

Planning Committee

Date: Wednesday, 3rd June, 2020
Time: 2.00 pm
Venue: Virtual Meeting – Public Access via YouTube
<https://www.youtube.com/bathnescouncil>

Agenda

To: All Members of the Planning Committee

Councillors:- Matt McCabe (Chair), Sally Davis (Vice Chair), Vic Clarke, Sue Craig, Lucy Hodge, Duncan Hounsell, Eleanor Jackson, Hal MacFie, Manda Rigby and Brian Simmons

Permanent Substitutes:- Councillors: Rob Appleyard, Alison Born, Gerry Curran, Michael Evans, Andrew Furse, Liz Hardman, Ruth Malloy, Vic Pritchard and Ryan Wills

Chief Executive and other appropriate officers
Press and Public

The agenda is set out overleaf.



NOTES:

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

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

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. **Broadcasting of Meetings: -**

The Council will broadcast the images and sounds live via the internet
<https://www.youtube.com/bathnescouncil>.

The Council may also use the images/sound recordings on its social media site or share with other organisations, such as broadcasters.

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 on behalf of a group.

Advance notice is required not less than two working days before the meeting. This means that for Planning Committee meetings held on Wednesdays, notice must be received in Democratic Services by 5.00pm the previous Monday.

Further details of the scheme can be found at:

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

5. **Supplementary information for meetings**

Additional information and Protocols and procedures relating to meetings

<https://democracy.bathnes.gov.uk/ecCatDisplay.aspx?sch=doc&cat=13505>

Planning Committee- Wednesday, 3rd June, 2020

**at 2.00 pm in the Virtual Meeting - Zoom - Public Access via YouTube
<https://www.youtube.com/bathnescouncil>**

A G E N D A

1. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS
2. 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.

3. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN
4. 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 Democratic Services Officer will be able to make a statement to the Committee immediately before their respective applications are considered. There will be a time limit of 3 minutes for each proposal, i.e. 3 minutes for the Parish and Town Councils, 3 minutes for the objectors to the proposal and 3 minutes for the applicant, agent and supporters. This allows a maximum of 9 minutes per proposal.

5. MINUTES OF THE PREVIOUS MEETING (Pages 5 - 20)

To confirm the minutes of the meeting held on 6 May 2020.

6. SITE VISIT LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 21 - 32)
7. MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE (Pages 33 - 106)

8. ENFORCEMENT REPORT - LAND REAR OF 18-25 QUEENWOOD AVENUE, BATH (Pages 107 - 118)
9. NEW PLANNING APPEALS LODGED, DECISIONS RECEIVED AND DATES OF FORTHCOMING HEARINGS/INQUIRIES (Pages 119 - 120)

The Committee is asked to note the report.

The Democratic Services Officer 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>

PLANNING COMMITTEE**Minutes of the Meeting held**

Wednesday, 6th May, 2020, 2.00 pm

Councillors: Matt McCabe (Chair), Sally Davis (Vice-Chair), Rob Appleyard (Reserve) (in place of Sue Craig), Vic Clarke, Lucy Hodge, Duncan Hounsell, Eleanor Jackson, Hal MacFie, Manda Rigby and Brian Simmons

103 WELCOME AND INTRODUCTION

The Chair welcomed all councillors, officers and members of the public viewing on YouTube to this first virtual meeting of the Planning Committee. He confirmed the presence of all members and officers in attendance at the meeting.

He explained that the meeting was being held under The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. The Council has agreed a protocol to cover virtual meetings and he confirmed that the meeting would operate in line with that protocol. The meeting has the same status and validity as a meeting held in the Guildhall.

The Council did not currently have the facilities to allow members of the public and ward councillors to present statements directly to the Committee. Some members of the public and ward councillors had submitted written statements in advance to the Committee. These had been circulated to Committee members and would be read out by the Chair before the item to which they relate. The contents of these statements would be taken into consideration when decisions were made.

104 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

Apologies for absence were received from Cllr Sue Craig – substitute Cllr Rob Appleyard.

105 DECLARATIONS OF INTEREST

There were no declarations of interest.

106 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was no urgent business.

107 ITEMS FROM THE PUBLIC - TO RECEIVE WRITTEN STATEMENTS, PETITIONS OR QUESTIONS

The Chair informed the meeting that there were a number of people who had submitted written statements on planning applications and that he would read out these statements when these items were discussed.

There was also a general statement from Caroline Kay, Chief Executive of the Bath Preservation Trust, which the Chair read out at this point. The statement marked the historic moment of this first virtual meeting of the Planning Committee and pointed out that, however difficult it currently is to interact directly with the local community, constituents and consultees they are still here and wish to work together as a community for the benefit of the local area.

108 **MINUTES OF THE PREVIOUS MEETING**

The minutes of the meeting held on 11 March 2020 were confirmed and signed as a correct record.

109 **MAIN PLANS LIST - APPLICATIONS FOR PLANNING PERMISSION ETC FOR DETERMINATION BY THE COMMITTEE**

The Committee considered:

- A report by the Head of Planning on various planning applications.
- An update report by the Head of Planning on attached as *Appendix 1* to these minutes.
- Written statements submitted by members of the public and representatives. A copy of the public participants' 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 Nos. 1 and 2

Application Nos. 19/05508/LBA and 19/05507/FUL

Site Location: Old House, Northend, Batheaston, Bath – External alterations for the erection of a parking area gate mechanism, boundary pier and replacement walling. (Regularisation). Erection of a parking area gate mechanism, boundary pier and replacement walling (Retrospective).

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

The Chair then read out the two written public statements that had been submitted:

- Objection to the application from the Bath Preservation Trust.
- In support of the application from the applicant.

The Case Officer and Planning Team Manager then responded to questions as follows:

- The property referred to in the public statement submitted by the applicant, Valley View, is located approximately half a mile north of the site and is not visible along the lane from Old House. Valley View does not adjoin Old House and the two properties cannot be seen in the context of each other.

- Old House is located outside of the main part of the settlement of the village of Northend. The majority of the properties in the village are located in a cluster, then properties become more sporadic. The property in question is outside of the Housing Development Area.

Cllr Jackson moved the officer recommendations to refuse. She stated that the virtual site visit, consisting of a video taken by the Planning Team Manager, had been very helpful. She noted that a historic wall had been lost and that the development had made an adverse impact on a listed building. The development made the property appear too suburban in this location and she felt that the rural nature of the area should be maintained.

Cllr Rigby seconded the motion for the reasons set out in the officer's report.

Cllr Davis stated that she had found the virtual site visit very helpful and would support the motion.

The motion was put to the vote and it was RESOLVED by 9 votes in favour to REFUSE planning permission and listed building consent for the reasons set out in the report.

(Note: Cllr Duncan Hounsell lost connection to the meeting during part of this item and was therefore unable to vote).

Item No. 3

Application No. 19/04797/FUL

Site Location: 3 Scumbrum Lane, High Littleton, BS39 6JN – Erection of a single and two storey rear extension.

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

The Chair read out the three written public statements that had been submitted:

- Objection to the application from neighbours.
- In support of the application from the applicants.
- Objection to the application from Cllr Ryan Wills, Local Ward Member.

The Case Officer and Planning Team Manager then responded to questions as follows:

- Cllr Appleyard asked for clarification as to whether the neighbouring property would lose part of its garden due to the proposed development. The Case Officer explained that the path runs along the rear of the properties and that No. 1 Scumbrum Lane is at the end of the terrace. The path is shared between the properties in the terrace.
- The Case Officer clarified the location of the patio area of No. 2 Scumbrum Lane. She explained that there is already a legal right of way over their property and that the proposed development would not cause a great deal of detriment to the amenity.
- The property is not in a Conservation Area and the legal position is that the path is a "free right of way in common" which only serves the properties in the

terrace.

- The Planning Team Manager explained that a public right of way is a legally sanctioned footpath. A private right of way, such as this, is traditionally for rear access to particular properties and diversion orders for this type of path are not subject to the same legal process as for public rights of way.
- Any issues relating to the footpath would be a civil matter which does not form part of the planning process. Planning permission cannot be refused on the basis of a third-party civil matter.
- Cllr Hodge stated that this was a difficult decision due to the lack of a site layout plan and stated that this was contrary to Section 5 of the B&NES drawing standard. She queried whether this affected the application process. She also noted that a disabled person lived at No. 1 Scumbrum Lane and queried whether this should be taken into consideration. The Planning Team Manager stated that the drawings submitted with the application are legible and show the scale of the proposed development. There is no requirement to show the full floor plans, although this can be helpful. Therefore, this is a valid application.
- Cllr MacFie queried what would happen if planning permission was granted and permission to gain access was then refused by the owners of the neighbouring property. He suggested that the path could be made narrower so that all the development was on land belonging to No. 3 Scumbrum Lane.
- The Planning Team Manager stated that it is not uncommon to propose development on the party line. If necessary, the applicant would have to apply for a variation to the application. This was an issue that neighbours would have to resolve between themselves. Practical implications of construction should not be a reason for refusal.
- Cllr Simmons queried whether the Council could be held liable under the Disability Discrimination Act by not allowing a wide enough pathway around the properties. He also queried whether making the path wider could be included as a condition. The Legal Advisor stated that private disputes between neighbours is not a planning consideration and that the owner would have to come to some agreement with their neighbours.
- The Case Officer informed the Committee that the rear gardens are approximately 42m long.
- The access to the path is fairly level and there is a gate on the boundary. The path ends at no. 3 Scumbrum Lane.

The Chair stated that he was unclear about the potential implications of the Disabilities Act. The Planning Team Manager explained that the Council has a public sector equality duty. The Legal Advisor stated that he would require more information to make a definitive assessment on this matter.

On balance the Committee members felt that they required more information before they were able to make a decision on this application.

Cllr Rigby moved that consideration of the application be deferred pending a site visit. This was seconded by Cllr Clarke.

The motion was put to the vote and it was RESOLVED by 8 votes in favour and 1 abstention to DEFER consideration of the application pending a SITE VISIT.

(Note: Cllr Duncan Hounsell lost connection to the meeting during part of this item and was therefore unable to vote).

110 **ENFORCEMENT REPORT - MARSH LANE, CLUTTON**

The Case Officer presented his report and his recommendation to seek an injunction.

The Chair read out a written statement, in support of enforcement action, that had been submitted by Clutton Parish Council.

Cllr Davis, local ward member, stated that the breach of planning control had been going on for some time at the site. It was causing a problem and the site owner had not engaged with the Council to remedy the situation. The statement submitted by Clutton Parish Council sums up the frustration felt by local residents. Cllr Davis supported the return of the site to agricultural land.

In response to a question from the Chair, the Planning Team Manager stated that the seeking of an injunction is an extreme measure, however, in this case the breach has failed to be remedied. He explained that, although injunctions were not cheap this would be funded by a government grant and there would be the potential for recovery of costs. Therefore, the action should ultimately be cost-neutral.

Cllr Simmons asked about the potential for land contamination arising from the breaking up of vehicles on the site. The Case Officer explained that the metal is recycled from the vehicles and that the area is used as a storage site rather than for carrying out work on the vehicles. Cllr Jackson pointed out that any decontamination required would be the responsibility of the landowner.

She then moved the officer recommendation to seek an injunction as set out in the report. This was seconded by Cllr Appleyard.

The motion was put to the vote and it was RESOLVED by 9 votes in favour to seek an injunction from the Court, under Section 187B of the Town and Country Planning Act 1990 to restrain the breaches of planning control on the land subject of the enforcement notice and for a breach of condition 2 of planning application no. 08/03492/FUL.

(Note: Cllr Duncan Hounsell lost connection to the meeting during part of this item and was therefore unable to vote).

111 **QUARTERLY PERFORMANCE REPORT - JANUARY TO MARCH 2020**

The Committee considered the quarterly performance report from January to March 2020.

In response to questions from Cllr Hodge the Planning Team Manager explained that the doubling of planning contravention notices this quarter was not particularly unusual and could be the result of a lag in this work. He stated that it was difficult to obtain benchmarking data because Local Authorities carried out the triage process in different ways. If required, however, he could provide a comparison against the national figure.

The Planning Team Manager also explained that the high figure for “other work” carried out between April and June could simply be due to a spike in this type of work and that he could provide a breakdown if required.

RESOLVED to NOTE the report.

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

The Committee considered the appeals report.

RESOLVED to NOTE the report.

The meeting ended at 3.45 pm

Chair

Date Confirmed and Signed

Prepared by Democratic Services

BATH AND NORTH EAST SOMERSET COUNCIL

Planning Committee

Date 6 May 2020

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

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
01 & 02	19/05508/LBA & 19/05507/FUL	Old House, Northend Batheaston

The reports refer to a set of (unauthorised) inward opening white metal gates (for vehicular access). The applicant's agent understands that these original gates were authorised following notification from the former owner to the former planning authority (Wansdyke) prior to their fixing. The Officer has been unable to verify this.

It is confirmed that the development would not affect any public footpaths/rights of way.

03	19/04797/FUL	3 Scumbrum Lane High Littleton
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Further comments/objections have been received from an interested party:

The comments reiterate the concerns in respect of the Free Right of Way In Common Path and impact on access

This matter is addressed within the committee report.

Development within the application site.

The applicant has confirmed all development is to be carried out within land owned by the applicant. Planning permission does not override any legal rights of way and or landownership matters which are a civil matter between neighbours.

Impact on local character through a single extension. The character and appearance of the extension has been addressed within the committee report.

Visual/Light Impact – Impact on the light enjoyed by number 3 and the combined effect has been raised but has been considered and is addressed within the committee report.

Parking – Parking and access have been considered within the committee report.

Amendments to the conditions:

Condition 3 text is amended as follows and a fourth condition is added.

CONDITION 3

{\b Materials (Compliance)}

All roofing materials to be used shall match those of the existing building in respect of type, colour, finish, type, size and profile.

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.

Condition 4

{\b Materials - Sample of Render (Bespoke Trigger)}

No external walls of the development shall be rendered until details of the colour and texture of the render to be used 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 materials.

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

002, 003, 004 all dated 2/11/2019

008A dated 27/01/2020

005, 006A, 007A, 009A all dated 17/02/2020

011A dated 4/05/2020

BATH AND NORTH EAST SOMERSET COUNCIL

MEMBERS OF THE PUBLIC AND REPRESENTATIVES SUBMITTING A WRITTEN STATEMENT AT THE VIRTUAL MEETING OF THE PLANNING COMMITTEE ON WEDNESDAY 6 MAY 2020

GENERAL STATEMENT			
ITEM NO.	SITE NAME	NAME	FOR/AGAINST
Agenda Item 4	General Statement	Caroline Kay (Bath Preservation Trust)	N/A

MAIN PLANS LIST			
ITEM NO.	SITE NAME	NAME	FOR/AGAINST
1 & 2	Old House, Northend, Batheaston	Caroline Kay and Joanna Robinson (Bath Preservation Trust)	Against
		Mr and Mrs Humphreys (Applicants)	For
3	3 Scumbrum Lane, High Littleton, BS39 6JN	Mr and Mrs Parker	Against
		Simon Hunt (Applicant)	For
		Cllr Ryan Wills (Local Ward Member)	Against

ENFORCEMENT LIST			
ITEM NO.	SITE NAME	NAME	FOR/AGAINST
Agenda Item 7	Marsh Lane, Clutton	Clutton Parish Council	For Enforcement Action

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BATH AND NORTH EAST SOMERSET COUNCIL
PLANNING COMMITTEE
6th May 2020
DECISIONS

Item No:	1	
Application No:	19/05508/LBA	
Site Location:	Old House, Northend, Batheaston, Bath	
Ward: Bathavon North	Parish: Batheaston	LB Grade: II
Application Type:	Listed Building Consent (Alts/exts)	
Proposal:	External alterations for the erection of a parking area gate mechanism, boundary pier and replacement walling. (Regularisation)	
Constraints:	Colerne Airfield Buffer, Agric Land Class 1,2,3a, Policy B4 WHS - Indicative Extent, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Listed Building, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE2A Landscapes and the green set, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodrome,	
Applicant:	Mr & Mrs Humphrey	
Expiry Date:	13th March 2020	
Case Officer:	Helen Ellison	

DECISION REFUSE

1 The development as installed, and amendments as proposed, are of a design, form, detail and materials that are inappropriate and unsympathetic towards the rural surroundings and appear as incongruous, alien and urbanising features that are harmful towards the significance of the designated heritage asset and the special interest of the listed building and its setting. There are no public benefits to the development sufficient to outweigh the identified harm. As such the development would be contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy CP6 of the adopted Core Strategy (2014), Policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017), the provisions of the NPPF (2019) and guidance from Historic England.

PLANS LIST:

This decision relates to the following drawings;

- Date: 20.12.2019 Drwg. title: Block plan
- Date: 20.12.2019 Drwg. title: Site location plan
- Date: 20.12.2019 Drwg. No. EE01 Drwg. title: Front elevation prior to works
- Date: 20.12.2019 Drwg. No. PE01A Drwg. title: Front elevation as proposed
- Date: 20.12.2019 Drwg. No. PP01B Drwg. title: Gate plan as proposed

- Date: 02.03.2020 Drwg. No. EE02 Drwg. title: Front elevation as existing

Date: 02.03.2020 Drwg. No. EP02 Drwg. title: Plan as existing
Date: 02.03.2020 Drwg. No. PS01A Drwg. title: Section through existing gate

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

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.

Item No:	2	
Application No:	19/05507/FUL	
Site Location:	Old House, Northend, Batheaston, Bath	
Ward: Bathavon North	Parish: Batheaston	LB Grade: II
Application Type:	Full Application	
Proposal:	Erection of a parking area gate mechanism, boundary pier and replacement walling. (Retrospective)	
Constraints:	Colerne Airfield Buffer, Agric Land Class 1,2,3a, Policy B4 WHS - Indicative Extent, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Listed Building, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE2A Landscapes and the green set, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,	
Applicant:	Mr & Mrs Humphrey	
Expiry Date:	13th March 2020	
Case Officer:	Helen Ellison	

DECISION REFUSE

1 The development as installed, and amendments as proposed, are of a design, form, detail and materials that are inappropriate and unsympathetic towards the rural

surroundings and appear as incongruous, alien and urbanising features that are harmful towards the significance of the designated heritage assets, the special interest of the listed building and its setting and the setting of the wider City of Bath World Heritage Site. There are no public benefits to the development sufficient to outweigh the identified harm. As such the development would be contrary to the Planning (Listed Buildings and Conservation Areas) Act 1990, Policies B4 and CP6 of the adopted Core Strategy (2014), Policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017), the provisions of the NPPF (2019) and guidance from Historic England.

2 The development as installed, and amendments as proposed, are of a design, form, detail and materials that are inappropriate and unsympathetic towards the rural surroundings and appear as incongruous, alien and urbanising features. As such the development would fail to maintain or enhance the local character, distinctiveness, visual amenity or landscape. The development is therefore contrary to Policies CP6 and CP8 of the adopted Core Strategy (2014), Policies D2, D5, GB1, NE2, NE2A and of the Placemaking Plan for Bath and North East Somerset (2017) and the provisions of the NPPF (2019).

PLANS LIST:

This decision relates to the following drawings;

Date: 20.12.2019 Drwg. title: Block plan

Date: 20.12.2019 Drwg. title: Site location plan

Date: 20.12.2019 Drwg. No. EE01 Drwg. title: Front elevation prior to works

Date: 20.12.2019 Drwg. No. PE01A Drwg. title: Front elevation as proposed

Date: 20.12.2019 Drwg. No. PP01B Drwg. title: Gate plan as proposed

Date: 02.03.2020 Drwg. No. EE02 Drwg. title: Front elevation as existing

Date: 02.03.2020 Drwg. No. EP02 Drwg. title: Plan as existing

Date: 02.03.2020 Drwg. No. PS01A Drwg. title: Section through existing gate

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

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.

Item No:	3		
Application No:	19/04797/FUL		
Site Location:	3 Scumbrum Lane, High Littleton, Bristol, Bath And North East Somerset		
Ward:	High Littleton	Parish:	High Littleton
		LB Grade:	N/A
Application Type:	Full Application		
Proposal:	Erection of a single and two story rear extension.		
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Policy CP9 Affordable Housing Zones, Housing Development Boundary, Policy M1 Minerals Safeguarding Area, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,		
Applicant:	Mr Simon Hunt		
Expiry Date:	8th May 2020		
Case Officer:	Christine Moorfield		

DECISION Defer consideration to allow members to visit the site.

PLANS LIST:

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

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.

This permission does not convey or imply any civil or legal consents required to undertake the works.

Responding to Climate Change (Informative):

The council is committed to responding to climate change. You are advised to consider sustainable construction when undertaking the approved development and consider using measures aimed at minimising carbon emissions and impacts on climate change.

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Bath & North East Somerset Council	
MEETING:	Planning Committee – Site Visit Agenda
MEETING DATE:	3rd June 2020
RESPONSIBLE OFFICER:	Simon de Beer – Head of Planning
TITLE:	APPLICATIONS FOR PLANNING PERMISSION
WARDS:	ALL
BACKGROUND PAPERS:	
AN OPEN PUBLIC ITEM	

AGENDA
ITEM
NUMBER

BACKGROUND PAPERS

List of background papers relating to this report of the 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

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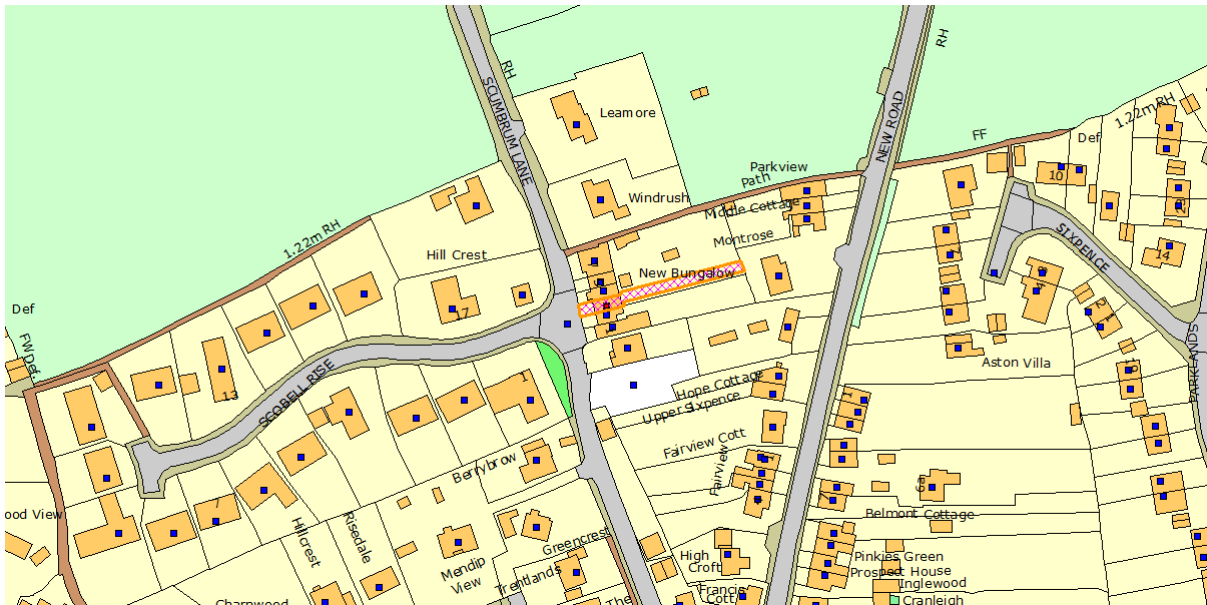
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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	19/04797/FUL 8 May 2020	Mr Simon Hunt 3 Scumbrum Lane, High Littleton, Bristol, Bath And North East Somerset, BS39 6JN Erection of a single and two story rear extension.	High Littleton	Christine Moorfield	PERMIT

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 001
Application No: 19/04797/FUL
Site Location: 3 Scumbrum Lane High Littleton Bristol Bath And North East Somerset BS39 6JN



Ward: High Littleton **Parish:** High Littleton **LB Grade:** N/A
Ward Members: Councillor Ryan Wills

Application Type:	Full Application
Proposal:	Erection of a single and two story rear extension.
Constraints:	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Policy CP9 Affordable Housing Zones, Housing Development Boundary, Policy M1 Minerals Safeguarding Area, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,
Applicant:	Mr Simon Hunt
Expiry Date:	8th May 2020
Case Officer:	Christine Moorfield
To view the case click on the link here .	

REPORT

This application was considered by the Development Management Committee on the 6th May 2020.

The Planning Committee members deferred the application in order that a site visit could be carried out. The committee wished to understand fully the existing access arrangements to the rear of this terrace of properties and to assess the implications that the proposed extension would have on access for residents, particularly those with disabilities.

Site description and the proposal

The application is for a two storey and single storey rear extension to this terraced property. 3 Scumbrum Lane, High Littleton runs in a north south direction with 3 Scumbrum Lane located on the eastern side approximately 150m from the junction of Scumbrum Lane with New Road (A39). The street consists of a mix of two storey dwellings and single storey dwellings. Number 3 is located within a terrace of 7 dwellings a couple of these terraced dwellings have been extended at the rear.

There is a right of way across the back of the properties for use by residents.

The plans as originally submitted indicated a larger two storey element with a single storey element, however following discussions with officers the extension has been reduced in size.

The site is located within the Housing Development Boundary for High Littleton.

PLANNING HISTORY:

98/02028/FUL - PER - 20 February 1998 - First floor rear extension

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Cllr Ryan Wills- Committee request in respect of original submission.

Reason for objection and requesting application is referred to committee if officers are minded to permit -

- Harm to amenity of neighbouring properties due to the overbearing presence this extension will have, also resulting in a loss of light.
- Lack of room for more on street parking on Scumbrum Lane
- Out of keeping with local character - extension would result in this house becoming a 3 bedroom house in a terrace of 2 bedroom houses
- Harm to amenity of neighbouring properties due to significant alteration of common access path

PARISH COUNCIL: Objection

1. The plans as submitted reduce the accessibility to No1 and No2 Scumbrum Lane by introducing 4 right angled turns into the rear access path and increasing its length. This materially reduces the amenity of those properties and is therefore contrary to adopted policy D6.
- 2 The plans as submitted reduce the accessibility to No1 Scumbrum where the occupant has mobility issues. This would be contrary to adopted policy H7.
3. The proposal would (as per the submitted Design and Access statement) increase the number of bedrooms from 2 to 3. There is no parking provision at the property, therefore this is contrary to the BaNES Parking Policy for residential properties outside of Bath.
4. As the applicant has stated in correspondence, the access rights of No.2 and No.1 are a Civil matter, however at the time of consultation and of the application no approach has been made to those householders. As no agreement on access rights has been agreed the drawings submitted showing a new path within the curtilage of No.2 are at best speculative. The loss of rear garden to create that path along the curtilage of No.2 would materially impact the amenity of an already narrow garden and therefore is contrary to policy D6
5. The proposed extension would block the light from the south to No.4 contrary to policy D6
6. The proposal would overbearing on No.2 as it already shaded and enclosed by the existing elevations at No.1 therefore the proposal is contrary to policy D6
7. The proposed extension would block the light to No.2 contrary to policy D6
8. The proposed extension (including timber decked patio which is elevated) would overlook the gardens of No.4. and No.2 therefore reducing their privacy and amenity value contrary to policy D6
9. The plans as submitted reduce the accessibility to No1 and No2 Scumbrum Lane by introducing 4 right angled turns into the rear access path and increasing its length. This means that it may no longer be practicable for the occupiers to store their recycling and rubbish containers at the rear of the property contrary to policy D6 (d) and risks further harm to the streetscape if they are stored at the front of the property
10. Even if the occupiers of No.2 are prepared to construct a new path within their curtilage they have no duty to grant access to the occupiers of No.1 who only have access rights along the path at the rear of No.2, as such, the supplied drawings which infer such access are erroneous. In the absence of any agreement an outcome of this proposal would be to stop any access to the rear of No.1 Scumbrum and therefore contrary to policy D6 and H7.
11. Contrary to section 7 of BaNES Drawing Standards - Planning Application guidance - plans and Drawings, no full Floor plan of the existing dwelling has been provided, consequently it is not possible to determine if the proposal is an Overdevelopment.
12. Contrary to section 5 of BaNES Drawing Standards - Planning Application guidance - plans and Drawings, no Site Layout plan has been provided showing the proposed

development in relation with adjoining buildings. The site plan fails to acknowledge the line of the existing rights of way from No7 Scumbrum Lane past all properties to No 1 Scumbrum Lane. The full impact of this proposal on neighbouring properties is therefore understated.

5 people have raised objections:

The main issues raised being as follows:

- o Loss of light for adjacent neighbours, overbearing impact and creation of a sense of enclosure.
- o Contrary to the objectives of the BANES Placemaking Plan Policy D6 on Amenity.
- o Impact on the value of adjacent properties.
- o Out of character with the host dwelling and terrace in general.
- o It will significantly break up the broadly uniform rear elevation appearance of the terrace.
- o The proposed extension will not positively contribute to the local character and distinctiveness, including the site context and layout, as required by BANES Placemaking Policy D2.
- o There is a 'Right of way in Common', access shared between the community of Scumbrum Terrace across the back of the properties and this will be impeded.
- o Increasing No.3 from 2 to 3 bedrooms raises major concerns about the inadequate provision of off-street parking.
- o The modification assumes the surrender of neighbours land to accommodate the new proposed walkway, thereby impacting on privacy and preventing unconstrained use of the neighbours patio area.
- o Overdevelopment of the site

HIGHWAYS

No objection raised.

The 'Planning Statement' submitted in support of the application confirms that the existing dwelling is two-bedroomed and Highway Development Control (HDC) officers acknowledge that the property does not benefit from any existing off-street, car parking provision. This represents a shortfall of two spaces when applying the current adopted car parking standards, which are a minimum for C3 residential use.

The addition of a third bedroom does not increase the number of off-street, car parking spaces required by the authority's adopted parking standards meaning that the existing shortfall of two spaces will not be made any worse.

Interrogation of the 'CrashMap' database reveals that there have been no reported Personal Injury Collisions (PICs) on Scumbrum Lane during the previous 60-months which suggests that the existing and continued shortfall of two off-street, car parking spaces is not detrimental to highway safety.

During the 'virtual' Planning Committee held on Wednesday 6th May 2020, concern was expressed with regards to the effect the proposed works would have on the path to the rear of number 3 Scumbrum Lane, records do not indicate the path to be adopted public highway.

POLICIES/LEGISLATION

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o 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)
- 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:

CP2: Sustainable Construction
CP6: Environmental Quality
DW1: District Wide Spatial Strategy
SD1: Presumption in favour of 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:

D1: General urban design principles
D2: Local character and distinctiveness
D.3: Urban fabric
D.5: Building design
D.6: Amenity
ST7: Transport requirements for managing development

The National Planning Policy Framework (NPPF) was published in 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

The National Planning Policy Framework (NPPF) was published in 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

Number 3 is a two storey terraced property located within the housing development boundary of High Littleton. This proposal is for a two storey and single storey extension. The two storey element protrudes by 1050mm from the existing rear elevation of the property. This element of the proposal extends beyond the two storey rear elevation of number 2 Scumbrum Lane by 200mm.

The single storey element of the proposed extension extends by 3m from the rear elevation of the existing terraced property. The width of the proposed single storey element is 3250mm.

From a site visit it is evident that there is a shared access path across the rear of the terraced properties and should any owner wish to extend their property and thereby impact on this access it is recognised that they must ensure that they have a legal right to do this. The applicant has been advised of this matter and have been advised to seek legal advice in this respect of this civil matter between the owners and residents who own the shared access. Such matters are not something that can be resolved through the planning system.

Due to the unusual garden/boundary layout for these dwellings the extension has been set in to reflect the boundary of the site belonging to number 3. The plans have been amended and all the development has been shown to be located within the land associated with number 3.

Character and Appearance

The extensions as proposed are modest in their scale and mass and bulk. The single storey extension extends 3m from the rear elevation of the existing dwelling. The neighbour to the south extends beyond the rear elevation of number 3 and the property at number 1 extends to a greater extent than the proposals now being considered. The extensions are shown to be constructed using tiles to match those on the host dwelling and smooth render is proposed on the walls. Timber window and door frames are proposed.

A small timber decked area is proposed outside the rear doors with timber ballustrading around with steps down to the garden area.

The proposal has two feature windows at first floor level on the rear elevation. Although these are an unusual feature they are appropriate in terms of their location scale and form and are considered acceptable on this rear elevation.

The mass and bulk of the proposals are not seen to have a detrimental impact on the character and appearance of the host dwelling. Concerns have been raised in respect of

the change that this proposal will have on the appearance of this terrace of cottages however, it is noted that there are existing extensions which have been constructed and therefore a modest extension on the eastern side (rear) of this terraced dwelling is not considered to have a harmful impact on the appearance of this terrace of properties in terms of its design, siting, scale, massing, layout and materials is 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 part 12 of the NPPF.

Residential Amenity

The extensions are located at the rear of the property on the eastern elevation. Number 1 is located to the south of number 3 and number 1 benefits from a substantial rear elevation which has a total length of 8m, which is substantially larger than the extension now being considered in relation to number 3. Number 2 extends beyond the existing rear elevation of number 3 but only by a small amount (200mm).

The neighbours at number 2 are at present shaded by the two storey extension to number 1 which is located on the south side of their property thereby impacting on the light they enjoy.

The modest two storey extension proposed to number 3 only extends by 200mm beyond the rear elevation of number 2. The single storey element has a pitched roof and the two elements of the proposal extend a total of 3m. Whilst it is recognised that there will be an element of enclosure for the rear garden area of number 2 and the property the impact as a result of the proposals the subject of this application are considered to be minimal given the height of the proposal its size and its orientation on the northern side of number 2. With regard to number 4 the property on the north side of number 3 it is recognised that development at the rear of number 3 will have an impact on the light that this property at present enjoys. However given the scale of the extension to number 1 and the fact that the proposed extension has a maximum depth of 3m with only 1050mm of the scheme being two storey the impact is considered to be minimal and it would not be justifiable to refuse this proposal on the basis of the impact on these adjacent residents.

In particular the loss of privacy from the small rear terrace area has been raised as a concern. This small area is limited in its scale extending 1.1m and given the topography of the site the terrace sits marginally above ground level however, its limited scale and the existence of windows and patio doors on the rear elevation it is not considered that this element of the scheme would significantly impact on the amenity of the neighbours.

As previously stated the impact that this proposal may have on access rights across the back of this site is a civil matter between adjoining land owners and not something that can be resolved through the planning process. The onus will be on the applicant to ensure that any development can be carried out on this land.

Given the design, modest 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, 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.

Pedestrian Access

The proposed plans have indicated that a right of way is maintained through the garden of this site to allow access for adjacent residents. This access is shown to be 800m wide and runs around the north and east sides of the extension. This results in the access path arriving at the rear of number 2 Scumbrum 4m from the rear elevation of number 2. The path cannot continue along the rear of number 1 Scumbrum due to the large extension at the rear of this property. Therefore the access provides access for the residents of number 2 to their property all be it not directly at the rear of their property.

As a result of the virtual site visit the committee members have been able to see the site and are informed about the particular potential impact on the disabled as a result of the development and its claimed interference to the access; that needs to be given weight as appropriate, balanced against the applicant's right to develop land under his control.

As this potential PSED issue has been considered any dispute remaining is a private one between interested parties and the granting of planning permission and its possible implementation relies on the applicant ensuring that the building does not interfere with the private rights of neighbours to pass and repass over the access. Should the neighbours object to the development then they will have to consider taking a private law action against the applicant for legal remedy.

Highways

The proposal results in the property having a third bedroom. This increase in bedrooms would not require an additional car parking space in order that the proposal complies with the councils car parking standards. At present the property relies on on-street parking as do some of the other properties in the terrace. There is unrestricted on street parking within the locality of the property. This proposal does not include any alterations to the parking arrangements in association with this property. It should be noted that this property is within the housing development boundary of High Littleton.

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.

Low Carbon and Sustainable Credentials:

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

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 Materials (Compliance)

All roofing materials to be used shall match those of the existing building in respect of type, colour, finish, type, size and profile.

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.

4 Materials - Sample of Render (Bespoke Trigger)

No external walls of the development shall be rendered until a sample of the colour and texture of the render to be used 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 materials.

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:

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. **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

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 This permission does not convey or imply any civil or legal consents required to undertake the works.

5 Responding to Climate Change (Informative):

The council is committed to responding to climate change. You are advised to consider sustainable construction when undertaking the approved development and consider using measures aimed at minimising carbon emissions and impacts on climate change.

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Bath & North East Somerset Council	
MEETING:	Planning Committee – Main Agenda
MEETING DATE:	3rd June 2020
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
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 - (xiii) National and local amenity societies
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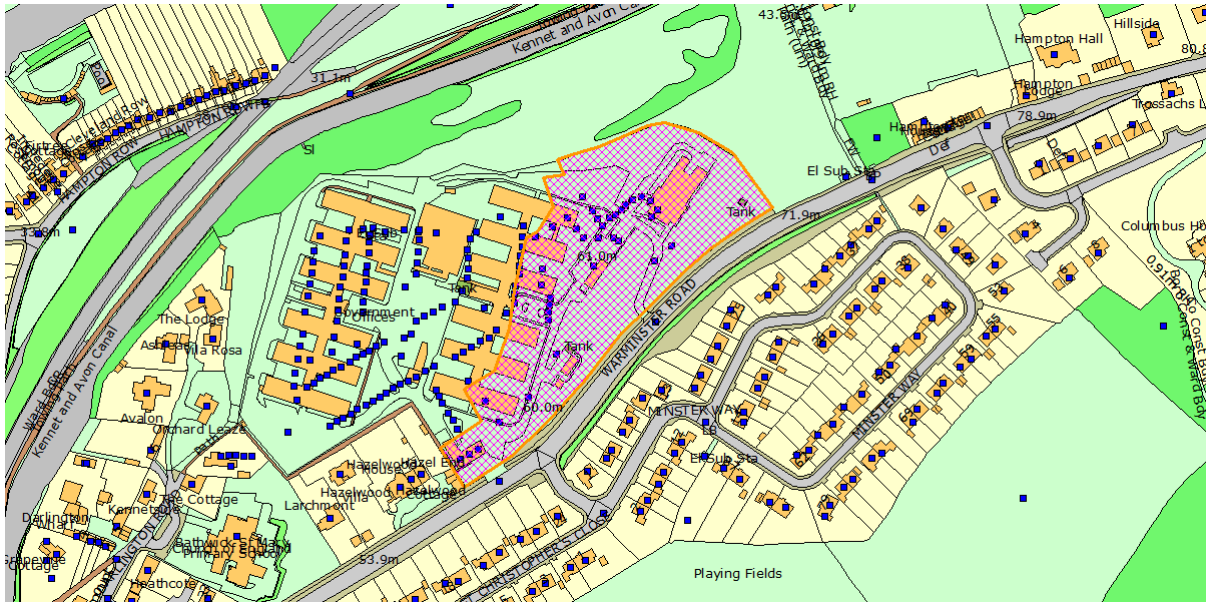
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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	19/03838/FUL 3 June 2020	Hardrock Developments Ltd Site Of Former Ministry Of Defence Offices, Warminster Road, Bathwick, Bath, Proposed construction of 42no. new dwellings and 2no. new blocks of apartments to provide a total of 70 new homes on part of the former MOD site at Warminster Road (revision to consented development).	Bathwick	Chris Griggs-Trevarthen	Delegate to PERMIT
02	19/04772/FUL 3 June 2020	N/A Additional Development Area, Holburne Park, Bathwick, Bath, Bath And North East Somerset Proposed erection of 8 additional dwellings, landscaping, car parking and associated works on land adjacent to Holburne Park, Warminster Road, Bath	Bathwick	Chris Griggs-Trevarthen	Delegate to PERMIT
03	20/00395/RES 4 June 2020	Mr Nick Biggs Land Between Homelands And 10, Camerton Hill, Camerton, Bath, Approval of reserved matters with regard to outline application 17/00299/OUT (Erection of 1no. single storey dwelling (Resubmission)).	Bathavon South	Samantha Mason	PERMIT
04	20/01024/FUL 12 May 2020	Tom And Gerald Wood And Richards 84 Triangle North, Oldfield Park, Bath, Bath And North East Somerset, BA2 3JB Erection of a two storey rear extension following removal of existing extension. Erection of a single storey side extension to number 84 & single storey rear extension to number 85.	Westmoreland	Isabel Daone	PERMIT
05	19/05519/FUL 5 June 2020	Mr Clive Franklin Avon Farm, Avon Lane, Saltford, Bristol, Bath And North East Somerset Change of use of a former office building to a dwelling (Retrospective).	Saltford	Martin Almond	PERMIT

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 19/03838/FUL
Site Location: Site Of Former Ministry Of Defence Offices Warminster Road
Bathwick Bath



Ward: Bathwick **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Dr Kumar Councillor Manda Rigby

Application Type: Full Application

Proposal: Proposed construction of 42no. new dwellings and 2no. new blocks of apartments to provide a total of 70 new homes on part of the former MOD site at Warminster Road (revision to consented development).

Constraints: Article 4 Bath Demolition Wall, Article 4 Reg 7: Estate Agent, Article 4 HMO, Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Air Quality Management Area, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, British Waterways Major and EIA, British Waterways Minor and Householders, Conservation Area, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, Placemaking Plan Allocated Sites, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

Applicant: Hardrock Developments Ltd
Expiry Date: 3rd June 2020
Case Officer: Chris Griggs-Trevarthen

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

REPORT
REASON FOR REPORTING TO COMMITTEE

The application is subject to a viability assessment in respect of affordable housing.

DESCRIPTION

This application relates to the former MOD site at Warminster Road in Bath now known as Holburne Park. Planning Permission was granted in March 2015 for the comprehensive redevelopment of the site for 204 dwellings (Ref: 14/02272/EFUL); construction is well underway.

There have been multiple material amendments to the approved scheme since it was first consented in 2015. The 2015 consent was first amended in January 2017 by planning permission (ref: 16/01925/VAR); that permission made amendments to the development's external layout, internal arrangements, and various other changes. This was followed by a further planning permission (Ref: 17/06189/EVAR) in 2017 which made some changes to Plot 37. This was in turn followed by planning permission Ref: 18/05098/EVAR, approved in April 2019, which replaced a 3 unit coach house with a conventional dwelling. A further amendment (19/01956/EVAR) was granted in February 2020.

The site in question forms part of the former MOD premises at Warminster Road. The site is described as the 'eastern parcel' as it covers a large part of the eastern most part of the approved development alongside a connecting street which links to phase 1. This application seeks to vary these portions of the approved scheme to provide 42no. dwellings and 2no. new blocks of apartments (comprising 28 dwellings) to provide a total of 70 new homes. This would replace the 127 dwellings currently approved on this part of the site, reducing the overall total number of dwellings within the allocation from 246 to 189.

The site is located within the Bath World Heritage Site and Conservation Area and is directly adjacent to a Site of Nature Conservation Interest (SNCI) which lies to the east and north.

There is a concurrent application which has also been submitted to provide an additional 8 dwellings on land which was previously reserved for the expansion of Bathwick St Marys Primary School (ref: 19/04772/FUL). The cumulative number of dwellings proposed across the allocation from both applications is 197.

A further application for 10 additional dwellings with additional car parking and landscaping has recently been withdrawn (ref: 19/03836/FUL).

RELEVANT PLANNING HISTORY

18/05190/EVAR: Variation of Condition 32 (plans list) of application 17/06189/EVAR (plots 32-36 design changes) GRANTED

18/03193/EVAR: Variation of conditions 7 and 32 of application 17/06189/EVAR (add Juliet balconies to plots 32-36) REFUSED 1 NOVEMBER 2018

18/01407/EVAR: Variation of Condition 24 (plans list) of application 16/04289/EFUL (BF6 and BF7 design changes) GRANTED

17/06189/EVAR: Variation of Condition 7 AND Condition 30 (plans list) involving change to materials, addition of basement storey and porch to Plot 37 of 16/01925/VAR. GRANTED

17/06197/NMA: Non-material amendment to application 16/01925/VAR GRANTED JAN 2018

17/05811/NMA: Non-Material Amendment to application 16/01925/VAR GRANTED

16/04289/EFUL: Erection of 6 no. apartment blocks to provide 87 no. new dwellings (Partial revision of application 14/02272/EFUL) GRANTED AUGUST 2017

16/01925/VAR: Variation of Condition 33 attached to 14/02272/EFUL (Erection of 204 no. dwellings with 2 no. accesses from Warminster Road, vehicular parking; open space; landscaping(including tree removal); pumping station; and associated engineering works, following demolition of existing buildings) GRANTED JAN 2017

16/01456/NMA: Non-material amendment to application 14/02272/EFUL GRANTED APRIL 2016

14/02272/EFUL: Demolition of existing buildings, erection of 204 no. dwellings; 2 no. accesses from Warminster Road, vehicular parking; open space; landscaping (including tree removal); pumping station; and associated engineering works GRANTED MARCH 2015

19/01956/EVAR: Variation of Condition 8 and 30 attached to 18/05098/EVAR (Variation of condition 32 (plans list) of application 17/06189/EVAR (Variation of Condition 7 AND Condition 30 (plans list) involving changes to materials, addition of basement storey and porch to Plot 37 of 16/01925/VAR (Variation of Condition 33 attached to 14/02272/EFUL (Erection of 204 no. dwellings with 2 no. accesses from Warminster Road, vehicular parking, open space, landscaping (including tree removal), pumping station, and associated engineering works, following demolition of existing buildings) granted on 31.01.2017) (Resubmission). GRANTED FEBRUARY 2020

ENVIRONMENT IMPACT ASSESSMENT

This application proposal has been screened under the Town and County Planning (Environmental Impact Assessment) Regulations 2017 and it has been determined that the application does not represent EIA development and that an Environmental Statement is not required.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

A summary of consultation responses to the application have been provided below.

URBAN DESIGN: Objection

The proposed public realm throughout is highways and access dominated. The scheme designs in extensive lengths of completely blank frontages. This means streets lack overlooking and lack design quality to enable them to contribute to the pedestrian experience of this place. Poor design such as this is not supported.

CONSERVATION: Scope for revision

The revisions to the previously approved application ref: 14/02272/EFUL constitutes some improvement. However, as already stated previously there are concerns regarding the proposed three villa style buildings adjacent to the historic Kennet and Avon Canal. (Officer note: the three proposed villa buildings do not form part of this application and are considered under 19/03836/FUL).

EDUCATION: No objection

ARBORICULTURE: Scope for revision

The tree report submitted and dated 29th August 2013 is out of date and does not include the original tree survey plan.

HOUSING: Objection

Housing Services recognises the outcome of the independent assessment of the Viability case being made by the Developer. In this regard, Housing Services objects to the applications on the grounds that they do not meet the requirements of Core Strategy policy CP9 and the viability case does not support a reduction in delivery to 15%.

Officer note: These housing comments are based upon the outcome of the first viability review dated November 2019.

DRAINAGE AND FLOODING: No objection

ECONOMIC DEVELOPMENT: No objection, subject to obligation

ENVIRONMENTAL PROTECTION: No objection, subject to condition

LANDSCAPE: No objection

PARKS AND OPEN SPACES: No objection

PUBLIC RIGHTS OF WAY: No objection

HIGHWAYS: Comments

Further information regarding the parking arrangements, highway layout and facilities for waste / recycling storage is required.

VIABILITY ASSESSOR: Comments

Given the level of current uncertainty, we have assessed the development based on sales values at £551psf (reflecting values as of August 2019) and values at £499psf (reflecting a 9.4% reduction from original in light of the Covid-19 estimated impacts).

The appraisal with a reduction applied to take account of Covid-19 and therefore assuming an average sales value of £499psf, and assuming nil affordable housing provision, produces a viability deficit of negative -£2.39M. This viability deficit turns into a surplus in the scenario where an assumption is made accounting for no adverse impact of Covid-19. In this case using the 2019 residential sales values (a surplus of £5.11M is generated). Whilst there is uncertainty around the effects upon the market in the short

term and without having more evidence about actual impacts, the assessors opinion is that it is difficult to make a case that there will not be a material adjustment in the market to take account of the current effects of the epidemic.

In summary set out below are the two scenario's which can be considered as the parameters for a 'Best' and 'Worst' case scenario;

1. Worst Case - Viability Deficit -£2.39M (No Affordable Housing can be supported)
2. Best Case - Viability Surplus £5.11M (up to c.30 AH units which equates to c.22%)

HISTORIC ENGLAND: Comments

The proposed revisions to that application will in some limited ways improve the overall streetscape of the application

AVON AND SOMERSET POLICE: No objection

COUNCILLOR MANDA RIGBY: Call-in Request

The percentage of social housing is decreased to below council policy, the number of units overall will now go way above the specified 140 houses before a roundabout is built as suggested as a condition from the original application by highways.

BATH PRESERVATION TRUST: Objection

This new scheme's massing alongside Warminster Road has significantly improved. However, the scale of expansion towards the east and west of the site as well as the provision of villas along the northern boundary raises strong concerns about the overdevelopment of the site and how this will impact the historic character of the area. The insufficient affordable housing provision is contrary to Policy CP9 of the Placemaking Plan, and should be amended to increase the provision before any permission is granted.

THIRD PARTIES AND NEIGHBOURS: 8 letters of OBJECTION have been received. The main issues raised were:

Several comments considered that the removal of the roadside blocks of flats along Warminster Road was an improvement on the previously approved scheme.

Lack of parking provision is considered to be an issue with the proposal, with visitor parking being a particular issue. Inadequate cycle parking was also mentioned.

There is concern about the degradation of the design quality of the proposed scheme. Part of the site was described as containing 'houses on stilts' which are out of keeping with Bath and the rest of the development. The direct frontage of phase 3a-2 onto Warminster Road was considered to be out of keeping.

There was concern that the proposed affordable housing is not pepper-potted around the site.

Comments suggested that the road junction with the A36 is not safe and that there should be a roundabout in place instead.

Some residents were concerned about the loss of views from Minster Way.

Issues around land stability have also been raised by local residents.

There is concern about the ecological impacts of the proposed development.

It is suggested by some that the developer's financial difficulties do not provide justification for the proposed development.

Some considered the proposals to represent overcrowding without adequate facilities.

There was concern about road safety issues arising as a result of the revised layout and increased traffic which would also affect air quality.

There was concern about overshadowing of the public footpath.

One comment considered that there would be a substantial increase in the number of dwellings and the scale of the apartment blocks and that this would adversely affect views to and from the site.

The block labelled as BF13 is considered too tall and would tower above existing homes on the site.

POLICIES/LEGISLATION

The Development Plan for Bath and North East Somerset comprises:

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

- DW1 District Wide Spatial Strategy
- B1 Bath Spatial Strategy
- B4 The World Heritage Site and its Setting
- CP2 Sustainable Construction
- CP5 Flood Risk Management
- CP6 Environmental Quality
- CP7 Green Infrastructure
- CP9 Affordable Housing
- CP10 Housing Mix

CP13 Infrastructure Provision

RELEVANT PLACEMAKING PLAN POLICIES

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:

- SU1 Sustainable Drainage
- D1 Urban Design Principles
- D2 Local Character & Distinctiveness
- D3 Urban Fabric
- D4 Streets and spaces
- D5 Building Design
- D6 Amenity
- D8 Lighting
- D10 Public Realm
- BD1 Bath Design Policy
- HE1 Historic Environment
- NE1 Development and Green Infrastructure
- NE2 Conserving and enhancing the landscape and landscape character
- NE2A Landscape Setting of Settlements
- NE6 Trees and woodland conservation
- ST1 Promoting sustainable travel
- ST7 Transport requirements for managing development
- SB12 Former MoD Warminster Road

National Planning Policy Framework (February 2019) and the National Planning Practice Guidance can be awarded significant weight.

LEGISLATION

There is also a duty placed on the Council 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 or appearance of the surrounding conservation area.

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

The main issues to consider are:

1. Principle of development
2. Design
3. World Heritage Site and Conservation Area
4. Residential amenity

5. Highways and parking
6. Drainage
7. Ecology
8. Parks and Green Spaces
9. Sustainable Construction
10. Affordable Housing
11. Community infrastructure levy
12. Conclusion

1. PRINCIPLE OF DEVELOPMENT

The site falls within the allocation policy SB12 which allows for the provision of at least 150 residential dwellings to enable the efficient use of the developable area. The proposed development would amend the approved scheme and reduce the overall number of dwellings within the allocation to 189 dwellings. The current proposal will not conflict with that minimum requirement.

Criterion 2 of the SB12 requires the removal of the existing disused buildings on the site. This has already occurred and this criterion is met.

Criterion 3 requires the development to be almost entirely focused on the previously developed area. The changes proposed by this application remain within the previously developed area and so this criterion is met.

Criterion 4 requires a design response which enhances the setting of the World Heritage Site and Conservation Area with reference to the important characteristics of the site. This is addressed in the Design and World Heritage Site and Conservation area sections below

Criterion 5 requires the provision of land and other funds to enable expansion of the adjoining primary school. This application does not include any land which was part of the formerly proposed school expansion. A financial contribution towards education provision has already been made on this development site. This criterion is therefore met.

Criterion 6 relates to walkways through the undeveloped part of the site to improve public access. This application does not affect the approved proposals for walkways and access to the undeveloped parts of the site.

Criterion 7 requires the protection of the amenity of neighbouring residential properties. This is considered in the residential amenity section below.

Criterion 8 requires a detailed historic environment assessment and evaluation. This is considered in the Design and World Heritage Site and Conservation area sections below.

2. DESIGN

The proposed layout seeks the creation of new terraces within the development which reflects the approach to the layout within the earlier phases of the development. Similarly, the style and architectural treatment of the houses appears to reflect that previously approved/already constructed and on that basis it can be supported.

However, the Urban Designer has made a number of criticisms of the design of the proposals.

The southern terrace of proposed dwellings within phase 5 (plot 190 - 201) are shown to be split level dwellings with the lower level to the north being entirely dedicated to undercroft parking with a terrace above. This approach creates long stretches of blank elevations with car dominated ground levels.

Furthermore, phase 3A1 creates a new street which is lined by the rear elevations of elevated terrace gardens on one side and a large car park on the other side. This represents poor public realm which lacks any proper natural surveillance or visual connection to the proposed homes.

Concerns were also raised about the blank gable end elevations facing public routes and spaces throughout the proposal. In response to these concerns, revised drawings have been submitted which include additional windows within these gable elevations and help to ensure overlooking over the streets. There was also concern about the window design for blocks BF13 and 14. This has also been addressed through revised plans which have been submitted.

Whilst the other concerns raised about the proposed design remain, it is important to consider the fall-back position established by the approved planning permission.

The currently approved scheme includes 7 free-standing blocks of apartments located along the southern boundary of the site. The blocks varied in height, but were generally 4 storeys in height plus an undercroft level on the lower side of the hill containing parking. The layout also included a series of large parking courtyards situated on the north side of these blocks.

Compared to the currently approved scheme it is considered that the proposed changes to building form, layout, access, parking and landscape are an improvement. This is an important material consideration and on this basis there is no objection to the design of the proposals.

3. WORLD HERITAGE SITE AND CONSERVATION AREA

The key consideration in respect of the impact of the proposals upon the World Heritage Site is whether the proposed development would have an adverse impact upon its outstanding universal value.

The application has been accompanied by a Landscape and Visual Impact Assessment (LVIA). This has been reviewed by the Council's Landscape Officer who considers that the changes to the building form, layout, parking, access and hard/soft landscaping represent an improvement on the previous scheme. This is particularly the case in viewpoints V1, V3a, V8 and V9 in the LVIA.

It is therefore considered that the proposals will have no adverse impact upon the outstanding universal value (OUV) of the World Heritage Site.

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. In this instance it is considered that the design of the proposals is acceptable (discussed above) and will not detract from views to or from the site. The proposals will therefore preserve this part of the Bath Conservation Area and met this requirement.

The proposal is therefore considered to comply with criteria 4 and 8 of policy SB12.

4. RESIDENTIAL AMENITY

Each of the proposed dwellings is provided with adequate internal and external space for amenity and all have adequate levels of light, outlook and privacy.

Some concerns have been raised by existing residents within the Holburne Park development, including those on Lascelles Avenue which backs onto phase 3A1. This phase of the development is located on higher land than the properties on Lascelles Avenue, but the proposed dwellings are situated on the southern side of the new street and therefore are set back a significant distance from the rear gardens of existing properties.

Specific concern was raised about the proposed apartment block BF13 which is four storeys high and situated to the rear of several properties on Lascelles Avenue. However, the front of BF13 is situated over 22m from the rear of properties on Lascelles Avenue and this separation is considered to prevent it from appearing overbearing or resulting in any significant loss of light, outlook or privacy.

Other concerns have been raised about the loss of views from properties on Minster Way. Loss of a private view is not a material planning consideration and therefore not grounds for objection. In any case, as discussed in the section above the proposal is considered an improvement in terms of the views northward over the site.

The proposal is therefore considered to comply with criterion 7 of SB12.

5. HIGHWAYS AND PARKING

The overall change in residential numbers at the site has been reviewed, and this is summarised in the supporting transport information that formed part of the application.

The maximum overall dwelling numbers would be 197 in the scenario that this application and the other concurrent application (ref: 19/4772/FUL) are approved. This is compared to 246 dwellings as currently permitted. The most significant change is that the number of privately owned houses would increase, with there being a similar reduction in the number of privately owned flats / apartments. The potential impact of the dwelling numbers and the mix of dwelling types has been considered within the current planning submission.

The submitted transport letter considers the total traffic generation that would be associated with the development, and also compares the traffic generation against the

previously permitted scenarios. The trip rates used for each dwelling type were agreed with the highway authority when the original Transport Assessment was submitted in support of the first planning application. The submission summarises that there would be no material change in traffic generation levels as compared with the currently permitted scheme. It is concluded that there would be no material change in traffic generation throughout the day in the proposed development scenario, and there should be no further impact on the local highway network.

The proposed car parking levels have been considered, and the parking requirements have been reviewed within the submitted Planning Statement and the Design and Access Statement. An Accessibility Assessment has also been completed, and this identifies that a reduction of 10% below the minimum parking standards may be considered when the impact of the development parking is assessed. Given the overall reduction in the number of flats / apartments and additional houses, it would be expected that the ratio of parking spaces per dwelling would significantly increase as a result of the proposed changes. Since the previous approvals were given, the Placemaking Plan has been adopted and there is a requirement for minimum parking standards to be applied to residential developments in this type of location.

The level of parking proposed for the affordable flats / apartments is consistent with the previously permitted schemes. Plots 178 to Plots 201 are all five or four bedroom properties, and the adopted standards require that a minimum of three spaces are provided for each unit. It is recognised that a 10% reduction in parking could be applied, however, the accommodation schedule shows that only two spaces would be available for each of these properties. The proposal is therefore in conflict with the current parking policy, although it is recognised that this is a change from when the original site application was considered.

The adopted Placemaking Plan confirms that appropriate visitor parking is an essential part of any residential development, and that 0.2 spaces per dwelling would be required. A development of 70 dwellings would require a total of 14 visitor spaces to be provided. The current scheme shows that a total of five spaces would be included as part of the scheme.

At site-wide level, if the proposal is considered alongside the concurrent application (ref: 19/4772/FUL) it would result in a parking ratio of 1.87 parking spaces per dwelling with 0.1 visitor spaces per dwelling. This is clearly below the parking standards required by policy ST7. However, the existing approved scheme has a parking ratio of 1.56 parking spaces per dwelling with 0.13 visitor spaces per dwelling. It is therefore considered that the proposed parking ratios, on balance, are not significantly worse than the approved parking ratios, albeit the proposed development contains a greater proportion of houses than the approved scheme

Despite the conflict with the parking standards in ST7, it is considered that the fall-back position in terms of the previously agreed parking ratios justify the current levels of parking proposed. The application will therefore be advertised as a departure.

The highway layout within the development has been reviewed. There is no objection to the introduction of the "through route" between Plot 97 and 106, and it is considered very unlikely that there would be any significant rat running through this part of the site.

Some concerns have been received about the need for a roundabout to serve the entrance to the development site. The current approvals for the development do not require a roundabout access and the proposed accesses remain as previously approved. There is no objection from the Highways Officer on this point.

Should planning permission be granted a Construction Management Plan would be a requirement to ensure that there was no detrimental impact on nearby residents throughout this phase of the development within Holburne Park.

6. DRAINAGE

The drainage details submitted with the application confirms that the proposed layout is acceptable with no increase in flood risk or discharge rate from the wider development site.

7. ECOLOGY

The development site lies adjacent to a designated Site of Nature Conservation Interest (SNCI) "Fields by the canal & Railway (Hampton Row)". The Kennet and Avon Canal SNCI lies a short distance to the north. An up to date ecological assessment has been submitted (Clarkson and Woods, August 2019) which has been reviewed by the Council's Ecologist.

The proposal primarily affects an area of the wider development site that has a previous planning consent. The changes to the scheme in this proposal appear unlikely to have significant ecological implications.

The submitted ecological report assesses and proposes ecological mitigation and compensation for this scheme. It is considered that it would be achievable based on the range of measures described in the submitted ecological report, and final scope and details of requirements can be agreed and secured by condition. Additional measures to provide benefit to wildlife should be incorporated into the scheme within the built environment as part of this condition.

Subject to conditions, including a condition to secure final details of lighting design, there is no ecological objection.

8. PARKS AND GREEN SPACES

The proposal will have no additional impact on the supply of greenspace as a result of this development compared to the currently approved scheme.

9. SUSTAINABLE CONSTRUCTION

Policy CP2 of the Core Strategy requires sustainable design and construction to be integral to all new developments. Policy SCR1 requires major developments to provide

sufficient renewable energy generation to reduce carbon emissions from anticipated energy use in the building by at least 10%.

SAP calculations have been submitted with the application to demonstrate that the development would achieve a 32% reduction in carbon emissions compared to the baseline. This includes an 18% reduction from solar PV panels which have been included in the scheme. The proposals are therefore considered to comply with policies CP2 and SCR1.

10. AFFORDABLE HOUSING

Background

The original planning permission (ref: 14/02272/EFUL) was granted subject to the provision of 40% affordable housing in accordance with policy CP9 of the Core Strategy.

A subsequent application (ref: 16/04289/EFUL) was permitted to increase the total number of dwellings in the scheme, but without increasing the provision of affordable housing. The percentage of affordable housing therefore dropped to 33% on-site with an additional financial contribution of £400K secured for the delivery of affordable housing off-site following a review of the site's viability. This equates to an on-site provision of 81 units of affordable housing across a total of 246 dwellings.

61 dwellings (32 open market and 29 affordable) have been completed at Holburne Park so far and £163,333 of the £400k financial contribution towards off-site delivery of affordable housing has been made to the Council. The Holburne Park development has also already made a number of financial contributions towards a number of matters including transport, public open space and education.

Viability Assessment

A viability appraisal has been submitted to cover both this application and the concurrent application for 8 additional dwellings (ref: 19/04772/FUL). The appraisal has been reviewed by the Council's independently appointed viability consultants.

The majority of inputs into the viability appraisal have been agreed with the applicant. However, a dispute remains over the appropriate Benchmark Land Value for the site.

The review of the viability appraisal has been further complicated by the recent COVID-19 crisis which has created a significant degree of uncertainty within the housing and development sectors. In response, assessors have provided viability conclusions based upon two possible scenarios.

The first scenario uses established sales values from before the COVID-19 crisis which were agreed and supported by evidence. This is considered to represent the reasonable best case scenario based upon current understanding.

The second scenario uses reduced sales values (-9.4%) based upon estimates of the impacts of COVID-19 from industry bodies and the assessors expert knowledge and experience in the development sector, although it must be accepted that there is currently limited sales data at this stage to evidence this reduction. This represents the reasonable worst case scenario based upon current understanding.

The conclusions from the first scenario indicate that there would be a viability surplus of £5.11 million which could viably support the provision of 20% affordable housing on the remaining phases (30 additional affordable dwellings).

The conclusions from the second scenario indicate that there would be a viability deficit of £2.39 million which would mean that the development cannot support the provision of any additional affordable housing.

Affordable Housing Offer

The applicant maintains that the development cannot support the provision of any additional affordable housing, but has offered to provide 8 Discount Market Units at 80% of their respective Open Market Value, or a commuted sum payment equating to £644,000 to support the delivery of affordable housing elsewhere in the district.

In discussions with the Council's Housing Team the preference if no affordable housing can be secured is to accept the commuted sum in lieu of the Discount Market Units at 80% of their respective Open Market Value. This is because an 80% discount would not meet with the affordability criteria required for affordable housing in B&NES. The applicant has not offered any dwellings as Social Rented or Shared Ownership due to the fact that the values these would need to set at would not be viable.

The applicant has also offered to sign up to a legal agreement requiring early and late stage viability reviews.

An early stage review would be required if there was more than a 12month delay in making a start on site. A late stage review would be carried out near to the completion of the development and any surplus profit from the development would be split 70:30 with the Council as an additional financial contribution towards the off-site delivery of affordable housing elsewhere across the district.

These reviews would be on the basis of an open book exercise based upon audited accounts/management accounts of the developer. Given the uncertainty around the housing market going forward and the site circumstances (discussed below) there is a possibility that neither of these review mechanisms would yield any additional affordable housing.

The applicant has also suggested that the legal agreement should include a clause requiring a viability review to take place in the event that the whole or part of the site is sold, so that any new developer would be required to establish whether a below policy compliant level of affordable housing was still justified.

Additionally, the applicant is offering security in the form of a charge over two completed dwellings up to the value of £2M, which would be passed to B&NES in the event that the whole or part of the site is sold.

In summary, the applicant offers a financial contribution of £644,000 in lieu of any additional affordable housing. This means that the proposed development would provide 0% affordable housing and Holbourne Park as a whole, including those houses already built, would provide 14.5% affordable housing (29 units).

Site circumstances and other relevant considerations

An important principle to understand when assessing scheme viability is that development assumptions should be based on "market" as opposed to "developer specific" assessment - this is to mean that the assessment assumes how a typical or hypothetical developer in the market would act rather than assessing developer specific circumstances

In practice, the applicant has provided evidence to demonstrate that the viability of the existing development has been significantly impacted by a series of unforeseen events and market trends. The majority of these matters could be considered part of developer risk and are not considered as part of standardised approach to viability. However, this evidence has demonstrated that there is a significant risk that the current developer will be unable to continue development of the site unless the amendments to the scheme (including the reduced level affordable housing) are approved.

If this risk was realised the development of the site would very likely cease and would not likely re-commence until after a new developer of the site came forward. This would very likely result in a significant delay to the delivery of the site and could have implications on whether or not the site can be counted within the Council's 5 year land supply.

Furthermore, if construction works were to cease in their current state, existing residents who have moved onto the site already would be stuck on an unfinished construction site with no certainty about when it would be finished. Additionally, there would be the loss of all the construction jobs currently on site and a knock-on effect upon the development's supply chain.

It is also evident that the scheme proposed is relatively high-end in terms of the product and its target market. Viability assessors have advised that housing pitched at the higher end may be more susceptible to downward pricing adjustments than lower value properties (i.e. more standard 'plc' type estate housing) since the market is much tighter (fewer purchasers) combined with less support from government schemes and initiatives such as Help to Buy.

Whilst the developer's specific situation is not a material consideration that should be given any significant weight, the implications for the housing delivery and for existing residents if the site were to stall can be given weight in the planning balance.

Affordable Housing conclusions

In light of the two different outcomes of the two appraisals which have been prepared by the Councils appointed independent viability assessor, there is clearly considerable uncertainty in the housing sector and this makes it difficult to establish the exact viability of the scheme with any confidence.

What is clear is that the COVID-19 crisis has had widespread economic impacts and therefore is likely to have some initial adverse impact upon the housing and development market, although the degree, extent and longevity of this impact is not yet clear. In the short term it is very difficult to make a case that there will not be a material adjustment in the market and that sales values should remain at pre-Covid forecast levels.

The applicant's offer of a commuted sum of £644,000 towards off-site delivery of affordable housing falls broadly between the best and worst scenario's identified. In light of the uncertainty and other site circumstances, it would appear to be a reasonable level of concession which will still enable the development to continue.

The inclusion of viability review mechanisms will help to safeguard the Council's position against the high degree of uncertainty around the impact of COVID-19 on the housing sector. If the impact is not as severe as predicted or the housing market rebounds better than expected, then a review mechanism will ensure that any excessive profit is secured as additional money which can be put towards the delivery of affordable housing elsewhere in the district.

Whilst the failure to provide any additional affordable housing on the remaining phases of the Holbourne Park development is extremely disappointing, it is considered that, on balance, the following factors combine to justify the applicant's current offer of a commuted sum:

- o The extreme uncertainty and its impact upon the housing and development sector created by the COVID-19 crisis;
- o The commuted sum of £644,000 being broadly between the best and worst case viability scenarios;
- o The use of a viability review mechanism and security to safeguard the Council's position in the event the housing market rebounds or the site is sold;
- o The desire to avoid delivery of the site stalling with the consequential adverse effect on housing delivery, the detrimental effect upon the amenities of existing occupiers on the site and the loss of construction jobs;

In light of the above, it is considered that, on balance, the affordable housing offer of a commuted sum (£644,000) is acceptable and justified in these particular circumstances.

11. COMMUNITY INFRASTRUCTURE LEVY

The proposal would be liable to pay the community infrastructure levy at a rate of £100 per square metre of residential floorspace. The approximately liable for this proposed scheme is £689,831.

12. CONCLUSION

The failure to delivery any additional affordable housing on-site beyond that already provided in phase 1 weighs heavily against the proposal.

However, the exception circumstances and uncertainty presented by the COVID-19 crisis combined with the particular site circumstances of this development have had a significant adverse impact upon the viability position of this development. The applicant's offer of a commuted sum within this context is therefore considered to be reasonable and the introduction of a viability review mechanism will safeguard the Council's position. The desire to avoid the site stalling and the potential effect upon housing delivery, existing occupiers and construction jobs also weighs in favour of the application.

Although the Urban Designer has made some fair criticisms of the proposal's design, it is still considered to be an improvement on the existing approved scheme. This also weighs in favour of the application.

The level of parking provided does not meet with the current standards in ST7, but does provide a small improvement on the existing approved position in terms of parking ratios. It is therefore necessary for the proposals to be advertised as a departure from the development plan on this point.

In all other regards, the proposals are considered to comply with the development plan and accord with the above listed relevant policies of the Bath and North East Somerset Core Strategy and the Bath and North East Somerset Placemaking Plan.

It is considered that, on balance, these matters outweigh the failure to provide any additional on-site affordable housing as part of this development. The application should therefore be permitted, subject to no new issues arising from the departure advertisement and the completion of a s106 legal agreement.

RECOMMENDATION

Delegate to PERMIT

CONDITIONS

0 DELEGATE TO PERMIT

1.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to secure:

- a) a commuted sum of £644,000 towards the delivery of off-site affordable housing;
- b) an early and late stage viability review;
- c) a viability review clause in the event that the whole or part of the site is sold;
- d) security in the form of a charge over two completed dwellings up to the value of £2M, which would be passed to B&NES in the event that the whole or part of the site is sold.

2.) Subject to the prior completion of the above agreement, authorise the Head of Planning to PERMIT subject to the following conditions (or such conditions as may be appropriate):

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 Wildlife Protection and Enhancement (Pre-commencement)

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

(i) Method statement for pre-construction and construction phases to provide full details of all necessary protection and mitigation measures, including, where applicable, proposed pre-commencement checks and update surveys, for the avoidance of harm to bats, reptiles, hedgehog, nesting birds and other wildlife, and proposed reporting of findings to the Local Planning Authority prior to commencement of works;

(ii) Detailed proposals for implementation of the wildlife mitigation measures and recommendations of the approved ecological report, including habitat creation; wildlife-friendly planting / landscape details; provision of bat and bird boxes, with proposed specifications and proposed numbers and positions to be shown on plans as applicable; specifications for fencing to include provision of gaps in boundary fences to allow continued movement of wildlife;

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

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with policy NE3 of the Bath and North East Somerset Local Plan. This condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife that would be otherwise harmed during site preparation and construction phases.

3 Arboricultural Method Statement and Tree Protection Plan (Pre-commencement)

No development shall commence until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The arboricultural method statement shall include details of the following:

1. A programme of works to include details of supervision and monitoring by an Arboricultural Consultant and the provision of site visit records and certificates of completion to the local planning authority;
2. Measures to control potentially harmful operations such as site preparation (including demolition, clearance, earthworks and level changes), the storage, handling, mixing or

burning of materials on the site and the movement of people and machinery throughout the site;

3. The location of any site office, temporary services and welfare facilities;

4. The location of any service runs or soakaway locations;

5. A scaled Tree Protection Plan showing the location of all retained trees and tree protection measures.

No development or other operations shall thereafter take place except in accordance with the approved details.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy NE6 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

4 Ecological Follow-up report (Pre-completion)

Prior to completion of the development hereby approved a report produced by a suitably experienced ecologist confirming and demonstrating, using photographs, completion and implementation of the Wildlife Protection and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate the completed implementation of the Wildlife Protection and Enhancement Scheme, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3 NE5 and D5e of the Bath and North East Somerset Local Plan.

5 External Lighting (Bespoke Trigger)

No new external lighting shall be installed on the layout hereby approved without full details of proposed lighting design being first submitted to and approved in writing by the Local Planning Authority; details to include proposed lamp models and manufacturer's specifications, proposed lamp positions, numbers and heights with details also to be shown on a plan; details of predicted lux levels and light spill on both the horizontal and vertical planes and at a range of heights; and details of all measures to limit use of lights when not required and to prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land; and to avoid harm to bat activity and other wildlife. The lighting shall be installed maintained and operated thereafter in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with policies NE3 and D8 of the Bath and North East Somerset Local Plan.

6 Construction Management Plan (Compliance)

The development hereby approved shall be undertaken in accordance with the Construction Management Plan approved in writing by the local planning authority by letter dated 18 January 2016 (Reference: 15/05486/COND).

Reason: To protect the amenities of the occupants of adjacent residential properties, the adjoining canal and wider environment and to ensure the safe operation of the highway.

7 Welcome Pack (Compliance)

Before each dwelling is first occupied new resident's welcome packs shall be issued to purchasers. The content of the new resident's welcome packs shall be as per the details approved in writing by the local planning authority by letter dated 13 October 2017 (Reference: 17/03581/COND)

Reason: In the interests of sustainable development.

8 Arboricultural Compliance (Pre-occupation)

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

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

9 Parking (Compliance)

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

Reason: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

10 Contaminated Land - Investigation (Compliance)

The development hereby approved shall be undertaken in accordance with the Composite Contamination Report (March 2016, Integrale Limited) and Report on Supplementary Soil Gas Monitoring & Contamination Analyses (June 2014, Integrale Limited) both approved in writing by the local planning authority by letter dated 25th April 2016 (Reference: 16/01732/COND)

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

11 Contamination - Remediation (Compliance)

The development hereby approved shall be undertaken in accordance with the Remediation Strategy and Method Specification (Reference: 9202/RMS) approved in writing by the local planning authority by letter dated 22 June 2016 (Reference: 16/02834/COND).

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

12 Contamination - Verification (Pre-commencement)

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced prior to occupation, and is subject to the approval in writing of the Local Planning Authority.

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

13 Unexpected Contamination (Compliance)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the aforementioned conditions and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the aforementioned conditions, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the aforementioned conditions.

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

14 Drainage Strategy (Compliance)

The surface water and foul drainage systems shall be installed in accordance with the Drainage Strategy Addendum Report hereby approved (Campbell Reith August 2019).

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

15 Landscaping Scheme (Compliance)

The hard and soft landscaping of the development shall be undertaken in accordance with the details hereby approved by the local planning authority (Soft Landscape Plan 1902-MWA-00-XX-DR-L-0010 04 and Hard Landscape Plan 1902-MWA-00-XX-DR-L-0010 03) unless an alternative scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in full accordance with the details approved no later than the end of the first planting season following first occupation of the development.

Reason: To ensure the provision of an appropriate landscape setting to the development and provide appropriate tree planting to compensate for the trees removed through the development, and to ensure that the external appearance of the development is satisfactory in order to protect the character and appearance of the Conservation Area, the setting of adjoining Listed Buildings and the setting of the World Heritage Site.

16 Landscape Implementation (Pre-occupation)

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

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

17 Materials (Compliance)

The external materials and finishes of the development shall accord with the samples approved by the local planning authority by letter dated 6 July 2017 (Reference: 17/02294/COND) as applied according to the approved drawings, unless alternative sample panels have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in full accordance with the approved details and sample panels.

Reason: To ensure that the external appearance of the development is satisfactory in order to protect the character and appearance of the Conservation Area, the setting of adjoining Listed Buildings and the setting of the World Heritage Site.

18 Street Lights (Bespoke Trigger)

Details of the street lights and columns serving the development hereby approved shall be submitted to and approved in writing by the local planning authority prior to their installation. The street lights and columns shall be installed in accordance with the details so approved.

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

19 Noise Levels (Pre-occupation)

On completion of the development but prior to any occupation of the approved development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise. The following levels shall be achieved:

Maximum internal noise levels of 35dBLAeq,16hr and 30dBLAeq,8hr for living rooms and bedrooms during the daytime and night time respectively. For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax.

Reason: To protect future occupants of the development from exposure to noise from road traffic.

20 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 153300-STL-XX-ZZ-DR-A-01101 EASTERN PARCEL - PHASE 3A-1 - GA PLANS
153300-STL-XX-ZZ-DR-A-01101-PL02 EASTERN PARCEL - PHASE 3A-1 - GA PLANS
153300-STL-XX-ZZ-DR-A-01102-PL02 EASTERN PARCEL - PHASE 3A-2 - GA PLANS
153300-STL-XX-ZZ-DR-A-01103-PL02 PHASE 5 LOWER TERRACE - GA
153300-STL-XX-ZZ-DR-A-01104-PL02- PHASE 5 UPPER TERRACE - GA
153300-STL-XX-ZZ-DR-A-02101-PL02 PHASE 3A-1 ELEVATIONS
153300-STL-XX-ZZ-DR-A-02103-PL02 EASTERN PARCEL - PHASE 5 ELEVATIONS -
1/2
153300-STL-XX-ZZ-DR-A-02104-PL02 EASTERN PARCEL - PHASE 5 ELEVATIONS -
2/2
153300-STL-XX-ZZ-DR-A-02105-PL02 EASTERN PARCEL - BF13 & BF14
ELEVATIONS
153300-STL-XX-ZZ-DR-A-09102-PL02 EASTERN PARCEL - SITE PLAN
153300-STL-XX-ZZ-DR-A-09103-PL02 EASTERN PARCEL - BF13 BF14 CYCLES
REFUSE
153300-STL-XX-ZZ-DR-A-19003-PL02 SITE PLAN - ACCOMODATION & PARKING
12290-CD351-P3 PROPOSED DRAINAGE STRATEGY 1 OF 3
12290-CD352-P3 PROPOSED DRAINAGE STRATEGY 2 OF 3
12290-CD353-P3 PROPOSED DRAINAGE STRATEGY 3 OF 3
12290-CE301-P2 PROPOSED RETAINING WALL LAYOUT AND CONTOUR PLAN 1 OF
3
12290-CE302-P2 PROPOSED RETAINING WALL LAYOUT AND CONTOUR PLAN 2 OF
3
12290-CE303-P2 PROPOSED RETAINING WALL LAYOUT AND CONTOUR PLAN 3 OF
3
1902-MWA-00-XX-DR-L-0001 REV 4 WARMINSTER ROAD - STRATEGIC LANDSCAPE
PLAN
1902-MWA-00-XX-DR-L-0010 REV 01 EAST PARCEL - HARD LANDSCAPE PLAN
1902-MWA-00-XX-DR-L-0010 REV 01 EAST PARCEL - HARD LANDSCAPE PLAN
1105 PL01 EASTERN PARCEL - BF13 & BF14 - GA PLANS
2102 PL01 EASTERN PARCEL - PHASE 3A-2 ELEVATIONS
3101 PL01 EASTERN PARCEL - LONG SECTIONS 1
3102 PL01 EASTERN PARCEL - LONG SECTIONS 2
09101 PL01 EASTERN PARCEL - LOCATION PLAN
09102-PL03 EASTERN PARCEL - SITE PLAN WITH SOLAR PANEL LOCATIONS

2 Permit/Consent Decision Making Statement

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 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.

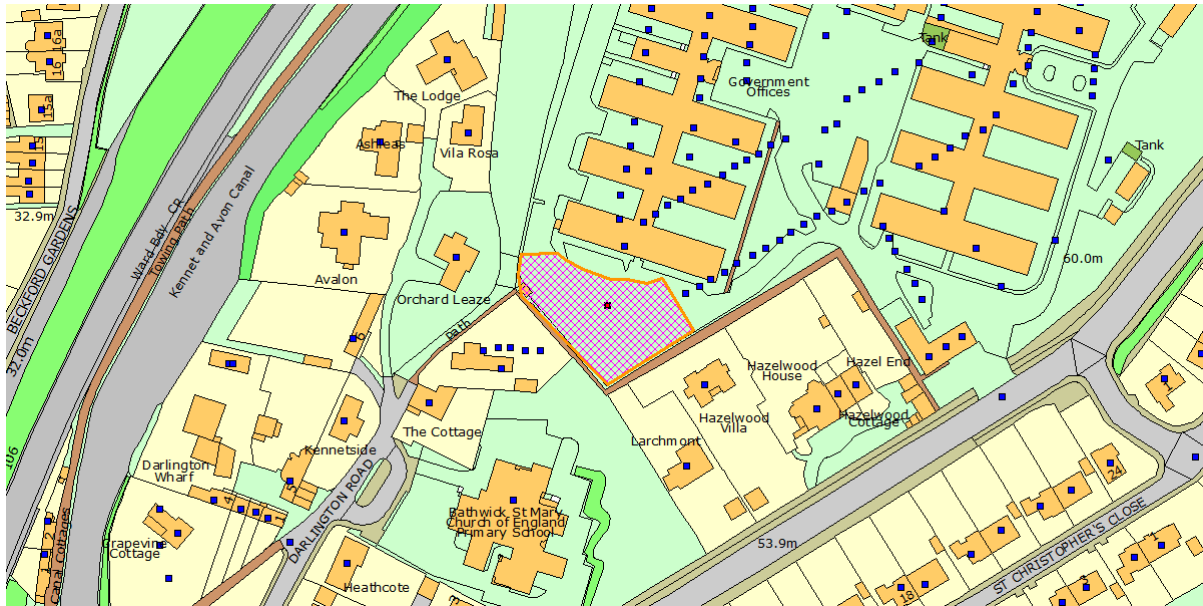
Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at www.planningportal.co.uk or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

4 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

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

Item No: 02
Application No: 19/04772/FUL
Site Location: Additional Development Area Holburne Park Bathwick Bath Bath And North East Somerset



Ward: Bathwick **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Dr Kumar Councillor Manda Rigby

Application Type: Full Application

Proposal: Proposed erection of 8 additional dwellings, landscaping, car parking and associated works on land adjacent to Holburne Park, Warminster Road, Bath

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, British Waterways Major and EIA, British Waterways Minor and Householders, Conservation Area, Policy CP9 Affordable Housing Zones, Policy LCR5 Safeguarded existg sport & R, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE3 SNCI, Policy NE5 Ecological Networks, Placemaking Plan Allocated Sites, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

Applicant: N/A
Expiry Date: 3rd June 2020
Case Officer: Chris Griggs-Trevarthen

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

REPORT
REASON FOR REPORTING TO COMMITTEE

The application is subject to a viability assessment in respect of affordable housing.

DESCRIPTION

This application relates to the former MOD site at Warminster Road in Bath now known as Holburne Park. Planning Permission was granted in March 2015 for the comprehensive redevelopment of the site for 204 dwellings (Ref: 14/02272/EFUL); construction is well underway.

There have been multiple material amendments to the approved scheme since it was first consented in 2015. The 2015 consent was first amended in January 2017 by planning permission (ref: 16/01925/VAR); that permission made amendments to the development's external layout, internal arrangements, and various other changes. This was followed by a further planning permission (Ref: 17/06189/EVAR) in 2017 which made some changes to Plot 37. This was in turn followed by planning permission Ref: 18/05098/EVAR, approved in April 2019, which replaced a 3 unit coach house with a conventional dwelling. A further amendment (19/01956/EVAR) was granted in February 2020.

The original planning permission (14/02272/EFUL) for the redevelopment of the wider MOD site (which excludes the site in question from within its red line) identifies this land as the 'School Site'. The s106 Agreement (which has now been varied a number of times) required this land to be transferred to the Council to enable the expansion of Bathwick St Marys Primary School. Subsequently the land was deemed no longer necessary for the expansion of the primary school and so the requirement to transfer the land to the Council was removed from the s106 (application reference: 19/03376/M6A). The S.106 Agreement also required a substantial financial contribution towards primary education provision, in a number of instalments. This remains within the s106.

The 'school site' land therefore remains vacant and this application proposes the erection of 8 additional dwellings, landscaping, car parking and associated works this site. The site is located within the Bath World Heritage Site and Conservation Area. A public right of way runs around the southern and western edges of the site.

There is a concurrent application which has been submitted to make changes to the approved Holburne Park scheme (ref: 19/03838/FUL)

A further application for 10 additional dwellings with additional car parking and landscaping has recently been withdrawn (ref: 19/03836/FUL).

RELEVANT PLANNING HISTORY (excluding discharge of conditions)

18/05190/EVAR: Variation of Condition 32 (plans list) of application 17/06189/EVAR (plots 32-36 design changes) GRANTED

18/03193/EVAR: Variation of conditions 7 and 32 of application 17/06189/EVAR (add Juliet balconies to plots 32-36) REFUSED 1 NOVEMBER 2018

18/01407/EVAR: Variation of Condition 24 (plans list) of application 16/04289/EFUL (BF6 and BF7 design changes) GRANTED

17/06189/EVAR: Variation of Condition 7 AND Condition 30 (plans list) involving change to materials, addition of basement storey and porch to Plot 37 of 16/01925/VAR. GRANTED

17/06197/NMA: Non-material amendment to application 16/01925/VAR GRANTED JAN 2018

17/05811/NMA: Non-Material Amendment to application 16/01925/VAR GRANTED

16/04289/EFUL: Erection of 6 no. apartment blocks to provide 87 no. new dwellings (Partial revision of application 14/02272/EFUL) GRANTED AUGUST 2017

16/01925/VAR: Variation of Condition 33 attached to 14/02272/EFUL (Erection of 204 no. dwellings with 2 no. accesses from Warminster Road, vehicular parking; open space; landscaping(including tree removal); pumping station; and associated engineering works, following demolition of existing buildings) GRANTED JAN 2017

16/01456/NMA: Non-material amendment to application 14/02272/EFUL GRANTED APRIL 2016

14/02272/EFUL: Demolition of existing buildings, erection of 204 no. dwellings; 2 no. accesses from Warminster Road, vehicular parking; open space; landscaping (including tree removal); pumping station; and associated engineering works GRANTED MARCH 2015

19/01956/EVAR: Variation of Condition 8 and 30 attached to 18/05098/EVAR (Variation of condition 32 (plans list) of application 17/06189/EVAR (Variation of Condition 7 AND Condition 30 (plans list) involving changes to materials, addition of basement storey and porch to Plot 37 of 16/01925/VAR (Variation of Condition 33 attached to 14/02272/EFUL (Erection of 204 no. dwellings with 2 no. accesses from Warminster Road, vehicular parking, open space, landscaping (including tree removal), pumping station, and associated engineering works, following demolition of existing buildings) granted on 31.01.2017) (Resubmission). GRANTED FEBRUARY 2020

ENVIRONMENT IMPACT ASSESSMENT

This application proposal has been screened under the Town and County Planning (Environmental Impact Assessment) Regulations 2017 and it has been determined that the application does not represent EIA development and that an Environmental Statement is not required.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

A summary of consultation responses to the application have been provided below.

EDUCATION: No objection

ARCHAEOLOGY: No objection

HOUSING: Objection

Housing Services recognises the outcome of the independent assessment of the Viability case being made by the Developer which is to seek to deliver only 15% affordable housing on the remainder of the development site.

In this regard, Housing Services objects to the applications on the grounds that they do not meet the requirements of Core Strategy policy CP9 and the viability case does not support a reduction in delivery to 15%.

DRAINAGE AND FLOODING: No objection

PUBLIC RIGHTS OF WAY: No objection, subject to condition

HIGHWAYS: No objection, subject to conditions

ECOLOGY: No objection

VIABILITY ASSESSOR: Comments

Given the level of current uncertainty, we have assessed the development based on sales values at £551psf (reflecting values as of August 2019) and values at £499psf (reflecting a 9.4% reduction from original in light of the Covid-19 estimated impacts).

The appraisal with a reduction applied to take account of Covid-19 and therefore assuming an average sales value of £499psf, and assuming nil affordable housing provision, produces a viability deficit of negative -£2.39M. This viability deficit turns into a surplus in the scenario where an assumption is made accounting for no adverse impact of Covid-19. In this case using the 2019 residential sales values (a surplus of £5.11M is generated). Whilst there is uncertainty around the effects upon the market in the short term and without having more evidence about actual impacts, the assessors opinion is that it is difficult to make a case that there will not be a material adjustment in the market to take account of the current effects of the epidemic.

In summary set out below are the two scenario's which can be considered as the parameters for a 'Best' and 'Worst' case scenario::

1. Worst Case - Viability Deficit -£2.39M (No Affordable Housing can be supported)
2. Best Case - Viability Surplus £5.11M (up to c.30 AH units which equates to c.22%)

BATH PRESERVATION TRUST: Objection

The Trust objects to the application on the grounds of insufficient affordable housing provisions. The western infill of the site, in conjunction with other applications for the expansion of the site to the south and east (see applications 19/03836/FUL and 19/03838/FUL), continues to raise strong concerns about the overdevelopment of the site and how this will impact the historic character of the area. The loss of the designated 'school site' to private residential development has resulted in the regretful loss of the potential to integrate public community facilities into the development's design.

THIRD PARTIES AND NEIGHBOURS: 8 letters of OBJECTION have been received. The main issues raised were:

Concerns were raised that the proposals represent overdevelopment and suggesting that the site is left as an open space, play area or open view for people using the public footpath.

It was suggested that the proposal was outside of the permitted development boundary and that the increased density of housing was not supported by approach infrastructure.

Concerns about how the development will look from the other side of the valley and the potential impact upon the World Heritage Site and Conservation area. It was considered that the pastiche approach of the rest of Holburne Park was not an acceptable approach

The lack of affordable housing was also pointed out by some comments.

There were concerns raised about the impact upon the amenity of neighbouring properties in Darlington Road (known as Top Yard Cottages). The height of the proposed buildings and site topography is considered to having an overbearing impact on these properties.

It was suggested that the layout of the proposals pays no regard to the masterplan for Holburne Park and turns it back on the surrounding area rather than integrates with the existing urban grain. It was considered that the proposals fail to provide natural surveillance for the footpath and reduce security.

Concern was expressed about inadequate provision of parks and play areas within the wider development and there were objections to the loss of green space.

It was considered that the access should be upgraded to a roundabout to accommodate the traffic generated. Concerns were also raised about the lack of parking, particularly visitor parking.

Some concerns about the build quality of the existing development have been raised.

A number of comments were made regarding the design and impact of the concurrent application for three villas (ref: 19/03836/FUL). These are not to be considered as part of the current application.

POLICIES/LEGISLATION

The Development Plan for Bath and North East Somerset comprises:

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

Policy DW1: District Wide Spatial Strategy
Policy B1: Bath Spatial Strategy
Policy B4: The World Heritage Site and its Setting
Policy CP6: Environmental Quality

RELEVANT PLACEMAKING PLAN POLICIES

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:

SU1 Sustainable Drainage
D1 Urban Design Principles
D2 Local Character & Distinctiveness
D3 Urban Fabric
D4 Streets and spaces
D5 Building Design
D6 Amenity
D8 Lighting
D10 Public Realm
BD1 Bath Design Policy
HE1 Historic Environment
NE1 Development and Green Infrastructure
NE2 Conserving and enhancing the landscape and landscape character
NE2A Landscape Setting of Settlements
NE6 Trees and woodland conservation
ST1 Promoting sustainable travel
ST7 Transport requirements for managing development
SB12 Former MoD Warminster Road

National Planning Policy Framework (February 2019) and the National Planning Practice Guidance can be awarded significant weight.

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

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

The main issues to consider are:

1. Background
2. Principle of development
3. Design
4. World Heritage Site and Conservation Area
5. Trees and woodland
6. Highways and parking
7. Residential amenity
8. Affordable housing
9. Conclusion

1. PRINCIPLE OF DEVELOPMENT

The site falls within the allocation policy SB12 which allows for the provision of at least 150 residential dwellings to enable the efficient use of the developable area. The proposed development would amend the approved scheme and reduce the overall number of dwellings within the allocation to 189 dwellings. The current proposal will not conflict with that minimum requirement.

Criterion 2 of the SB12 requires the removal of the existing disused buildings on the site. This has already occurred and this criterion is met.

Criterion 3 requires the development to be almost entirely focused on the previously developed area, but with some scope for some very minor fringe development outside of the fence line. The site falls within the former Warminster Road MOD fence line and, although itself undeveloped, is considered to be within the curtilage of the previously developed area.

Criterion 4 requires a design response which enhances the setting of the World Heritage Site and Conservation Area with reference to the important characteristics of the site. This is addressed in the Design and World Heritage Site and Conservation area sections below

Criterion 5 requires the provision of land and other funds to enable expansion of the adjoining primary school. The education team has previously confirmed that the land is no longer required for primary school expansion and that the additional primary school capacity to accommodate the wider development of Hoburne Park will be created in the vicinity using the financial contribution which was secured by the original s106 agreement. Therefore, there is no objection in principle to this land no longer being transferred to the Council for educational purposes and this is no longer required by the s106 following the removal of this clause under application 19/03376/M6A. A financial contribution towards education provision has already been made on this development site. Criterion 5 is therefore considered to be met.

Criterion 6 relates to walkways through the undeveloped part of the site to improve public access. This application does not affect the approved proposals for walkways and access to the undeveloped parts of the site.

Criterion 7 requires the protection of the amenity of neighbouring residential properties. This is considered in the residential amenity section below.

Criterion 8 requires a detailed historic environment assessment and evaluation. This is considered in the Design and World Heritage Site and Conservation area sections below.

2. DESIGN

The proposed layout represents a continuation of the existing terraces along an extended street. This approach is broadly supported. Similarly, the design and architectural treatment of the houses appears to reflect that previously approved/already constructed and on that basis can be supported.

The proposals are 2 storey in scale and therefore match the scale of the adjacent buildings within the wider development site and reflect the scale of buildings in the surrounding area. The immediate street scene would be characterised by two-storey dwellings, which is entirely appropriate for a site on the very edge of the development.

The proposed materials would be a mixture of bath stone ashlar and render which reflects the materials used in the wider development site.

The proposals include a significant amount of surface parking, including some tandem bays. However, the proposals also include adequate amounts of soft and hard landscaping to alleviate some of this impact and prevent the development from appearing too car dominated.

3. WORLD HERITAGE SITE AND CONSERVATION AREA

The key consideration in respect of the impact of the proposals upon the World Heritage Site is whether the proposed development would have an adverse impact upon its outstanding universal value.

The proposed site forms a fairly small parcel within a wider 7.0 hectare development. The location of the site in the south-west corner of the allocation means that it is seen amongst the rest of the development on the hillside in longer views. The two storey scale of the development means that it will be amongst the small elements of the wider development and will not appear incongruous or discordant in the landscape. As a result it is considered that the development will not impact upon the city's Georgian town planning or architecture.

It is therefore considered that the proposals will have no adverse impact upon the outstanding universal value (OUV) of the World Heritage Site.

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. In this instance it is

considered that the design of the proposed buildings are acceptable (discussed above) and will not detract from views to or from the site. The proposals will therefore preserve the character and appearance of the Bath Conservation Area and met this requirement.

The proposal is therefore considered to comply with criteria 4 and 8 of policy SB12.

4. RESIDENTIAL AMENITY

The 8 proposed dwellings are all provided with adequate internal and external space for amenity and all have adequate levels of light, outlook and privacy.

Concern has been raised about the impacts of the proposed dwellings located adjacent to the site on Darlington Road. A short terrace of 4 dwellings (known as Top Yard Cottages) is situated at adjacent to the western boundary. The adjoining terrace is slightly offset from the site boundary, such that the dwellings are successfully further away from the boundary.

At its closest point, the rear elevation of the proposed terrace is approximately 15m from the front corner of Top Yard Cottages. The rises within the application site, such that the existing dwellings of Top Yard Cottages are on slightly lower land than the proposed dwellings. However, due to the separation from the boundary and their limited two storey scale, it is considered that the proposed dwellings will not appear overbearing or result in any significant loss of light or outlook from Top Yard Cottages.

In terms of privacy, the offset orientation of Top Yard Cottage and proposed separation will prevent the proposed dwellings from causing any harmful overlooking.

Larchmont and Hazelwood are existing residential dwellings located immediately to the south-east of the application site. Both are set back from the site boundary and are a reasonable distance from the proposed terrace of 8 dwellings. Orchard Leaze is a residential dwelling located immediately to the west of the site, but is also set back a reasonable distance from the proposed terrace. The proposed development will not result in any significant loss of light, outlook or privacy from either of these dwellings.

The proposals are therefore considered not to have any significant impact upon the residential amenity of adjoining occupiers. The proposal is therefore considered to comply with criterion 7 of SB12.

5. HIGHWAYS AND PARKING

The proposal would be accessed by vehicle from the newly constructed road that serves the wider development, and it is expected that this would be adopted as public highway in due course.

The highway authority is sensitive to further increases in traffic levels affecting the A36 Warminster Road corridor. However, having reviewed the potential impact of the other applications that have also been recently submitted for the Holburne Park development (ref: 19/03838/FUL and 19/03836/FUL) the Highways Officer accepts that the additional eight dwellings are unlikely to result in a material impact on the wider highway network.

The residential scheme is also likely to have a lower impact as compared with the education use that was originally proposed for the same site.

The proposed level of car parking to serve each of the dwellings is considered to be acceptable, and two spaces are proposed for each for the three bedroom units. This level of parking accords with the adopted minimum standards. There would also be opportunities to provide secure cycle parking within each of the plot curtilages.

The proposal incorporates seven "visitor" parking spaces and this has been identified as a requirement due to the potential loss of similar provision elsewhere in the development site. Whilst it is not ideal that the spaces are grouped together, it is accepted that these would help to serve the need for visitor parking provision in this part of the site and these would be useful for properties to the north and east of the location.

There are no concerns relating to the proposed refuse storage locations, and collection from the main "through route" past the site will be possible.

Should planning permission be granted a Construction Management Plan would be a requirement to ensure that there was no detrimental impact on nearby residents throughout this phase of the development within the Holburne Park site. There is no highway objection to the scheme, subject to the suggested conditions.

6. DRAINAGE

The drainage details submitted with the application confirms that the proposed layout is acceptable with no increase in flood risk or discharge rate from the wider development site.

7. PUBLIC RIGHTS OF WAY

The application indicates that the existing public footpath along the south and west boundaries of the site is proposed to be retained and extended to form an additional connection along the northern edge of the site. The Public Rights of Way Team are supportive of this proposal and consider it to be a benefit to the residents of the new development to have a pedestrian link between the proposed development and the existing footpath, linking the site with the school and wider community. There is therefore no objection on these grounds, subject to the suggested conditions.

8. ECOLOGY

The Council's Ecologist has reviewed the application. The site has been cleared already and there do not appear to be any significant ecological implications arising from this proposal.

Ecological measures should be required as part of the landscape proposals. The details of measures such as landscaping, if secured by condition, should be required to avoid

conflicts with ecological requirements on adjacent land and the wider site. There is therefore no ecological objection to the proposals.

9. ARCHAEOLOGY

The Council's Archaeological experts have reviewed the application and determined that there is limited or no archaeological implications to this proposal. There are therefore no objections on archaeological grounds.

10. SUSTAINABLE CONSTRUCTION

Policy CP2 of the Core Strategy requires sustainable design and construction to be integral to all new developments. Policy SCR1 requires major developments to provide sufficient renewable energy generation to reduce carbon emissions from anticipated energy use in the building by at least 10%.

SAP calculations have been submitted with the application to demonstrate that the development would achieve a 32% reduction in carbon emissions compared to the baseline. This includes an 18% reduction from solar PV panels which have been included in the scheme. The proposals are therefore considered to comply with policies CP2 and SCR1 .

11. AFFORDABLE HOUSING

Background

The original planning permission (ref: 14/02272/EFUL) was granted subject to the provision of 40% affordable housing in accordance with policy CP9 of the Core Strategy.

A subsequent application (ref: 16/04289/EFUL) was permitted to increase the total number of dwellings in the scheme, but without increasing the provision of affordable housing. The percentage of affordable housing therefore dropped to 33% on-site with an additional financial contribution of £400K secured for the delivery of affordable housing off-site following a review of the site's viability. This equates to an on-site provision of 81 units of affordable housing across a total of 246 dwellings.

61 dwellings (32 open market and 29 affordable) have been completed at Holburne Park so far and £163,333 of the £400k financial contribution towards off-site delivery of affordable housing has been made to the Council. The Holburne Park development has also already made a number of financial contributions towards a number of matters including transport, public open space and education.

This application forms part of the wider Holbourne Park development and is therefore subject to policy CP9 in respect of affordable housing.

Viability Assessment

A viability appraisal has been submitted to cover both this application and the concurrent application (ref: 19/03838/FUL) for amendments to the remaining phases of development. The appraisal has been reviewed by the Council's independently appointed viability consultants.

The majority of inputs into the viability appraisal have been agreed with the applicant. However, a dispute remains over the appropriate Benchmark Land Value for the site.

The review of the viability appraisal has been further complicated by the recent COVID-19 crisis which has created a significant degree of uncertainty within the housing and development sectors. In response, assessors have provided viability conclusions based upon two possible scenarios.

The first scenario uses established sales values from before the COVID-19 crisis which were agreed and supported by evidence. This is considered to represent the reasonable best case scenario based upon current understanding.

The second scenario uses reduced sales values (-9.4%) based upon estimates of the impacts of COVID-19 from industry bodies and the assessors expert knowledge and experience in the development sector, although it must be accepted that there is currently limited sales data at this stage to evidence this reduction. This represents the reasonable worst case scenario based upon current understanding.

The conclusions from the first scenario indicate that there would be a viability surplus of £5.11 million which could viably support the provision of 20% affordable housing on the remaining phases (30 additional affordable dwellings).

The conclusions from the second scenario indicate that there would be a viability deficit of £2.39 million which would mean that the development cannot support the provision of any additional affordable housing.

Affordable Housing Offer

The applicant maintains that the development cannot support the provision of any additional affordable housing, but has offered to provide 8 Discount Market Units at 80% of their respective Open Market Value, or a commuted sum payment equating to £644,000 to support the delivery of affordable housing elsewhere in the district.

In discussions with the Council's Housing Team the preference if no affordable housing can be secured is to accept the commuted sum in lieu of the Discount Market Units at 80% of their respective Open Market Value. This is because an 80% discount would not meet with the affordability criteria required for affordable housing in B&NES. The applicant has not offered any dwellings as Social Rented or Shared Ownership due to the fact that the values these would need to set at would not be viable.

The applicant has also offered to sign up to a legal agreement requiring early and late stage viability reviews.

An early stage review would be required if there was more than a 12month delay in making a start on site. A late stage review would be carried out near to the completion of the development and any surplus profit from the development would be split 70:30 with the Council as an additional financial contribution towards the off-site delivery of affordable housing elsewhere across the district.

These reviews would be on the basis of an open book exercise based upon audited accounts/management accounts of the developer. Given the uncertainty around the housing market going forward and the site circumstances (discussed below) there is a possibility that neither of these review mechanisms would yield any additional affordable housing.

The applicant has also suggested that the legal agreement should include a clause requiring a viability review to take place in the event that the whole or part of the site is sold, so that any new developer would be required to establish whether a below policy compliant level of affordable housing was still justified.

Additionally, the applicant is offering security in the form of a charge over two completed dwellings up to the value of £2M, which would be passed to B&NES in the event that the whole or part of the site is sold.

In summary, the applicant offers a financial contribution of £644,000 in lieu of any additional affordable housing. This means that the proposed development would provide 0% affordable housing and Holbourne Park as a whole, including those houses already built, would provide 14.5% affordable housing (29 units).

Site circumstances and other relevant considerations

An important principle to understand when assessing scheme viability is that development assumptions should be based on "market" as opposed to "developer specific" assessment - this is to mean that the assessment assumes how a typical or hypothetical developer in the market would act rather than assessing developer specific circumstances

In practice, the applicant has provided evidence to demonstrate that the viability of the existing development has been significantly impacted by a series of unforeseen events and market trends. The majority of these matters could be considered part of developer risk and are not considered as part of standardised approach to viability. However, this evidence has demonstrated that there is a significant risk that the current developer will be unable to continue development of the site unless the amendments to the scheme (including the reduced level affordable housing) are approved.

If this risk was realised the development of the site would very likely cease and would not likely re-commence until after a new developer of the site came forward. This would very likely result in a significant delay to the delivery of the site and could have implications on whether or not the site can be counted within the Council's 5 year land supply.

Furthermore, if construction works were to cease in their current state, existing residents who have moved onto the site already would be stuck on an unfinished construction site with no certainty about when it would be finished. Additionally, there would be the loss of

all the construction jobs currently on site and a knock-on effect upon the development's supply chain.

It is also evident that the scheme proposed is relatively high-end in terms of the product and its target market. Viability assessors have advised that housing pitched at the higher end may be more susceptible to downward pricing adjustments than lower value properties (i.e. more standard 'plc' type estate housing) since the market is much tighter (fewer purchasers) combined with less support from government schemes and initiatives such as Help to Buy.

Whilst the developer's specific situation is not a material consideration that should be given any significant weight, the implications for the housing delivery and for existing residents if the site were to stall can be given weight in the planning balance.

Affordable Housing conclusions

In light of the two different outcomes of the two appraisals which have been prepared by the Councils appointed independent viability assessor, there is clearly considerable uncertainty in the housing sector and this makes it difficult to establish the exact viability of the scheme with any confidence.

What is clear is that the COVID-19 crisis has had widespread economic impacts and therefore is likely to have some adverse impact upon the housing and development, although the degree, extent and longevity of this impact is not yet clear. In the short term it is very difficult to make a case that there will not be a material adjustment in the market and that sales values should remain at pre-Covid forecast levels.

The applicant's offer of a commuted sum of £644,000 towards off-site delivery of affordable housing falls broadly between the best and worse scenario's identified. In light of the uncertainty raised by the appointed assessor and other site factors, it would appear to be a reasonable level of contribution which will still enable the development to continue.

The inclusion of viability review mechanisms will help to safeguard the Council's position against the high degree of uncertainty around the impact of COVID-19 on the housing sector. If the impact is not as severe as predicted or the housing market rebounds better than expected, then a review mechanism will ensure that any excessive profit is secured as additional money which can be put towards the delivery of affordable housing elsewhere in the district.

Whilst the failure to provide any additional affordable housing on the remaining phases of the Holbourne Park development is extremely disappointing, it is considered that, on balance, the following factors combine to justify the applicant's current offer of a commuted sum:

- o The extreme uncertainty and its impact upon the housing and development sector created by the COVID-19 crisis;
- o The commuted sum of £644,000 being broadly between the best and worst case viability scenarios;

- o The use of a viability review mechanism and security to safeguard the Council's position in the event the housing market rebounds or the site is sold;
- o The desire to avoid delivery of the site stalling with the consequential adverse effect on housing delivery, the detrimental effect upon the amenities of existing occupiers on the site and the loss of construction jobs;

In light of the above, it is considered that, on balance, the affordable housing offer of a commuted sum (£644,000) is acceptable and justified in these particular circumstances.

12. COMMUNITY INFRASTRUCTURE LEVY

The proposal would be liable to pay the community infrastructure levy at a rate of £100 per square metre of residential floorspace. The approximately liable for this proposed scheme is £61,787.

13. CONCLUSION

The failure to delivery any additional affordable housing on-site beyond that already provided in phase 1 weighs heavily against the proposal.

However, the exception circumstances and uncertainty presented by the COVID-19 crisis combined with the particular site circumstances of this development have had a significant adverse impact upon the viability position of this development. The applicant's offer of a commuted sum within this context is therefore considered to be reasonable and the introduction of a viability review mechanism will safeguard the Council's position. The desire to avoid the site stalling and the potential effect upon housing delivery, existing occupiers and construction jobs also weighs in favour of the application.

In all other regards, the proposals are considered to comply with the development plan and accord with the above listed relevant policies of the Bath and North East Somerset Core Strategy and the Bath and North East Somerset Placemaking Plan.

It is considered that, on balance, these matters outweigh the failure to provide any additional on-site affordable housing as part of this development. The application should therefore be permitted, subject to the completion of a s106 legal agreement.

RECOMMENDATION

Delegate to PERMIT

CONDITIONS

0 DELEGATE TO PERMIT

1.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to secure:

- a) a commuted sum of £644,000 towards the delivery of off-site affordable housing;

b) an early and late stage viability review;

c) a viability review clause in the event that the whole or part of the site is sold;

d) security in the form of a charge over two completed dwellings up to the value of £2M, which would be passed to B&NES in the event that the whole or part of the site is sold.

2.) Subject to the prior completion of the above agreement, authorise the Head of Planning to PERMIT subject to the following conditions (or such conditions as may be appropriate):

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 Construction Management Plan (Compliance)

The development hereby approved shall be undertaken in accordance with the Construction Management Plan approved in writing by the local planning authority by letter dated 18 January 2016 (Reference: 15/05486/COND).

Reason: To protect the amenities of the occupants of adjacent residential properties, the adjoining canal and wider environment and to ensure the safe operation of the highway.

3 Welcome Pack (Compliance)

Before each dwelling is first occupied new resident's welcome packs shall be issued to purchasers. The content of the new resident's welcome packs shall be as per the details approved in writing by the local planning authority by letter dated 13 October 2017 (LPA Ref: 17/03581/COND)

Reason: In the interests of sustainable development.

4 Travel Plan (Compliance)

The development shall be operated in accordance with the Travel Plan approved by the local planning authority by letter dated 13 October 2017 (Reference: 17/03581/COND).

Reason: In the interests of sustainable development.

5 Parking (Compliance)

The areas allocated for parking and turning on the approved site layout plan shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted. The 7 visitor parking spaces shown on drawing number 153300-STL-XX-ZZ-DR-A-01301 PL01 shall be completed prior to the occupation of the 8th dwelling.

Reason: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

6 Dwelling Access (Compliance)

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

Reason: To ensure that the development is served by an adequate means of access in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

7 Contaminated Land - Investigation (Compliance)

The development hereby approved shall be undertaken in accordance with the Composite Contamination Report (March 2016, Integrale Limited) and Report on Supplementary Soil Gas Monitoring & Contamination Analyses (June 2014, Integrale Limited) both approved in writing by the local planning authority by letter dated 25th April 2016 (Reference: 16/01732/COND)

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

8 Contamination - Remediation (Compliance)

The development hereby approved shall be undertaken in accordance with the Remediation Strategy and Method Specification (Ref: 9202/RMS) approved in writing by the local planning authority by letter dated 22 June 2016 (LPA Ref: 16/02834/COND)

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

9 Contamination - Verification (Pre-commencement)

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced prior to occupation, and is subject to the approval in writing of the Local Planning Authority.

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

10 Unexpected Contamination (Compliance)

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of the aforementioned conditions and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of the aforementioned conditions, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with the aforementioned conditions.

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

11 Drainage Strategy (Compliance)

The surface water and foul drainage systems shall be installed in accordance with the Drainage Strategy Addendum Report hereby approved (Campbell Reith August 2019).

Reason: To prevent the increased risk of flooding, to improve and protect water quality, improve habitat and amenity, and ensure future maintenance of the surface water drainage system.

12 Landscaping Scheme (Compliance)

The hard and soft landscaping of the development shall be undertaken in accordance with the details hereby approved by the local planning authority (drawing numbers 1902-MWA-00-XX-DR-L-0050 01 and 1902-MWA-00-XX-DR-L-0051 01) unless an alternative scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in full accordance with the details approved no later than the end of the first planting season following first occupation of the development.

Reason: To ensure the provision of an appropriate landscape setting to the development and provide appropriate tree planting to compensate for the trees removed through the development, and to ensure that the external appearance of the development is satisfactory in order to protect the character and appearance of the Conservation Area, the setting of adjoining Listed Buildings and the setting of the World Heritage Site.

13 Landscape Implementation (Pre-occupation)

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

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

14 Materials (Compliance)

The external materials and finishes of the development shall accord with the samples approved by the local planning authority by letter dated 6 July 2017 (Reference: 17/02294/COND) as applied according to the approved drawings, unless alternative sample panels have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in full accordance with the approved details and sample panels.

Reason: To ensure that the external appearance of the development is satisfactory in order to protect the character and appearance of the Conservation Area, the setting of adjoining Listed Buildings and the setting of the World Heritage Site.

15 Street Lights (Bespoke Trigger)

Details of the street lights and columns serving the development hereby approved shall be submitted to and approved in writing by the local planning authority prior to their installation. The street lights and columns shall be installed in accordance with the details so approved.

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

16 Plans List (Compliance)

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

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

PLANS LIST:

1 153300_STL_09301_PL01	WESTERN PARCEL - LOCATION PLAN
12290-CD351-P3	PROPOSED DRAINAGE STRATEGY SHEET 1 OF 3
12290-CD352-P3	PROPOSED DRAINAGE STRATEGY SHEET 2 OF 3
12290-CD353-P3	PROPOSED DRAINAGE STRATEGY SHEET 3 OF 3
12290-CE301-P2	PROPOSED RETAINING WALL PLAN SHEET 1 OF 3
12290-CE302-P2	PROPOSED RETAINING WALL PLAN SHEET 2 OF 3
12290-CE303-P2	PROPOSED RETAINING WALL PLAN SHEET 3 OF 3
153300_STL_01301_PL01	WESTERN PARCEL - PHASE 3B - GA PLANS
153300_STL_02301_PL01	WESTERN PARCEL - PHASE 3B ELEVATIONS
153300_STL_09302_PL01	WESTERN PARCEL - SITE PLAN
1902-MWA-00-XX-DR-L-0050_01	WESTERN PARCEL HARD LANDSCAPE PLAN
1902-MWA-00-XX-DR-L-0051_01	WESTERN PARCEL SOFT LANDSCAPE PLAN
09302-PL03	WESTERN PARCEL SITE PLAN WITH SOLAR PANEL LOCATIONS

2 Permit/Consent Decision Making Statement

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 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.

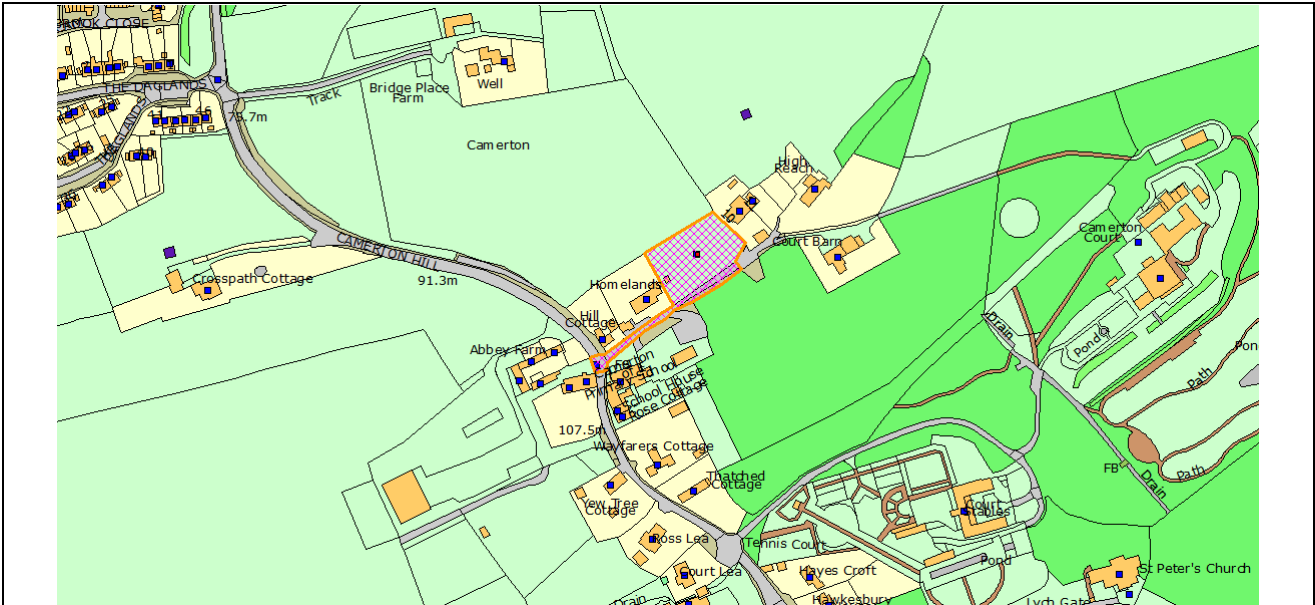
Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at www.planningportal.co.uk or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

4 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

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

Item No:	03
Application No:	20/00395/RES
Site Location:	Land Between Homelands And 10 Camerton Hill Camerton Bath



Ward: Bathavon South

Parish: Camerton

LB Grade: N/A

Ward Members: Councillor Neil Butters Councillor Matt McCabe

Application Type: PI Permission (Approval Reserved Matters)

Proposal: Approval of reserved matters with regard to outline application 17/00299/OUT (Erection of 1no. single storey dwelling (Resubmission)).

Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Policy CP9 Affordable Housing Zones, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,

Applicant: Mr Nick Biggs

Expiry Date: 4th June 2020

Case Officer: Samantha Mason

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

REPORT

The application site is a green field location to the north of an access route off Camerton Hill. The site is currently undeveloped. The site is situated on the side of the hill slope and is visible from distant views from the surrounding area, particularly when driving up Camerton Hill.

Permission is sought for the approval of reserved matters with regard to outline application 17/00299/OUT (Erection of 1no. single storey dwelling (Resubmission)).

Reasons for going to committee:

The parish council have objected to the scheme and the case officer is minded to permit, as such the application was referred to the chair and vice chair of the planning committee. The vice chair stated that 'I have studied the report & note the PC objection comments, it is a site I am familiar with as I was involved in the decision for the outline permission. Although this proposal is now single storey which complies with the outline decision the

impact of the size & design on the character & landscape on the area is controversial, the PC feels it will have a detrimental on the area while the report feels it complies with relevant policies therefore I recommend the application be determined by the planning committee so Policy D1, D2, D3 & D5 can be debated fully in the public arena.' The Chair stated in his decision 'I concur. The increase in size from the original permission, and the visual impact on the landscape of the current design should be considered in the public domain, and is something the Committee may wish to take a view on.'

Relevant Planning History:

DC - 13/01989/OUT - RF - 4 July 2013 - Outline planning application for the erection of 1 no. dwelling

DC - 16/05570/OUT - WD - 23 December 2016 - Erection of 1no. single storey dwelling.

DC - 17/00299/OUT - APP - 29 June 2017 - Outline Planning Application for the erection of 1no. single storey dwelling (Resubmission).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses:

Camerton Parish Council:

20th Feb 2020: the Parish Council objected, the following is a summary of the points. At its meeting on 19 February 2020 Camerton Parish Council voted unanimously to oppose this application. The previously approved planning application REF 17/00299/OUT was for outline planning permission for the erection of 1no. single storey dwelling (Resubmission). However the design of this proposal is for a two storey building with a ground floor and a lower ground floor and is therefore not compliant with the approved outline planning application granted for REF 17/00299/OUT. The proposed development also does not conform to policies NE2A, D1, D2, D3, D4, D10, D6, HE1, LCR6A, ST2A and D8 of the core strategy and Placemaking plan.

9 April 2020: Camerton Parish Council objects to this revised design recently submitted as part of this planning application. While the design is now one storey as per the permission granted by planning application REF17/00299/OUT it still does not meet the policies in the core strategy and placemaking plan. The new single storey design is about a third larger in terms of footprint than the previous two storey design but remains the same in terms of position and height. Therefore the parish council is concerned that this proposal will still be detrimental to the landscape character of Camerton and therefore not compliant with policy NE2A. The revised design is also considered to remain detrimental to the rural character of Camerton and therefore doesn't meet the requirements of policy D1.

There are concerns about the revised design's visual impact on the public realm especially when looking from Bridge Place Road, the nearby public rights of way and the Batch which is a local nature reserve, heritage asset and designated Green Space. Therefore the proposed design doesn't meet the requirements of policies D1, D3, D4, D10, ST2A, HE1 and LCR6A.

In addition there has been no major change in design apart from the additional space added to the single storey to replace the previous space provided by two storeys. This

redesign results in a very asymmetrical appearance. In addition the apex of roof over the front door coupled with the design of the double doors makes the building look more like a village hall than a residential bungalow. These design features result in the proposed development being not in keeping with nearby bungalows located in Bridge Place Road and Durcott road and therefore does not meet the requirements of policy D2 and D5. The proposed design is also not sympathetic to the mining heritage of Camerton.

Therefore while we appreciate that the proposed materials are in keeping the parish council would like to see revised designs for a bungalow that is more sympathetic to the surrounding area.

Additionally there is insufficient parking for a 4 bedroom bungalow meaning the application is not compliant with ST7. In terms of this issue along with highway safety concerns at this location and the design concerns the parish council feel a 2 bedroom bungalow would be more appropriate at this location.

Contaminated Land: no objection subject to conditions

Highways: No objection subject to conditions

Drainage and Flooding: No objection subject to conditions

Arboriculture: No objection

Representations Received:

None received

POLICIES/LEGISLATION

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

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o 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)
- 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:

CP2: Sustainable Construction
CP5: Flood Risk Management
CP6: Environmental Quality
CP10: Housing Mix
DW1: District Wide Spatial Strategy
SD1: Presumption in favour of 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:

D1: General urban design principles
D2: Local character and distinctiveness
D.3: Urban fabric
D.5: Building design
D.6: Amenity
D7: Infill and backland development
NE2: Conserving and Enhancing the landscape and landscape character
ST7: Transport requirements for managing development
H7: Housing accessibility
SCR1: On-site renewable energy requirement
SCR5: Water efficiency
SU1: Sustainable drainage policy
LCR9: Increasing the provision of local food growing
PC55: Contamination

National Policy:

The National Planning Policy Framework (NPPF) was published in February 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

The principle of development has already been established under the outline application reference 17/00299/OUT. This application is seeking permission for the reserved matters which include access, appearance, landscape, layout and scale.

The main issues to consider are:

- Character and appearance

- Landscape
- Residential amenity
- Highways matters
- Flooding and drainage
- Any other matters

BACKGROUND:

Permission was initially granted at the site in 2013 via an inspector's decision and a further outline application was later granted permission in 2017 for erection of a single storey dwelling.

Initially within this application accommodation over 2 levels was proposed, albeit the lower ground floor was built into the bank so making the application split level single / two storey. This did not meet with the description granted permission at outline stage and therefore for procedural reasons revised plans were received showing a single storey dwelling and accommodation over a single floor as per the description. Given the sloping nature of the site, the dwelling proposed is built into the bank on a raised plinth to create a flat level, the accommodation is now spread across one floor and the proposal is now considered to meet with the definition of single storey in line with the outline description albeit due to site levels it appears higher to rear.

The raised plinth is 18m at its highest point and 0.8m at its shallowest point, it is not considered that this area could readily be converted to additional accommodation without substantial changes to the scheme and those would likely require permission. That said a split level dwelling here may not be considered unacceptable if appropriately designed it is simply outside of the scope of this application. As such a condition to preclude additional storey's in the future is not considered necessary.

Camerton is a small parish and the village is made up of four areas that have designated Housing development boundaries, these boundaries are abutted by other development that sits just outside of it, including farms and some small scale ribbon development of houses. This site is located along an area of ribbon development on Camerton Hill.

The landscape hereabouts is not the subject of any specific landscape designations, but that does not mean it lacks any distinctive qualities. The houses that front onto the driveway and their rear gardens are visible from the public viewpoints to the north and North West, as is the gap between the houses that the appeal site provides. However, it is the fields to the rear of them that slope downwards towards to River Cam, and the rolling countryside to the east that dominates this part of the landscape and provides this part of the village with its attractive setting. The parish council have raised concerns that the proposal will visually impact the public realm when looking across from public rights of way; however a dwelling on the site would be seen in the context of the houses to either side, and is set in an area of the village that is already developed with housing. As with the previous inspectors conclusion this proposal would ensure a 'significant swathe of countryside would remain between the upper slope and the valley floor and overall landscape quality of the area would be maintained'.

The parish council have raised concerns the proposal would impact on Camerton Batch which they refer to as a heritage asset. Camerton Batch is located some 385m away from

the proposed dwelling across the valley, beyond the river Cam. The batch is not a designated heritage asset defined by policy HE1. There may be glimpsed views of the site from the batch however this will be obscured by the dwellings along Bridge Place Road, as well as Bridge Place Farm further to the south. The Batch Nature Reserve is a designated Green Space, the development would not impact on the Local Green Space designation.

CHARACTER AND APPEARANCE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host building and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness.

As discussed above the proposal has been revised to a single storey dwelling in line with the outline application. The proposed bungalow is slightly smaller in size than the illustrative layout plan found acceptable at outline stage, the proposed single storey dwelling is 215sq meters the outline permission was nearly 218sq meters. The footprint is also not dissimilar to the neighbour dwelling at Homelands. As this is a relatively steep site the narrower width of the proposed building is more appropriate than having a wider building which would require more built plinth on the south side.

The size and scale of the development is considered appropriate for the plot size, leaving large garden spaces, as well as views through the site to the valley. The height remains subservient to the adjacent Homelands. Homelands is also a single storey bungalow with level changes across the site, it will sit slightly higher than the proposed dwelling due to the slope of the land.

The proposed dwelling is 6.3m at its highest point when measured from the ground level at the southern elevation of the site. This is due to the ridge form; the majority of the dwelling sits at around 4m in height to the ridge. At the rear further down the slope to the north the building floor level to ridge is 6.3 however including the plinth the height of the building measures 7.8m at the highest point to the ridge this is because there is around a 2m level change across the part of the site where the dwelling is located. However the majority of the building again read as an average height of around 5m. It is noted that the dwellings to the east, 10 and 11 are two storey.

The land slopes mainly from south to north as well as very gradually from west to east; it is not considered that the proposal will result in a significantly tall dwelling in the context of the surrounding development.

There is not a specific grain of dwelling in this location, or across Camerton however the proposed materials are considered to be locally in keeping. The design is considered acceptable and has taken cues for the rural location with an almost barn conversion like appearance, the design detail is not offensive in the countryside setting to warrant refusal.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and responds to the local context at least maintaining 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:

Policy D.6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

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. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

HIGHWAYS SAFETY AND PARKING:

Policy ST7 states that development will only be permitted provided, amongst other things, the development avoids an increase in on street parking in the vicinity of the site which would detract from highway safety and/ or residential amenity.

The Highways Development Control Team has been consulted on this reserved matters application. There was no objection at outline stage. The detail of the proposed site arrangements has been reviewed, and there is no objection to the layout as presented. The proposed parking is considered to be appropriate with a garage and a turning area also provided that will meet the minimum parking standards required.

Given the scale of development and the site location the submitted Construction Management Plan is considered to be sufficient to mitigate the potential impacts on the local highway.

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 4 of the NPPF.

It is noted that Public Right of Way BA4/66 and BA4/65 (which join to form one route) runs along the road bounding the south of the site. The proposal will not affect access too and therefore the recreational value of this route. The Public Rights of Way Team has raised no objection to this scheme. The proposal as such is considered to comply with policy ST2A of the Placemaking Plan.

FLOODING AND DRAINAGE:

The council's flooding and drainage team have been consulted on the scheme and have raised no objection. The proposal will not affect drainage or flood risk.

CONTAMINATED LAND:

The council's contaminated land officer has been consulted on the scheme. Taking into account the sensitive nature of the development (i.e. residential) conditions in regards to a walkover survey and reporting unexpected contamination will be attached to a permission.

ARBORICULTURE:

The council's Arboricultural Officer was consulted on the scheme and raised no objection. No trees of arboricultural significance will be affected by the proposal.

COMMUNITY INFRASTRUCTURE LEVY:

The site would generate additional residential floor space within the Bath city area and is subject to contributions via the infrastructure Levy in line with the Council's adopted Planning Obligations SPD.

SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

Policy CP2 of the Placemaking Plan has regard to Sustainable construction. The policy requires sustainable design and construction to be integral to all new development in B&NES and that a sustainable construction checklist (SCC) is submitted with application evidencing that the prescribed standards have been met.

For minor new build development a 19% reduction in CO2 emissions is required by sustainable construction. In this case the submitted SCC shows that a 19.2% CO2 emissions reduction has been achieved from energy efficiency and/or renewables. Therefore the proposed development is compliant with policy CP2 in this instance.

Policy SCR5 of the emerging Placemaking Plan requires that all dwellings meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day. This can be secured by condition.

Policy SCR5 also requires all residential development to include a scheme for rainwater harvesting or other method of capturing rainwater for use by residents (e.g. water butts). These matters can be secured by a relevant planning condition.

Policy LCR9 states that all residential development will be expected to incorporate opportunities for local food growing (e.g. border planting, window boxes, vertical planting, raised beds etc.).

CONCLUSION:

It is therefore considered that the proposal complies with the relevant planning policies as outlined above and the proposal is recommended for approval.

RECOMMENDATION

PERMIT

CONDITIONS

1 Standard Time Limit (Compliance)

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

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

2 Parking (Compliance)

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

Reason: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

3 Sustainable Construction (Pre-Occupation)

Prior to first occupation of the development hereby approved the following tables (as set out in the Council's Sustainable Construction Supplementary Planning Document, Adopted November 2018) shall be completed in respect of the completed development and submitted to the local planning authority together with the further documentation listed below:

- o Table 2.4 (Calculations);
- o Building Regulations Part L post-completion documents

Reason: To ensure that the approved development complies with Policy SCR1 of the Placemaking Plan (renewable energy) and Policy CP2 of the Core Strategy (sustainable construction).

4 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.

5 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.

6 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 the following plans:

31 Mar 2020 8063-16881 Proposed Plans and Site Location

31 Jan 2020 Hs/162935 Location Plan

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 Permit/Consent Decision Making Statement

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

4 Community Infrastructure Levy

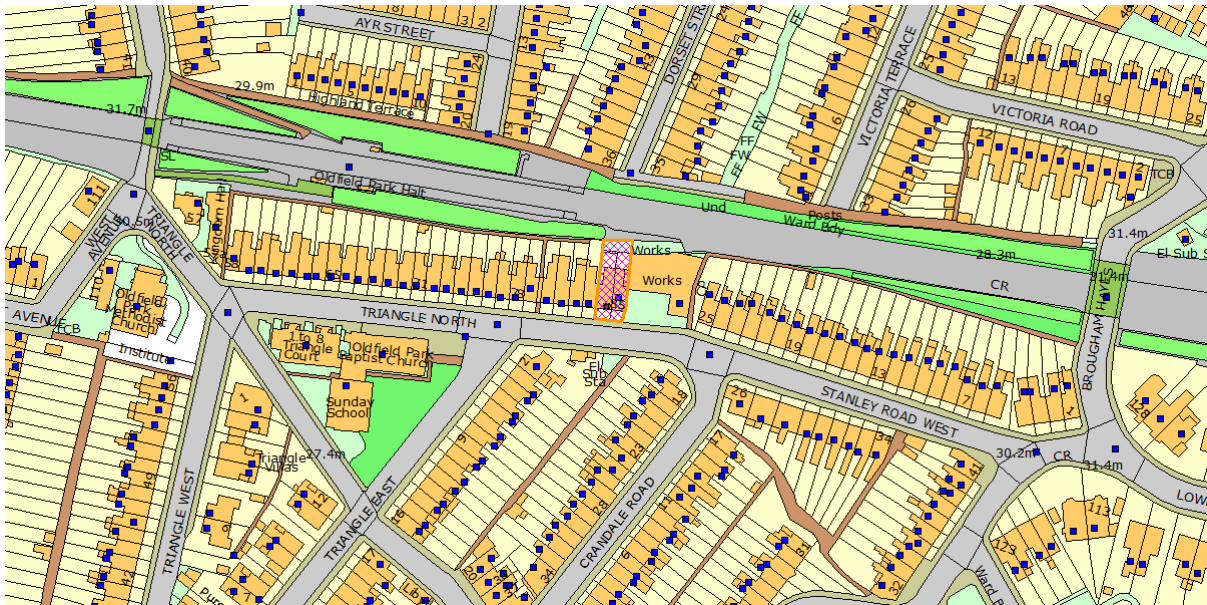
You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL 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

5 Responding to Climate Change (Informative):

The council is committed to responding to climate change. You are advised to consider sustainable construction when undertaking the approved development and consider using measures aimed at minimising carbon emissions and impacts on climate change.

Item No: 04
Application No: 20/01024/FUL
Site Location: 84 Triangle North Oldfield Park Bath Bath And North East Somerset BA2 3JB



Ward: Westmoreland **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Colin Blackburn Councillor June Player
Application Type: Full Application
Proposal: Erection of a two storey rear extension following removal of existing extension. Erection of a single storey side extension to number 84 & single storey rear extension to number 85.
Constraints: Article 4 HMO, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, HMO Stage 1 Test Area (Stage 2 Test Req), MOD Safeguarded Areas, Railway, SSSI - Impact Risk Zones,
Applicant: Tom And Gerald Wood And Richards
Expiry Date: 12th May 2020
Case Officer: Isabel Daone
To view the case click on the link [here](#).

REPORT

The application refers to two terraced properties (nos. 84 and 85 Triangle North). No.85 is located at the end of the terrace adjacent to an engineering works which is within the ownership of one of the applicants. No.84 adjoins no.85.

Planning permission is sought for the erection of a two storey rear extension to span both properties, following the demolition of the existing two storey rear extension. It also seeks permission for the erection of a single storey rear extension to no.85 and a single storey side extension to no.84.

Reasons for going to committee:

Councillor June Player objected to the application and requested that, should the case officer be minded to permit the application, it be taken before the planning committee. As such the application was referred to the chair and vice chair of the planning committee.

The vice chair stated that "I have studied the applications relating to these properties. I note the objection comments including the Ward Councillor planning committee request. Much of the proposal sits on the footprint of the existing extensions which will be removed and uses materials which will match the host dwelling. The proposal has been assessed against all relevant policies which it adheres to. Therefore I recommend the application be delegated to Officers for decision.

The chair stated in his decision that "I have looked at this application, the concerns raised and the officers' comments. I think the committee may wish to consider whether the additional single store extensions to both properties represent over-development of the site, alongside the redevelopment of the existing rear extensions."

A separate planning permission has been granted for a dormer to no.84 under application reference 20/00968/FUL. This application was also referred to the chair/vice chair as a result of Cllr. June Player's all in request. It was decided that the decision for the dormer should be delegated to officers.

Relevant Planning History:

20/00968/FUL

PERMIT: 11 May 2020

Provision of loft conversion with new dormer to rear of house (no.84).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSULTATION RESPONSES :

Councillor June Player's comments are summarised as follows:

- Should you be minded to approve the above applications, I am requesting they go to Committee on the grounds that they are contrary to the following Policies - D6 (Amenities), D5 (Buildings Design), ST7 (Highways/Parking)
- 26/29 properties in Triangle North are HMOs

- Extensions at Nos. 84 and 85 Triangle North will increase student numbers
- Stanley Road West, a continuation of Triangle North, also has high percentage of HMOs - 23 out of 34/35 properties are HMOs
- The remaining 12/13 properties are mainly couples, families and an elderly lady
- If the application is permitted it will exacerbate the parking problems in this and the surrounding streets. It is not providing any off-street parking in a locality which suffers from a lack of parking. This is harmful to neighbours' residential amenities; even one more occupant has a huge impact and the cumulative effect should be taken seriously.
- It will contribute even more to the great imbalance between long-term residents and transient population, negatively impacting the lives of many neighbours harming their residential amenities. This is due to additional noise and disturbance, with clashes of lifestyles
- The additional extensions are overdevelopment of the host buildings especially no.84 Triangle North. If this application is approved it will give the green light for more HMOs to keep expanding
- How many more occupants are we going to allow to be added to existing HMOs and keep on ignoring the legitimate Planning Policies D6 and ST7 to be able to refuse due to the rear harm that is taking place on the quality of life/residential amenities of the existing residents, especially long-term home owners
- The proposal must be refused because of this and the fact that it is just adding even more to the impact of the harm that has already taken place in this locality to the community overall.

REPRESENTATIONS:

2 objection comments have been received from local residents and are summarised as follows:

- B&NES corporate strategy 2016-20 is "Putting residents first in everything we do". This does not apply to this application if it is approved.
- Ever increasing student numbers - why are landlords allowed to continually extend HMOs?
- Due to the high number of HMOs on Triangle North and Stanley Road West (over 200 students) the residents in the vicinity will be greatly affected by these extensions
- The long term residents' quality of life is continually harmed as student numbers increased, breaching policy D6
- Subject to late night noise, unkempt gardens and overflowing bins which are often left on the street
- There is a desperate parking situation in the area; extending these HMOs will add to the crisis
- Student and commuter parking makes parking for residents near impossible which is detrimental to disabled residents and those with young families
- The extensions are an overdevelopment of the site
- The extra-large extension will cause problems for residents whilst it is being built - noise, mess, pollution, air quality and large delivery vans parking in valuable parking spaces, as well as being close to bus stops
- It will cause major traffic problems during constructions due to its location on a busy road
- Area is saturated with students and it is negatively impacting residents' quality of life

- I believe the Article 4 limits the density of HMOs to 10-25% in the area
- I believe Triangle North is the most saturated street in Bath (almost 90% HMOs)
- B&NES have no powers to revoke licenses as they were issued before the new guidelines came in
- Representations have been made during the Draft Local Plan to close the Loophole; plan has been delayed and loophole remains open
- The Article 4 limits new HMOs, but why are existing HMOs allowed to expand?
- There is nowhere safe to cross the road
- Does not benefit the community
- Reducing housing for families, affordable housing and full time working residents, reduces the community by having a continually changing neighbourhood.

POLICIES/LEGISLATION

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

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o 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)
- 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:

B1: Bath Spatial Strategy
 B4: The World Heritage Site and its Setting
 CP6: Environmental Quality
 DW1: District Wide Spatial Strategy
 SD1: Presumption in favour of 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:

D1: General urban design principles
 D2: Local character and distinctiveness

D3: Urban fabric
D5: Building design
D6: Amenity
H2: Houses in multiple occupation
ST7: Transport requirements for managing development

National Policy:

The National Planning Policy Framework (NPPF) was published in February 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

SPD's:

The Houses in Multiple Occupation in Bath Supplementary Planning Document (July 2013) is also relevant in the determination of this planning application.

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

The main issues to consider are:

- Character and appearance
- World Heritage Site
- Residential Amenity
- Parking and highway safety

PRINCIPLE OF DEVELOPMENT:

The site is within the Housing Development boundary/ built up area of Bath where the principle of development is acceptable subject to other material planning considerations discussed below.

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

CHARACTER AND APPEARANCE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host building and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

The proposal is for the erection of a two storey rear extension to span both properties, following the removal of the existing two storey extension, a single storey rear extension to no.85 and a single storey side extension to no.84. These are discussed in turn.

2 storey extension to no. 84 and 85 following demolition of existing 2 storey extensions to both properties.

It has been raised that the two storey extension which will span both properties is very large and could appear an over development of the site. Each of the rears of the properties in this part of the terrace has a two storey projection to the rear already. The proposal seeks permission to remove these and the proposed two storey extension will be built on the same footprint as the existing and will be similar in appearance therefore the impacts of that in terms of new bulk and massing would be inconsequential. The chimney stack will be removed. Although many of the dwellings in the terrace feature a chimney stack, some do not. It is not considered its removal will cause visual harm. Whilst it is accepted that this extension is large, given that it is of the same size as what is existing at the site, it is not considered that it will visually alter the overall appearance of the property to an extent which would harm the visual amenities of the area.

Single storey rear extension to no. 85.

The application includes the erection of a single storey rear extension to no.85. It is to be noted that there is an existing lean-to shelter at no.85 which is largely constructed from corrugated metal. This is proposed to be removed. The proposed single storey rear extension will project from the re-built two storey extension. It will have a depth of 3.3m and a width of approximately 3.5 metres. It will have a maximum height of approximately 4m, featuring a pitched roof which will slope to an eaves height of approximately 2.9 metres. The proposed materials will match the existing dwelling. Many of the other properties in the terrace feature single storey rear extensions, of similar scales. Given the matching materials, relatively modest size and pitched roof design which mirror the architectural features of the existing dwelling, it is considered to be acceptable in this regard.

It has been raised that the proposal represents an overdevelopment of the site. In respect of number 85 the proposal will only result in the increase of a single storey rear extension (as the two-storey element is a re-build) and the effect of that is mitigated to some extent by removal of the shelter. Consequently it is not considered that this would result in an overdevelopment of no. 85. and that increases in terms of additional bulk and massing are moderate.

Single storey side extension no.84.

The proposal also seeks to erect a single storey side extension at no.84, in the existing side return space. This will feature a flat roof and have a height of approximately 3.2

metres. The extension is narrow and is tucked within the site return. It is considered modest and acceptable in regard to its character and appearance.

It has been raised that the proposed extensions to no.84 will result in an overdevelopment of the site. Additions at this property will in effect be the small side return extension (as the two-storey element is a re-build). Consequently it is not considered that this would result in an overdevelopment of no. 85. and that increases in terms of additional bulk and massing are moderate.

Other relevant considerations

Planning permission was granted on 11th May for a dormer window at no.84 under application 20/00968/FUL. Many of the properties in this terrace feature extensions and some also have planning permission for dormers. The cumulative impact of the extensions to no.84 is not considered to be an overdevelopment of the site.

In conclusion the extensions which are relatively modest in terms of the additional development created are considered to respect the existing building in terms of materials, scale and form and as such, the proposal complies with policy D5.

Overall, the proposal is considered acceptable in regards to character and appearance.

The proposal by reason of its design, siting, scale, massing, layout and materials is 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.

WORLD HERITAGE SITE:

The proposed development is within the World Heritage Site, therefore consideration must be given to the effect the proposal might have on the setting of the World Heritage Site. In this instance, due to the size, location and appearance of the proposed development it is not considered that it will result in harm to the outstanding universal values of the wider World Heritage Site. The proposal accords with policy B4 of the adopted Core Strategy (2014) and Policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 12 of the NPPF.

RESIDENTIAL AMENITY:

Policy D6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

Local residents have raised that the existing properties are both HMOs and their extension would result in additional noise disturbance and waste disposal issues.

The properties are both HMOs and no change of use is required, nor proposed. The proposed extensions to no.85 will result in the number of bedrooms increasing from 4 to 5. The number of bedrooms for no.84 will remain at 5 under this proposal; the proposed side return extension will provide more living space for occupants. The approved dormer at this

property under application 20/00968/FUL will result in the number of bedrooms increasing from 5 to 6. Therefore, the use class of both dwellings will not change and will remain C4 use class. Given the addition of only one bedroom to no.85 under this application the proposal would not be considered an overdevelopment of the site as it remains within the same use class and the extent of extension is relatively modest. Whilst not directly considered here it is acknowledged that the dormer would also create one additional bedroom to no.84. Notwithstanding and taking account of that the addition of one bedroom to each property is not considered to cause significantly more noise and disturbance than is or could be currently created by the occupants of the property. In this regard, the proposal is not considered to cause significantly more harm to the neighbouring residents.

The proposed single storey extension to no.85 may cause small amounts of additional overshadowing to no.84. However, the eaves height is relatively modest, as is the height. The impact is not therefore considered to be significant. The proposed side return extension at no.84 will border no.83's boundary. However, the properties are located on a slope and no.84 sits lower than no.83, reducing the impacts of any potential overshadowing or overbearing to a more acceptable level.

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. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

HIGHWAYS SAFETY AND PARKING:

Local residents and Cllr. Player have raised concerns about the impact of the proposal on the existing parking situation. The area has high-levels of on-street parking and residents have stated that student parking takes up many of these valuable spaces. The proposal does not include any off-street parking and increases the number of bedrooms at the property.

It is important to note the sustainable location of the properties, which have good access to a range of facilities and public transport links; car usage should therefore be less intense. There is evidence from surveys carried out by the Department for Communities and Local Government which states that rented accommodation can have up to 0.5 fewer cars than owner occupied households. Given the increase in bedroom numbers of 1 at both properties, it is considered that car-ownership is likely to be similar to the existing arrangement.

There are no adopted parking standards for HMOs. The cumulative impact of the number of HMOs in the area on parking has been raised. Paragraph 109 of the NPPF (2019) states that development should only be refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual impacts on the road network would be severe. Officers recognise the concerns of Cllr. Player and local residents and note that very high-levels of on-street parking in the area. However, as there is little evidence to suggest that the addition of 1 bedroom to each HMO would increase the requirement of parking for these dwellings substantially, it would be unreasonable to refuse the proposal on highways grounds.

It is considered that there is sufficient garden space for the safe storage of cycles.

It has also been raised that construction vehicles may block the road and cause traffic issues. If vehicles are parked illegally in the street, this should be reported to the relevant authority. Whilst the road is well used, it is not an A road and a condition requesting a construction management plan would be unreasonable and would not meet the 6 tests for conditions outlined in the NPPF.

OTHER MATTERS:

It has been raised that the extension of the HMOs would be a breach of the Article 4 Direction enforced within this area. This direction removes the permitted development rights for the change of use of a dwellinghouse (C3) to an HMO (C4). As the properties are already HMOs and a change of use is not required, the proposal does not conflict with this direction.

It has also been raised that the addition of more students will cause even more of an imbalance between the student and resident population. The proposal will increase the no. of bedrooms at no.85 This is a relatively small increase and would not constitute grounds for refusal of this application.

CONCLUSION:

It is therefore considered that the proposal complies with the relevant planning policies as outlined above and the proposal is recommended for approval.

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 (Compliance)

The proposed walling materials of the two storey rear extension to nos.84 and 85, the proposed single storey rear extension to no.85 and single storey side extension to no.84 and the roofing materials of the two-storey rear extension to both nos.84 and 85 and the proposed single storey rear extension to no.85 shall match those of the existing building in respect of type, size, colour, pointing, coursing, jointing, profile and texture.

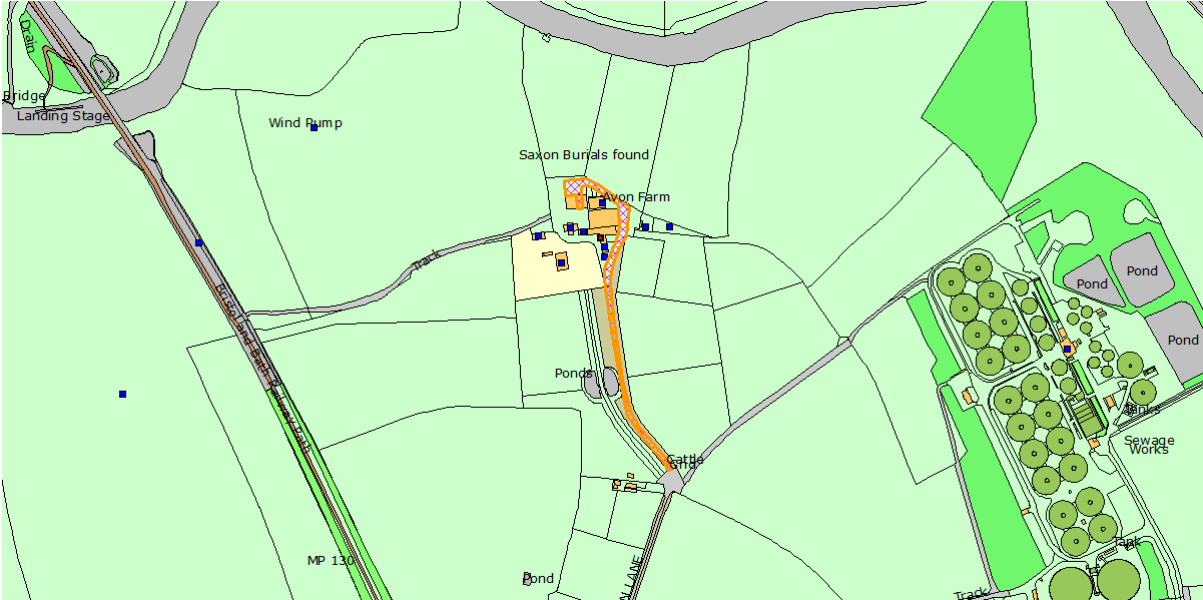
Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.

3 Plans List (Compliance)

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

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

PLANS LIST:

Item No:	05				
Application No:	19/05519/FUL				
Site Location:	Avon Farm Avon Lane Saltford Bristol Bath And North East Somerset				
					
Ward:	Saltford	Parish:	Saltford	LB Grade:	N/A
Ward Members:	Councillor Duncan Hounsell				Councillor Alastair Singleton
Application Type:	Full Application				
Proposal:	Change of use of a former office building to a dwelling (Retrospective).				
Constraints:	Saltford Airfield 3km buffer, Agric Land Class 1,2,3a, British Waterways Major and EIA, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,				
Applicant:	Mr Clive Franklin				
Expiry Date:	5th June 2020				
Case Officer:	Martin Almond				
To view the case click on the link here .					

REPORT

This application is being determined by Development Management Committee due to an objection received from Salford Parish Council which is contrary to the officer recommendation.

Retrospective planning permission is sought for the conversion of a former office building to a dwelling on land at Avon Farm, Avon Lane, Salford. The building sits within a group of buildings separate to the main dwelling at the site and is accessed by a separate driveway.

The dwelling subject of this application adjoins another dwelling, the use of which was established as immune from enforcement action through a lawful development certificate. Four other buildings (or parts of buildings) within the complex have been converted to dwellings without planning permission over recent years and the lawful status of these dwellings have also been regularised through the issuing of lawful development certificates. The dwelling was completed and occupied prior to planning permission being submitted.

The site is located within the Green Belt and is outside of a housing development boundary.

Planning History:

DC - 02/02668/FUL - RF - 16 January 2003 - Demolition of drying barns, stables and outbuildings, and two-winged extension to Avon Farmhouse

DC - 02/02671/FUL - RF - 17 January 2003 - Conversion of livery stables and tithe barn to form a single dwelling and a residential annexe

DC - 03/01657/FUL - PERMIT - 28 August 2003 - Extension to Avon Farmhouse and demolition of drying barns, stables and outbuildings as amplified by letter and plans received 25 July 2003

DC - 03/01676/FUL - PERMIT - 28 August 2003 - Conversion of livery stables and tithe barn to form a single dwelling and residential annexe as amplified by letter and plans received 25 July 2003 and amended by letter and plans received 15 August 2003

DC - 99/02917/FUL - PER - 19 October 1999 - Retention of stables

DC - 06/00104/FUL - RF - 17 February 2006 - Conversion and alterations to existing drying barn for display and storage of prestige motor cars; outside display of motor cars

DC - 06/01820/FUL - WD - 14 August 2006 - Conversion and alterations to existing drying barn for storage.

DC - 11/02725/FUL - RF - 9 September 2011 - Provision of a tennis court and erection of an extension to existing garage.

DC - 18/01737/CLEU - LAWFUL - 27 June 2018 - Use of Tythe Barn, Stable Cottage, Meadow View and River View at Avon Farm as 4 no. dwelling houses (Certificate of Lawfulness of Existing Use).

DC - 19/01731/CLEU - LAWFUL - 29 August 2019 - Use of "The Dove Cote" as a separate dwelling (Use class C3) (Certificate of Lawfulness of Existing Use).

DC - 19/01852/FUL - RF - 16 August 2019 - Change of use of land from agricultural use to holiday let (Retrospective).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Saltford Parish Council: OBJECT : As a matter of principle Saltford Parish Council does not support development of this nature in Saltford's Green Belt outside the housing boundary. Permitting this change of use would be contrary to the provisions in Chapter 13 of NPPF (2018) for protecting the Green Belt from inappropriate development.

B&NES Council has issued 6 CLEU certificates for agricultural buildings to dwellings at Avon Farm in 2018 and 2019; the Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2018 limit of 5 conversions has therefore already been exceeded. Avon Farm is served by a narrow single track country lane regularly used by cyclists entering and leaving the popular Bristol-Bath Sustrans cycle path and by walkers including young families. The cumulative effect of this and other recent developments at Avon Farm raises health and safety concerns for walkers and cyclists from visitor traffic unfamiliar with the area accessing the Avon Farm estate (ref. 2017 B&NES Placemaking Plan policy ST7 - highway safety and unsuitable road system). If the case officer is minded to permit this planning application Saltford Parish Council requests that this application be referred to the Planning Committee for determination.

Highways: Highways and transport would recommend that the application is refused because the site is in an unsustainable location contrary to Placemaking Plan Policy ST1. The proposals do not demonstrate safe and suitable access to the site can be achieved for all people contrary to Placemaking Plan Policy ST7.

Third party comments: Three objections received covering the following considerations:

- Location and unsuitable access,
- Green Belt impacts,
- Previous site development,
- Previous use of building,
- Maximum amount of buildings have been converted,
- Future use of building,
- Dwelling was concealed,
- Impact on residential amenity from wider site use.

POLICIES/LEGISLATION

The main planning policies that are considered relevant to this proposal are listed below.

The Development Plan for Bath and North East Somerset comprises:

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

Consideration will be given to the National Planning Policy Framework and the National Planning Practice Guidance

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:

D.2 - Local character and distinctiveness

D.3 - Urban Fabric

D.5 - Building design

D.6 - Amenity

GB.1 - Visual amenities in the Green Belt

GB.3 - Extensions and alterations to buildings in the Green Belt

NE.2 - Conserving and Enhancing the Landscape and Landscape Character

RE.7 - Visitor accommodation

ST.1 - Promoting sustainable travel

ST.7 - Transport requirements for managing developments

The National Planning Policy Framework and National Planning Practice Guidance are both material planning considerations.

LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

OFFICER ASSESSMENT

Planning permission is sought for the retention of a single dwelling formed from the conversion of part of larger building at the site.

PRINCIPLE OF DEVELOPMENT

Paragraph 146 of the NPPF states that certain forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include the re-use of buildings provided that the buildings are of permanent and substantial construction.

Policy RE6 of the Placemaking Plans has regard to the re-use of rural buildings, its states that conversion of a building or buildings to a new use in the countryside outside the scope of Policies RA1, RA2 and GB2 will only be permitted, provided 8 criteria are met. Each of these is discussed below.

1 its form, bulk and general design is in keeping with its surroundings and respects the style and materials of the existing building

The building has an agricultural type appearance with materials that match the surrounding buildings. The external works to convert the building have required minimal intervention.

2 the building is not of temporary or insubstantial construction and not capable of conversion without substantial or complete reconstruction or requires major extension

The building is not temporary and the walls and floors appear sound. The building has not required extension.

3 the proposal would enhance visual amenity and not harm ecological function (e.g. bat roost)

The site is visually acceptable at present and is relatively well kept and tidy. The use of the building as a dwelling is unlikely to harm ecological function or harm the site visually and would likely have the same neutral impact as the existing building.

The conversion works were completed prior to the application being submitted and therefore it is not possible to establish whether the works would have harmed ecological function however the way in which this part of the building has been constructed and then converted does not lend itself to use by protected species. There are no obvious openings within the roof space and the eaves of the building are enclosed within the fascia and soffit. It is therefore considered that the conversion would not harm its ecological function.

4 the proposal does not result in the dispersal of activity which prejudices town or village vitality and viability.

Given that the application would be for a dwelling it is not considered to prejudice the vitality and viability of nearby towns. The additional residential unit is located within a complex of other buildings, some of which are in use as dwellings. The services provided within the village of Saltford could be supported by the new dwelling.

5 where the building is isolated from public services and community facilities and unrelated to an established group of buildings the benefits of re-using a redundant or disused building and any enhancement to its immediate setting outweighs the harm arising from the isolated location

Whilst the site is isolated from public services and community facilities the site is considered to be part of the established group of buildings along the access road and off the further private road and therefore is considered to meet this criteria.

6 the development would not result, or be likely to result, in replacement agricultural buildings or the outside storage of plant and machinery which would be harmful to visual amenity;

From the information submitted it does not appear likely the proposal will result in replacement buildings or outside storage of machinery given that the farm is no longer in operation.

7 in the case of buildings in the Green Belt, does not have a materially greater impact than the present use on the openness of the Green Belt or would conflict with the purposes of including land within the Green Belt.

The conversion of the building is not considered to have a materially greater impact than its former use as an office and does not conflict with the purposes of including the land within the Green Belt.

8 The integrity and significance of buildings and farmsteads of architectural and historic interest and of communal, aesthetic and evidential value are safeguarded consistent with Policy HE1.

The building and nearby buildings are not listed and are not considered to require safeguarding.

RESIDENTIAL AMENITY

The use of the building for a dwelling is not considered to have any detrimental impacts upon levels of residential amenity for existing properties or for the dwelling itself. The dwelling provides all facilities to provide an acceptable level of residential amenity and also has a small garden area for residents to use.

Whilst concern has been raised regarding an increase in vehicle movements associated with a new dwelling at the site this is not considered to be an unacceptable increase arising from a single bed dwelling over and above existing levels of vehicle movement.

HIGHWAYS

The dwelling will provide three parking spaces and cycle storage. Because of the use of the wider site it is not considered that the proposal will result in an unacceptable increase in traffic movements to and from the site.

Highways Development Control have objected to the application due to its location and therefore its unsustainable nature and lack of adequate pedestrian facilities and street lighting. It is also considered that insufficient detail has been submitted to identify that the access road is of a construction standard required for deliveries and servicing.

Council records show that Avon Lane itself is part of the adopted highway network (unclassified road) and the adopted highway stops approximately 15m before the entrance gates to the site. A private access of approximately 280m then runs to the position of the dwelling. The private driveway is tarmacadam construction and provides access to a number of properties. It is not considered that this arrangement would have a negative impact upon residential amenity. The properties served by the access are all under one ownership.

Whilst the site is located outside of a housing development boundary and occupants would likely rely on private vehicles to access services this is not an unusual arrangement for rural buildings and dwellings. Rural buildings are frequently located remote from services without pedestrian facilities such as street lighting or pavements.

OTHER MATTERS

Whilst the works to convert the building to a dwelling have been undertaken without planning permission this is not a material planning consideration in determining the application.

Saltford Parish Council have raised a point in regard to the number of conversions that have been undertaken at the site identifying that the Town and Country Planning (General Permitted Development) (England) (Amendment) Order limits the number of residential conversions at a site to a maximum of five. Such limits relate to application made under the prior approval legislative provisions to convert agricultural buildings to dwellings. This application is not made under such provisions and as such the number of previous conversions at the site is not automatically a barrier to further development.

CONCLUSION

For the reasons set out above the application is considered to accord with local and national policy and the objections raised, on balance do not outweigh the acceptability of the scheme. It is therefore recommended that the application is approved.

RECOMMENDATION

PERMIT

CONDITIONS

1 Parking (Compliance)

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

Reason: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

2 Bicycle Storage (Pre-occupation)

Within 3 months of the date of decision details showing the provision of undercover cycle storage facilities for two bicycles shall be submitted to and approved in writing by the Local Planning Authority. The facilities shall be installed and operational within 2 months of approval of the details submitted. 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 ST7 of the Bath and North East Somerset Placemaking Plan.

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

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

Reason: Any further extensions require detailed consideration by the Local Planning Authority because of the location of the dwelling within the Green Belt and due to potential impacts on neighbouring properties.

4 Plans List (Compliance)

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

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

PLANS LIST:

1 This decision relates to drawings:

1868:

801, 802, 803, 804, 805, 806, 810, 811, 812, 813, 814 dated as received 21st December 2019

800A dated as received 6th January 2020

809B, 1905/002A dated as received 18th March 2020.

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 Permit/Consent Decision Making Statement

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

Development Management

Enforcement Report



REFERENCE:

Enforcement file – 17/00268/UNAUTH

LAND TO WHICH THE ALLEGED BREACH OF PLANNING CONTROL RELATES

Land Rear Of 18-25
Queenwood Avenue
Fairfield Park
Bath

WARD

Walcot

MATTERS WHICH APPEAR TO BE BREACHES OF PLANNING CONTROL

Without planning permission the change of use of land from garden land (Sui Generis) to open and covered storage (B8).

SITE DESCRIPTION

The land is situated to the rear of Queenwood Avenue and Tying Terrace, Fairfield Park, Bath, accessed along a track from Queenwood Avenue within a residential area. The site is surrounded by a number of private gardens. A number of small lean-to structures have been erected on the land and a large metal fence surrounds the land on four sides. The land is being used for open storage and a variety of materials and items are stored within the fence such as building materials and vehicles.

Historic aerial images and maps identify that the land has remained undeveloped for a significant period of time (from at least 1905) and was one of a number of large plots of land positioned to the rear of both Queenwood Avenue and Tying Terrace. These plots of land were historically separated from the larger allotments to the north (now developed) and appear to align with the small rear gardens of Tying Terrace. Whilst not divided along the same boundary lines as the small rear gardens, given the appearance and position of this land it was considered that its lawful land use was as garden land detached from a dwelling(s) which falls within a Sui generis use class.

BACKGROUND AND RELEVANT HISTORY

10th May 2017 – Complaint received regarding condition of land.

14th June 2017 – Enforcement visit to site. Land enclosed within green fence has assortment of items stored and two lean-to buildings within it (vehicle, building materials, fencing, equipment also visible).

18th July 2017 – Planning Contravention Notice issued.

10th August 2017 – Response received to Planning Contravention Notice.

25th September 2017 – Letter sent to Mr Gapper (owner) requesting that the land is cleared of all items within 42 days.

25th April 2018 – Enforcement Notice issued for the change of use of land from garden land (Sui Generis) to open and covered storage (B8). The requirements of the Enforcement Notice were:

- Stop using the land for open and covered storage.
- Permanently remove all items stored on the land from the land.
- Permanently remove the boundary fencing and gates from the land marked x on the attached plan.
- Demolish or dismantle the buildings marked as 'A' on the attached plan and remove all resultant materials from the land.

The compliance period was set at 6 months from the date the Enforcement Notice came into effect (25th May 2018).

15th May 2018 – Enforcement Notice appeal submitted on Ground (d) 'That at the time the enforcement notice was issued, it was too late to take enforcement action against the matters stated in the notice'.

14th December 2018 – Enforcement Notice appeal dismissed. The Inspector stated in his decision notice that "I conclude on the balance of probabilities that the material change of use took place less than 10 years prior to the issue of the enforcement notice. Accordingly the appeal on ground (d) fails."

17th December 2018 – Letter sent to Mr Gapper advising of appeal outcome and that the Enforcement Notice needed to be fully complied with by 14th June 2019 (six months from the date of appeal decision).

4th July 2019 – Enforcement Officer visits site. Land not cleared of any items.

12th March 2020 – Letter to Mr Gapper requesting his attendance at the site for an accompanied visit for Enforcement Officer to assess condition of land. Land owner did not attend.

The site does not benefit from any historic or extant planning permissions.

PERSONAL CIRCUMSTANCES

The Council is unaware of the personal circumstances of the current landowner.

DECISION MAKING FRAMEWORK

The Development Plan comprises the Bath and North East Somerset Core Strategy adopted July 2014 and the Placemaking Plan adopted July 2017. Of particular relevance are Policies:

Core Strategy:

DW1 District Wide Spatial Strategy
B1 Bath Spatial Strategy
B4 The World Heritage Site and its Setting
CP6 Environmental Quality

Placemaking Plan:

NE2 Conserving And Enhancing The Landscape And Landscape Character
D1 General Urban Design Principles
D2 Local Character & Distinctiveness
D3 Urban Fabric
D6 Amenity

The National Planning Policy Framework (“NPPF”) and National Planning Practice Guidance (“NPPG”) are material considerations.

LEGAL FRAMEWORK

- Town and Country Planning Act 1990 (as amended)
- Development Management Procedure Order, 2015 (as amended)
- The Human Rights Act 1998
- The Equality Act 2010

SUPPLEMENTARY PLANNING GUIDANCE

- Bath & North East Somerset Local Enforcement Plan, 2013

REASON FOR ISSUE OF ENFORCEMENT NOTICE

- a) It appears that the breach of planning control has occurred within the last ten years.

- b) The change of use of the land from garden land (Sui generis) to open and covered storage (B8) fails to contribute positively to the surrounding area and therefore is considered to harm local character and distinctiveness. The unauthorised use has resulted in the storage of items which are visually alien within the previously extensive open space which provided the context for the existing residential properties. The erection of buildings and boundary fence detract from the open character and nature of the remaining land. The unauthorised development is therefore contrary to Policy D2 and D3 of the Bath and North East Somerset Placemaking Plan 2017.

FURTHER ENFORCEMENT OPTIONS CONSIDERED

The continued use of the land for open and covered storage is a breach of planning control and constitutes non-compliance with an enforcement notice. Consideration has been given to the following options in this instance:

Enforcement Notice

The enforcement notice that was issued on 25th April 2018 is in effect. This notice was appealed but dismissed and the Inspector upheld the enforcement notice. The unauthorised use has continued along to date. The notice remains in effect; there is no requirement to serve an additional enforcement notice.

Stop Notice

Section 183 of the Town and Country Planning Act 1990 states that “*where the local planning authority consider it expedient that any relevant activity should cease before the expiry of the period for compliance with an enforcement notice, they may, when they serve the copy of the enforcement notice or afterwards, serve a notice (in this Act referred to as a “stop notice”) prohibiting the carrying out of that activity on the land to which the enforcement notice relates, or any part of that land specified in the stop notice*”.

In this section and sections 184 and 186 “relevant activity” means any activity specified in the enforcement notice as an activity which the local planning authority

require to cease and any activity carried out as part of that activity or associated with that activity.

Section (3) identifies that a stop notice may not be served where the enforcement notice has taken effect.

In this instance, the enforcement notice is already in effect and therefore a Stop Notice cannot be used.

Prosecution

The offence

Non-compliance with the requirements of an enforcement notice by the owner of land to which the notice relates is an offence under Section 179(1) of the Town and Country Planning Act 1990 and as such the Council can prosecute owners of land for being in breach of an enforcement notice. It is also an offence under Section 179(4) for a person who has control of or an interest in the land to carry out activities which are required to cease by the notice. Consequently the Council can prosecute any person who is operating from the site, and who has control over it, for their breaches of the enforcement notice.

The Full Code Test

Prosecutions should only commence whereby the case has passed both stages of the Full Code Test as set out within the Code for Crown Prosecutors. The first stage is the Evidential Test, which requires that prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction. The second stage is the Public Interest Stage, which requires that where the Evidential Test is passed prosecutors must go on to consider whether a prosecution is required in the public interest.

In most cases, prosecutors should only consider whether a prosecution is in the public interest after considering whether there is sufficient evidence to prosecute. There are cases where it is clear prior to reviewing all the evidence that the public interest does not require a prosecution. In these instances, prosecutors can decide that the case should not proceed further.

The Evidential Test

Prior to commencing prosecution proceedings, the Council would need to be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against a suspect. The test is whether the prosecutor concludes, following an objective assessment of the evidence, that a court is more likely than not to determine that it is beyond reasonable doubt that the suspect committed the offence.

In this instance, the Council has numerous photographic evidence and officer notes from inspections of the land which identify that the land continues to be used for open storage and covered.

With regard to the evidential test it is considered that there is sufficient evidence available to the Council which indicates that the enforcement notice has not been complied with and the land remains in use for open and covered storage. Further evidence could be from further visits to the land to assess its use.

The Public Interest Test

The Code for Crown Prosecutors identifies that where there is sufficient evidence to justify a prosecution or to offer an out-of-court disposal, prosecutors must go on to consider whether a prosecution is required in the public interest.

A prosecution will not automatically take place if the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In reaching its decision, the Council has considered the questions set out in the Code for Crown Prosecutors at paragraph 4.14. The most relevant of those in these circumstances are discussed below.

The Enforcement Notice remains in effect on the building and the lawful use of the land remains garden land. The use of the land for open and covered storage cannot become lawful.

Other Considerations

Whilst the Council may secure successful prosecution of a landowner for non-compliance with the requirements of an enforcement notice it will not however necessarily result in the notice being complied with and may require repeated prosecution attempts to resolve the breach. This is because under section 179 those found guilty of an offence are only liable to a fine. The court cannot in response to a finding of guilt order that the unauthorised use of the land cease.

Any penalty issued by the Courts could be nominal and a successful prosecution would not guarantee that the land would return to a garden use. Whilst prosecution in this instance could act as a deterrent for similar situations this is not sufficient justification alone.

Prosecutors should consider the costs of bringing a prosecution where relevant, especially where it could be regarded as excessive when weighted against any likely penalty. Prosecutors should not decide the public interest on the basis of this factor alone, but cost can be a relevant factor when making an overall assessment of the public interest.

In the Council's experience, bringing a prosecution is likely to have a substantial impact on the Council's ability to resource other priorities whilst carrying out the prosecution and to give rise to considerable costs. These costs must be weighed against the likely penalty of a fine that would not guarantee that the land would return to an agricultural use.

In addition to the above considerations, the land owner has shown no willingness to engage with the Council to resolve the breach of planning control and has failed to respond to various correspondences sent to them. It is considered that even if a successful prosecution was achieved that this would be unlikely to bring about compliance with the enforcement notice resulting in repeated prosecutions which would have resource implications for the Council.

For the reasons outlined above it is not considered that prosecution of the owner of the land for non-compliance with the enforcement notice would be within the public interest at this point in time though this remains an option that could be considered in the future.

Injunction

Section 187B of the Town and Country Planning Act 1990 allows local planning authorities (LPAs) to apply to the court for an injunction to restrain any breach of planning control (actual or apprehended) whether or not the LPA has exercised or are proposing to exercise any other powers and where it considers it necessary or expedient for the breach of planning control to be restrained by injunction.

In assessing whether it is necessary or expedient for the breach of planning control to be restrained by injunction, the LPA should examine considerations such as any urgency in restraining a breach or anticipated breach of planning control, health and safety, the planning history of the site and proportionality of such a course of action prior to determining whether an injunction is the most appropriate route to pursue.

It is considered that if an injunction was sought and then granted that the breach of planning control may be more likely to be remedied because of the nature of the injunction and the penalties associated with breaching an injunction. Obtaining an injunction to restrain the breach of planning control would support public confidence in the planning enforcement process and demonstrate the importance of complying with the criminal law. This is a strong reason in favour of seeking an injunction.

Case law (*South Bucks DC v Porter and another* [2003] UKHL 26) identifies that if conventional enforcement measures have failed over a prolonged period of time to remedy the breach then courts are more likely to agree to use its own more coercive powers and issue an injunction. The courts would be strongly disposed to grant an injunction where it appeared that a breach or apprehended breach would continue or occur unless and until effectively restrained by law and that nothing short of an injunction would provide effective restraint.

The enforcement notice should have been complied with by 14th June 2019, a period to date of approximately 12 months. The land owner has in this time made no attempts to comply with the notice.

Whilst the enforcement notice has not been complied with for a period of almost 12 months, there are no immediate health and safety issues arising from the continued unauthorised storage use that would warrant such immediate action as guaranteed by the gaining of an injunction. The nature of the breach of planning control does not

pose unacceptable risk to residential amenity of neighbouring properties and there are no highway safety concerns given the location of the site. As such it is not considered that an injunction would be the most effective way of dealing with non-compliance at this point in time.

Direct Action

Where the steps required by an enforcement notice are not taken within the period for compliance within the notice, Section 178 of the Town and Country Planning Act 1990 allows the LPA to enter the land and take the steps to complete the requirements as set out in the enforcement notice. In addition, the LPA may recover from the person who is then the owner of the land any expenses reasonably incurred by the LPA in doing so.

Paragraph 023 of section 17b of the NPPG states:

“These default powers should be used when other methods have failed to persuade the owner or occupier of land to carry out, to the local planning authority’s satisfaction, any steps required by an enforcement notice”.

The main advantages in taking direct action are that it is a relatively quick procedure which directly remedies the breach of planning control; and the LPA can attempt to recover its costs, for example, through a charge on the Land. The principal risk is that the LPA may not recover some or all of its costs or that the scope of work changes once clearance has begun resulting in a cost increase. The cost of the work will be covered by grant funding received from the Ministry of Housing, Communities and Local Government to assist the authority in resolving breaches of planning control.

Having regard to the enforcement options outlined above, it is considered that direct action is the most appropriate option because it should lead to a timely and conclusive resolution of this long running breach of planning control. It is especially effective where the land owner may have neither the willingness nor ability to comply with the requirements of the enforcement notice.

Taking direct action will require contractors appointed by the Council to undertake works to the satisfaction of the requirements of the Notice. Items removed from the

land would be stored and could be re-claimed by Mr Gapper within a specified period. Any items remaining unclaimed would be disposed of with costs recovered where possible.

Other action

There are various options outlined above as to how the Local Planning Authority could taking further action to resolve the outstanding breaches of planning control however consideration needs to be given to the option of taking no further action. The use of the land is controlled by the enforcement notice and the use for open and covered storage will never become lawful. The use of the land may cease if the land is sold in the future.

In considering whether or not to take no further action it must be noted that the unauthorised use of the land continues to attract complaints regarding its on-going unauthorised use and non-compliance with the enforcement notice. It is considered therefore that doing nothing is not in the public interest.

Assessment

Whilst an enforcement notice is in effect on the land which will prevent the mixed use of the land from becoming immune from enforcement action or from becoming lawful it is not considered that there are any suitable alternative methods to control the breach of planning control as explored above.

Taking into account all of the particular circumstances of this case, the LPA considers it necessary and expedient to take direct action through works to clear the land of the items stored and remove the buildings and fence.

Human Rights and Equalities Issues

Mr Gapper owns the land and uses it for storage of items. Taking direct action to clear the land and remove the buildings could represent an interference with his right to the peaceful enjoyment of their possessions under Article 1 of Protocol 1 of the European Convention on Human Rights. The Planning Committee must consider whether any interference with his right to peaceful enjoyment of his possessions has struck the requisite fair balance between the demands of the general interest of the

public and the requirements of the protection of the individual's fundamental rights, or whether it imposed a disproportionate and excessive burden on him (*Cusack v. London Borough of Harrow* [2013] UKSC, 19).

It is the Officer's view that (i) there would be no interference, but (ii) in any event, the demands of the general interest of the public, are legitimately protected by taking direct action and any interference is proportionate. The protection of the public interest cannot be achieved by means that are less interfering with the Owners' rights. The action would not, therefore, result in violation of the Owners' rights under Article 1 of Protocol 1 of the European Convention on Human Rights, or any other Convention article.

With regards to equalities issues, the Council is not aware that Mr Gapper has any protected characteristics.

Conclusion

In light of the above report, having considered the relevant enforcement options available it is recommended that that authority is delegated to the Team Manager – Planning Enforcement, to:

- a) exercise the powers of the authority under s178 of the Town and Country Planning Act 1990 to enter the Land and take the steps required by the Notice; and
- b) exercise any powers of the authority to recover the expenses of doing so.

Bath & North East Somerset Council	
MEETING:	Planning Committee
MEETING DATE:	3rd June 2020
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	

AGENDA ITEM NUMBER

APPEALS LODGED

App. Ref: 19/04914/FUL
Location: Rosemere Homefield Road Saltford Bristol Bath And North East Somerset
Proposal: Erection of a new dwelling and gate house following the demolition of existing dwelling.
Decision: REFUSE
Decision Date: 14 February 2020
Decision Level: Planning Committee
Appeal Lodged: 15 May 2020

App. Ref: 19/00786/FUL
Location: Field Between City Farm And Cotswold View The Hollow Southdown Bath Bath And North East Somerset
Proposal: Erection of 9 dwellings with associated access, parking, drainage and landscaping.
Decision: REFUSE
Decision Date: 19 December 2019
Decision Level: Planning Committee
Appeal Lodged: 19 May 2020

APPEALS DECIDED

App. Ref: 19/00230/FUL
Location: 25 Upper East Hayes Walcot Bath Bath And North East Somerset BA1 6LP
Proposal: Demolition of existing dwelling and erection of 2 No. dwellings, new vehicular and pedestrian access, landscaping and associated works.
Decision: REFUSE
Decision Date: 28 August 2019
Decision Level: Delegated
Appeal Lodged: 29 November 2019
Appeal Decision: Appeal Allowed
Appeal Decided Date: 19 May 2020

App. Ref: 18/03934/FUL
Location: 47 Bailbrook Lane Lower Swainswick Bath Bath And North East Somerset BA1 7AL
Proposal: Construction of a 4 bedroom dwelling in the rear garden with associated parking and landscaping
Decision: REFUSE
Decision Date: 26 April 2019
Decision Level: Delegated
Appeal Lodged: 20 September 2019
Appeal Decision: Appeal Dismissed
Appeal Decided Date: 20 May 2020
