

Bath & North East Somerset Council

MEETING:	Development Control Committee	AGENDA ITEM NUMBER	
MEETING DATE:	14th March 2012		
RESPONSIBLE OFFICER:	Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)		
TITLE:	SITE INSPECTION APPLICATIONS		
WARDS:	ALL		
BACKGROUND PAPERS:			
AN OPEN PUBLIC ITEM			

BACKGROUND PAPERS

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

- [1] Application forms, letters or other consultation documents, certificates, notices, correspondence and all drawings submitted by and/or on behalf of applicants, Government Departments, agencies or Bath and North East Somerset Council in connection with each application/proposal referred to in this Report.

- [2] Department work sheets relating to each application/proposal as above.

- [3] Responses on the application/proposals as above and any subsequent relevant correspondence from:
 - (i) Sections and officers of the Council, including:
 - Building Control
 - Environmental Services
 - Transport Development
 - Planning Policy, Environment and Projects, Urban Design (Sustainability)
 - (ii) The Environment Agency
 - (iii) Wessex Water
 - (iv) Bristol Water
 - (v) Health and Safety Executive
 - (vi) British Gas
 - (vii) Historic Buildings and Monuments Commission for England (English Heritage)
 - (viii) The Garden History Society
 - (ix) Royal Fine Arts Commission
 - (x) Department of Environment, Food and Rural Affairs
 - (xi) Nature Conservancy Council
 - (xii) Natural England
 - (xiii) National and local amenity societies
 - (xiv) Other interested organisations
 - (xv) Neighbours, residents and other interested persons
 - (xvi) Any other document or correspondence specifically identified with an application/proposal

- [4] The relevant provisions of Acts of Parliament, Statutory Instruments or Government Circulars, or documents produced by the Council or another statutory body such as the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007

The following notes are for information only:-

- [1] "Background Papers" are defined in the Local Government (Access to Information) Act 1985 do not include those disclosing "Exempt" or "Confidential Information" within the meaning of that Act. There may be, therefore, other papers relevant to an

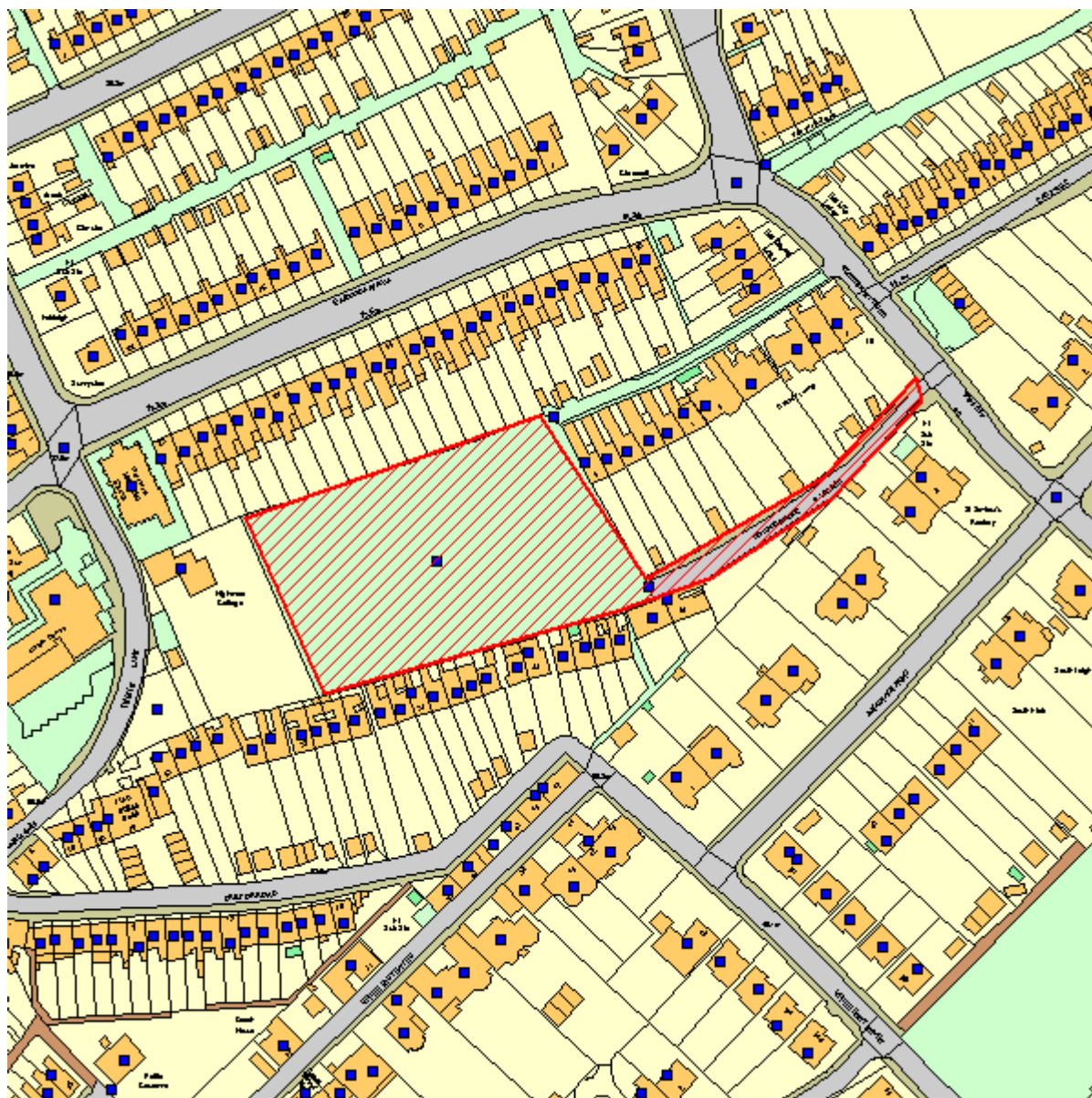
application which will be relied on in preparing the report to the Committee or a related report, but which legally are not required to be open to public inspection.

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

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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	11/04867/VAR 10 January 2012	Partridge Homes (Cotswolds) Ltd Former Allotment Gardens, Southbourne Gardens, Fairfield Park, Bath, Bath And North East Somerset Variation of condition 2 (plans list) of application 10/03251/VAR (Variation of condition 2 of application 07/01598/FUL to allow a variation to the design of house type A (Plots 1-8))	Walcot	Andy Pegler	PERMIT

Item No: 01
Application No: 11/04867/VAR
Site Location: Former Allotment Gardens, Southbourne Gardens, Fairfield Park, Bath



Ward: Walcot **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Lisa Brett Councillor Paul Fox
Application Type: Application for Variation of Condition
Proposal: Variation of condition 2 (plans list) of application 10/03251/VAR (Variation of condition 2 of application 07/01598/FUL to allow a variation to the design of house type A (Plots 1-8))
Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,
Applicant: Partridge Homes (Cotswolds) Ltd
Expiry Date: 10th January 2012
Case Officer: Andy Pegler

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

This application was deferred from the last meeting to allow Members to visit the site to view the entrance to the application site. The application is brought to Committee at the request of Cllr. Brett, having regard to the history of the site. The application has been referred to the Chair, who has advised that it should be determined by the Development Control Committee.

DESCRIPTION OF THE SITE:

The site comprises a former private allotment accessed via Southbourne Gardens off of Claremont Road, Bath. The site has been cleared in readiness for residential development for which conditional planning permission was granted on appeal in March 2010. The site is within both the World Heritage Site and Conservation Area.

THE APPLICATION:

The application proposes a variation of Condition 2 of the current planning permission for residential development comprising 10 no dwellings (as subsequently varied) as far as it relates to the details of the arrangement of the junction of Southbourne Gardens with Claremont Road. The application is a consequence of issues arising from ownership of an adjacent boundary wall, and a desire now to retain a projecting nib therein which was previously to have been removed. The proposed revised arrangement reduces the width of the footway - at the narrowest point at the northern corner of the Rectory garden - to 0.9 m, and reduces the width of the carriageway at that point by 0.4 m. The submitted drawings further indicate measures to be implemented on Claremont Road, comprising white-lined buildouts and restricted on-street parking.

RELEVANT PLANNING HISTORY:

07/01598/FUL: Conditional planning permission granted on appeal 29th. March 2010.

10/03408/COND and 10/03604/COND: Discharge of conditions attached to above planning permission. Granted 20th. December 2010.

10/03251/VAR: Variation of condition relating to the design of house type A. Granted 31st. December 2010.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS: Attention is drawn to the findings of the Inspector in granting planning permission on appeal. Notwithstanding highway objections at the time, the Inspector determined (as had her predecessor) that the junction improvements under consideration were adequate to serve the proposed residential development. On balance, the proposed reduction in the width of the footpaths, from 1.0 m and 1.2 m to 0.9 m; and the proposed reduction in the width of the carriageway, from 4.8 m to 4.7 m, remain compliant with the Inspector's comments and do not therefore give cause for objection. The introduction of restrictive measures on Claremont Road - the subject of a Traffic Regulation Order - are necessary to secure adequate visibility.

REPRESENTATIONS: Letters of objection have been received on behalf of the Bath and Wells Diocesan Board of Finance (owners of the adjacent Rectory) and the Incumbent; and from the Claremont Residents Association. They raise the following concerns:

- the description of the application is ambiguous and misleading;
- the dates of the public notice and site notice do not correspond;

- there would be insufficient space for cars (of larger size) to pass at the junction;
- there is an increased risk of vehicles mounting the footway;
- increased risk to pedestrians resulting from reduced footways; and
- visibility obscured by projecting nib of boundary wall.

A further 17 individual letters of objection have been received, raising the following additional concerns:

- there are frequent and numerous visitors to the Rectory (situated at the junction);
- the site should be returned to allotments;
- the off-site parking restriction measures shown are inconsistent with the measures approved;
- the previously approved scheme should be considered as the absolute minimum;
- vehicle 'stacking' will result on Southbourne Gardens and Claremont Road;
- cars are being given priority over pedestrians;
- disputed ownership of land at the entrance to Beaufort Villas;
- ownership of parts of the site remains uncertain; and
- the continued concerns of the Council's highway officer.

It is suggested that Members should undertake a site visit; and that consideration should be given to a shared raised platform and a wider footway, on the north side only.

POLICIES/LEGISLATION

POLICY CONTEXT:

JOINT REPLACEMENT STRUCTURE PLAN 2002 - saved policies:

- 1 : Sustainable Development
- 2 : Locational Strategy
- 6 : Bath
- 58 : Transport

ADOPTED LOCAL PLAN

Bath & North East Somerset Local Plan (including Minerals and Waste policies) 2007:

- NE.11: Species and Habitats
- HG.4: Housing Development
- D.2: General Design and public realm considerations
- D.4: Townscape considerations
- T.24: General Development control and access policy
- T.26: On-site parking and servicing provision
- BH.1: World Heritage Site
- BH.6: Conservation Area.

Bath and North East Somerset Submission Core Strategy (May 2011) is currently subject to Examination. Therefore it can only be given limited weight for development management purposes.

NATIONAL POLICY:

PPS1: Delivering Sustainable Development

PPS 3: Housing

PPG13: Transport

DRAFT NATIONAL PLANNING POLICY FRAMEWORK (undergoing a consultation exercise and should only therefore be afforded limited weight)

OFFICER ASSESSMENT

HIGHWAY SAFETY: The primary issue is the effect of the proposal upon the interests of highway safety and, in this regard, the decision of the Planning Inspector (and that of a previous Inspector) in granting the recent planning permission is of particular relevance.

The Inspector(s) determined that a carriageway width of 4.1 m was sufficient for two cars to pass; and that the proposal(s) - including traffic regulation measures on Claremont Road - represented a significant improvement on the existing situation, notwithstanding the additional traffic generated by the related residential development. The Inspector considered, in this case, that traffic volumes would remain low, speeds would be likely to remain low, and the likelihood of people passing each other, including with pushchairs, at the same point as vehicular traffic would be limited. A footway of 0.9 m width would, the Inspector accepted, strike an acceptable balance between providing a pedestrian refuge while maintaining an adequate running surface for vehicles.

It remains necessary for parking restrictions on Claremont Road to be imposed, and the submitted drawings indicate an arrangement identical to that previously found to be acceptable. Members are advised that recently implemented measures - the subject of a Traffic Regulation Order (TRO) - do not accord with the scheme recommended by the Inspector. It will be necessary therefore for an alternative TRO to be made, and implemented prior to development. The TRO measures will assist on those likely infrequent occasions when two larger vehicles seek to pass at the junction, and will enable acceptable visibility to be achieved.

CONSERVATION AREA: The revised proposals will continue to preserve the character and appearance of this part of the Conservation Area.

SECTION 106 UNILATERAL UNDERTAKING: The planning permission which this application seeks to vary is subject to a Unilateral Undertaking relating to the TRO; the dedication of land at Deadmill Lane for allotment use; and a financial contribution to works at Fairfield Park Allotments. It will therefore be necessary to seek a Deed of Variation as a consequence of the current application.

OTHER MATTERS:

Description: The description of the proposal is correct in that it relates to a variation of a condition which has previously been varied.

Public/Site Notices: It is not necessary for the dates (for representations) in the public notice and site notice to correspond. Full account has been taken of all representations received within the relevant periods.

Ownership: The area of land adjacent to the Rectory (and included within the 'red line') has been confirmed as public highway. The Council, as the Highway Authority, have been given appropriate notice of the application. Ownership is not a material planning consideration.

Alternatives: With regard to alternative arrangements suggested by third parties, the current application falls to be considered on its individual merits.

CONCLUSION:

The proposed revised arrangement continues to meet the fundamental objectives established by the Planning Inspector in granting planning permission for the residential development of this former allotment site. The reductions in footway and carriageway widths over a limited distance would, with appropriate TRO measures, adequately provide for the interests of highway safety.

RECOMMENDATION:

(A) Authorise the Planning and Environmental Law Manager to secure a Deed of Variation under Section 106 of the Town and Country Planning Act 1990 to cover:

- i) the revised access, which is all on public highway;
- ii) a record that land at Deadmill Lane has transferred to the Council; and
- iii) a record that it has been decided by the Council that they will take the commuted sum as opposed to having the works carried out on the allotment land at Fairfield Park.

(B) Upon the completion of the Agreement authorise the Development Manager to PERMIT the application subject to the following conditions:

CONDITIONS

1 The development hereby permitted shall commence by the 1st. April 2013.

Reason: In accordance with Condition 1 attached to planning permission 07/01598/FUL; and as required by Section 91 of the Town and Country Planning Act 1990.

2 The development hereby permitted shall be carried out in accordance with the following approved plans unless otherwise altered by plans required to comply with the other conditions attached to this permission: Site Location Plan R.0136_06-1, drawings no. 771/1C and 771/100 date stamped 16 July 2010, 771/2A date stamped 11 August 2010 and 771/5D, date stamped 2 September 2010 (clarified by e.mail dated 6 October 2010); and to details submitted by e.mails dated 5 October 2010, 7 December 2010 and 22 December 2010, 771/3, 1635/102 Rev G, R.0136-06-C, and 771/4A.

3 The development shall be carried out in accordance with the submitted details of materials and finishes approved under 10/03408/COND dated 20.12.2010.

4 The development shall be carried out in accordance with the submitted hard and soft landscape scheme approved under 10/03408/COND dated 20.12.2010.

5 All hard and soft landscape works shall be carried out in accordance with the approved details and in accordance with the programme of implementation agreed with the local planning authority. Any trees or plants indicated in 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.

6 Until the development has been completed the protective fences approved under 10/03408/COND dated 20.12.2010 shall not be removed and the protected areas shall be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for approved arboricultural or landscape works.

7 Prior to the commencement of any form of site works or clearance the local planning authority shall be given not less than two weeks notice in writing of these works to ensure that appropriate measures of landscape protection under condition 6 have been implemented in accordance with the approved plans.

8 Notwithstanding the provisions of the Town and Country Planning (General Permitted development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no lines, mains, pipes, cables or other apparatus shall be installed or laid on the site other than in accordance with the details approved under 10/03408/COND dated 20.12.2010.

9 The development shall be carried out in accordance with the method statement approved under 10/03408/COND dated 20.12.2010, detailing how works to the footway, carriageway and underground services in Southbourne Gardens / Beaufort Villas will be carried out without harm to adjacent trees and their root systems.

10 No development shall commence until the necessary measures to restrict parking at the junction of Southbourne Gardens with Claremont Road have been confirmed in writing on behalf of the local planning authority and no part of the development shall be occupied until the works have been implemented.

11 No development shall commence until the works to Southbourne Gardens, including the junction of Southbourne Gardens with Claremont Road, and the provision of a continuous footway on the southern side, have been completed in accordance with the approved drawing no 1635/102 Rev G.

12 The retaining structures relating to the access road / turning head shall be completed in accordance with the details approved under 10/03604/COND dated 20.12.2010 prior to the first occupation of any dwelling hereby approved.

13 The development hereby permitted shall not be occupied until the emergency access as shown on site layout drawing no 771/1B has been provided and a method statement of control to prevent unauthorised use of it has been submitted to and approved in writing by the local planning authority. The emergency access shall only be operated in accordance with the approved method statement details.

14 The development shall be carried out in accordance with the details of the turning head, including sectional drawings and details of screening, and the surfacing details and

gradient for the carriageway, footway, turning head, car parking areas and the pathway to the front of the houses, as approved under 10/03408/COND dated 20.12.2010. The development hereby permitted shall not be occupied until the access together with all the proposed parking and turning areas, screening and pathways have been constructed in accordance with the approved details.

15 The garages hereby approved shall be retained for the garaging of private motor vehicles associated with the dwellings hereby approved and for no other purpose.

16 The development hereby approved shall not be occupied until works for the disposal of sewage and surface water have been provided on site to serve the development in accordance with details first submitted to and approved in writing by the local planning authority.

17 No removal of trees shall take place between 1 March and 31 August unless a survey to assess any nesting bird activity on the site during this period and a scheme to protect the nesting birds has been submitted to and approved in writing by the local planning authority and no trees shall be removed between 1 March and 31 August other than in accordance with the approved nesting bird protection scheme.

18 Prior to the commencement of development a scheme of mitigation works to avoid harm to any reptiles found on the site shall be undertaken in accordance with details approved under 10/03408/COND dated 20.12.2010.

19 The development shall be carried out in accordance with the scheme for the accommodation of badgers on the site, including the establishment of an exclusion zone around the sett(s) from which all building, engineering or other operations and all vehicles and personnel working on the site shall be excluded, and proposals for site and habitat management following completion of the development, as approved under 10/03408/COND dated 20.12.2010.

20 The development shall commence in accordance with the programme of access which will be afforded to named archaeologist(s) to observe and record all ground disturbance during construction (such works to include any geological trial pits, foundations and service trenches) as approved under 10/03408/COND dated 20.12.2010.

21 The development shall be carried out in accordance with the construction management plan approved under 10/03604/COND dated 20.12.2010.

PLANS LIST: This decision relates to the Site Location Plan, and drawing no. 1635/102 Revision G date stamped 15th.November 2011.

REASONS FOR GRANTING APPROVAL

The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the Policies set out below at A.

A.

Local Plan Policies T.24 and BH.6