access and creation of a parking area.

Notice Date:

Appeal Lodged: 11 September 2018

Appeal Decision: Appeal Dismissed

Appeal Decided Date: 28th November 2018

Case Ref: 16/00401/UNAUTH

Location: 34 Coombend Radstock Bath And North East Somerset BA3 3AN

Breach: Without planning permission the change of use of land from agriculture to a mixed use of agriculture and residential by the siting of two mobile homes for residential purposes.

Notice Date:

Appeal Lodged: 11 September 2018

Appeal Decision: Appeal Dismissed

Appeal Decided Date: 27th November 2018

Forthcoming Hearings and Enquiries

App. Ref: 17/02942/OUT

Location: 46 Radstock Road Midsomer Norton Radstock Bath And North East Somerset BA3 2AW

Proposal: Erection of 10 no. dwellings with associated new vehicular access, car parking, infrastructure and landscaping, following demolition of existing dwelling and outbuildings (Outline application with access to be determined and all other matters reserved).

Decision: Refused

Decision Date: 7 November 2017

Decision Level: Delegated

Appeal Lodged: 12 October 2018

Hearing to be held on 15th January 2019 at Guildhall Bath

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