

Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **11th April 2012**

AGENDA
ITEM
NUMBER

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RESPONSIBLE OFFICER: Lisa Bartlett, Development Manager, Planning & Transport Development (Telephone: 01225 477281)

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 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.

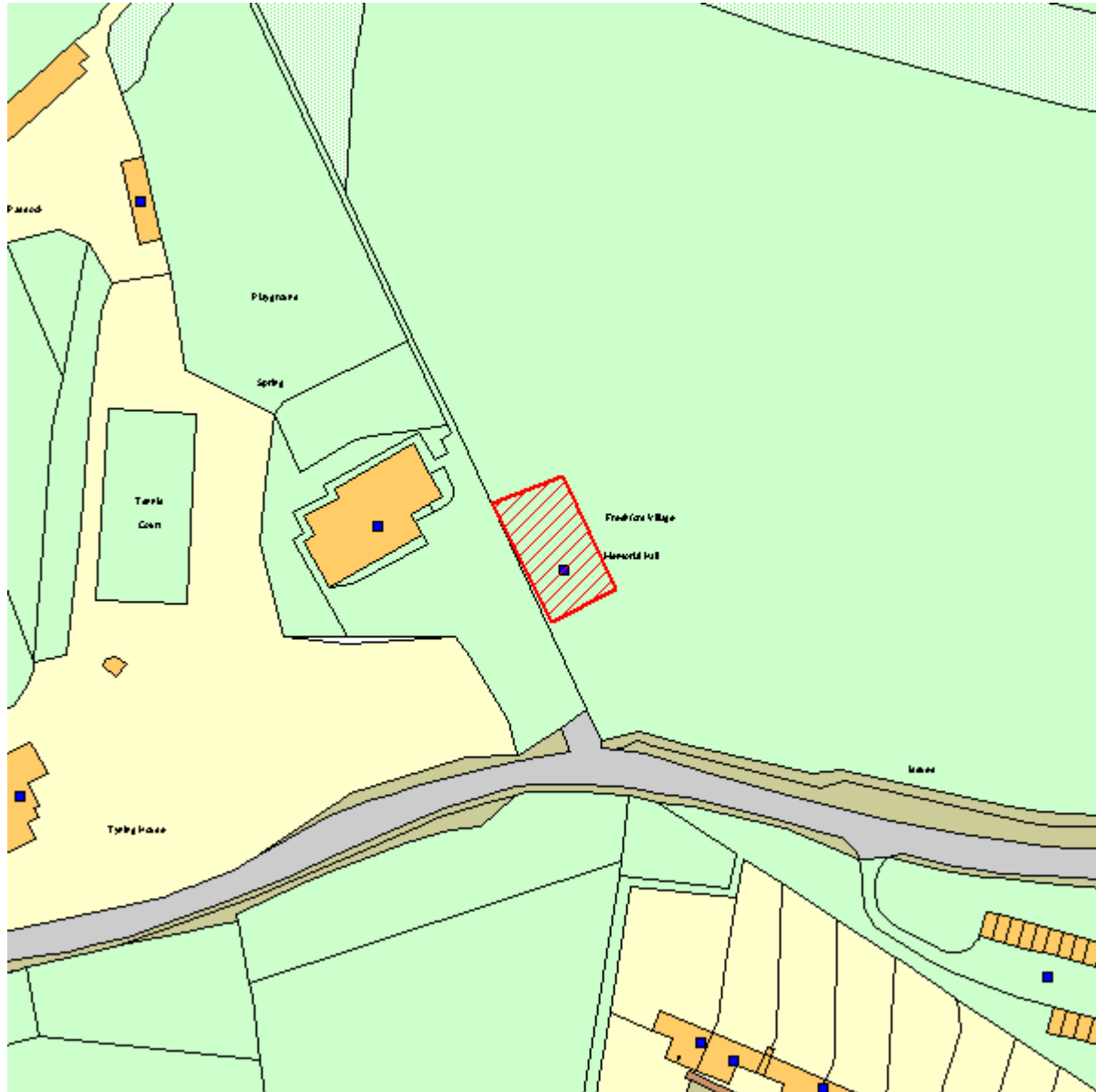
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting 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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02	10/04399/FUL 16 February 2011	Avon Wildlife Trust Folly Farm, Folly Lane, Stowey, Bristol, Bath And North East Somerset Change of use from Class C2 to Mixed Use combining Classes C2/ D2 for residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities (Retrospective)	Chew Valley South	Andy Pegler	PERMIT
03	11/04808/VAR 13 February 2012	Sainsbury's Supermarkets Ltd Sainsbury's Supermarket Limited, 170 Frome Road, Odd Down, Bath, BA2 5RF Variation of condition 29 of application 09/02389/OUT to allow deliveries from 06:00 to 23:00 seven days a week including bank holidays (Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout, and scale reserved for future consideration on this part.)	Lyncombe	Jonathan Fletcher	PERMIT
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Item No: 01
Application No: 12/00207/FUL
Site Location: The Galleries Shop, Freshford Lane, Freshford, Bath



Ward: Bathavon South

Parish: Freshford

LB Grade: N/A

Ward Members: Councillor Neil Butters

Application Type: Full Application

Proposal: Erection of extension to Freshford Shop to increase cafe area and decking

Constraints: Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, Area of Outstanding Natural Beauty, Greenbelt, Public Right of Way,

Applicant: Galleries Ltd

Expiry Date: 12th March 2012

Case Officer: Tessa Hampden

REPORT

REASON FOR REFERRING APPLICATION TO COMMITTEE:

This application was deferred from the March Development Control Committee to allow time for the application to be advertised as a Departure and to give the applicants the opportunity to demonstrate very special circumstances to outweigh the harm to the Green Belt by reason of inappropriateness.

DESCRIPTION OF SITE AND APPLICATION:

The application relates to the Galleries Shop which is a community shop built in 2009. The site is located off Freshford Lane, adjacent to the Village Hall but outside of the defined Freshford settlement boundary. The Site is located within the designated Green Belt and the Cotswold Area of Outstanding Natural Beauty.

The application seeks planning permission for the erection of an extension to increase the cafe and decking area. The cafe extension is 22sqm which is sized to accommodate 4 cafe tables to provide seating for an additional 16 customers. The new deck is 44sqm and the overall space can be separated from the shop area with double doors when required.

Since this application was discussed at the previous Development Control Committee, the agent has submitted additional information, in the form of a letter of support from the Director of the Galleries Shop. This puts forward what the applicant believes are very special circumstances to allow for a departure from the usual policies of constraint. Further, this letter provides additional supporting information following the publication of the first committee report.

RELEVANT PLANNING HISTORY:

DC - 07/03529/OUT - Approve - 21 May 2008 - Erection of new timber building for use as a community shop

DC - 08/02993/RES - Permit - 11 November 2008 - Erection of new timber building for use as a community shop (Reserved matters for outline application 07/03529/OUT)

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAY DEVELOPMENT - The relatively modest extension would give rise to an increase of 3 spaces in the parking requirement. However having observed the operations in busy periods, the various community uses were accommodated successfully with room to spare. There are therefore no highway objections to the development.

Cllr Butters - requests that the application is heard at Committee if the application is to be refused.

FRESHFORD PARISH COUNCIL: supports the planning application for the following reasons:

- A greater proportion of the building can be given over to A3 (café) use;
- Since the shop and café has opened the community benefit of both has been enormous;
- The primary reasons for supporting the original application for the shop were those relating to the very special circumstances associated with community benefit;

- The development will enable the community benefit to be considerably enhanced whilst the main use of the development will continue to remain as a shop.

REPRESENTATIONS:

3 third party comments have been received, 2 objecting to the development and 1 making general comments. The comments can be summarised as follows:

- Further build would mean additional use of Green Belt land
- Visual outlook from neighbouring property would be impaired
- Overlooking issues from new building and decking
- Consideration of new planting if consent is granted
- Development will overturn the original intent of maintaining the building as a community shop, by increasing the overall area for the café area.
- Change of purpose may have a detrimental impact upon the plans for the village
- Stakeholder engagement has been poor
- Capacity in the village hall which could be used
- Original concept for the shop has been eroded with it now being an electricity generating station and potentially a café.

POLICIES/LEGISLATION

Bath and North East Somerset Local Plan (including minerals and waste policies) 2007

D2 - Design and public realm

D4 - Townscape

SC1 - Settlement classification

ET7 – Non-agricultural development on agricultural land

S4 Retail development outside of the identified shopping centres

S9 - Retention of local needs shops outside the identified centres and development of new small scale local shops

GB1 - Control of development in the Green Belt

GB2 - Visual amenities of the Green Belt

NE1 - Landscape character

NE2 - Areas of outstanding natural beauty

NE5 - Forest of Avon

NE16 - Protection of best and most versatile agricultural land

BH6 - Development within or affecting Conservation Areas

T1 - Overarching access policy

T24 - General development control and access policy

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes. The following policies should be considered D2, D4, T1, T24, CP8, GB2, SC1, ET7, S4, S9, NE1, NE2, NE16, BH6.

The National Planning Policy Framework was published on 27th March 2012. This document has significant weight in the consideration of this planning application as some of its' policies have a direct implication on a number of the Local Plan policies referred to above, in particular GB1, GB2, S4 and S9 of the Local Plan and CP8, GB2, S4 and S9 of the Core Strategy.

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT:

GREEN BELT: This site and all of the surrounding land is located within the Bath/Bristol Green Belt where strict controls over development exist. Development is only acceptable if it falls into specified categories of 'appropriate development' or if very special circumstances exist to allow a departure from the usual policies of restraint.

The National Policy Planning Framework, which was published on 27th March 2012, outlines the forms of the development, which need not form inappropriate development. This replaces Planning Policy Guidance 2 - Green Belts, which the relevant policies of the Local Plan and the emerging Core Strategy are based upon. The wording of the exceptions to inappropriate development has been amended from that contained within PPG2. The NPPF cites that exceptions include:

'The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building'.

PPG 2 referred to additions over and above the size of the original dwelling. This change in wording to introduce reference to 'building' results in the proposed development now being considered as 'appropriate' within the Green Belt, providing the development does not result in a disproportionate addition to the original building. The extension (including the decking area) represents approximately a 23 % increase in volume over the original building. This can be considered to be a proportionate addition in volume terms. Further due to the subservient design of the development, the proposals can also be considered to be a proportionate addition in visual terms and neither does it adversely affect the openness of the Green Belt.

The development is not therefore considered to represent inappropriate development in the Green Belt and it is now not necessary for very special circumstances to be demonstrated.

EXTENSION TO RETAIL UNIT: Policy S4 of the Local Plan deals with retail development outside of the shopping centres identified in Policy S1 of the Local Plan. The criterion of this policy is subject to Policy S9 of the Local Plan. Policy S9 deals with the development of new small scale shops outside of the identified centres but a requisite of this policy is that the development must be within the settlements as defined in policy SC1. The settlement boundary of Freshford is located a considerable distance to the east of the application site. The site itself does not therefore form part of the identified settlement of Freshford. The extension of this retail unit, away from the settlement of Freshford would not therefore accord with Policy S4 or S9 of the Local Plan.

However the NPPF offers further advice on development in rural areas and promotes supporting a prosperous rural economy. Paragraph 25 cites that the sequential test (as referred to in Policy S4 of the Local Plan) should not be applied to applications for small scale rural offices or other small scale rural development. Further paragraph 28 states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. It advises that to promote a strong rural economy, local plans should, support the sustainable growth

and expansion of all types of businesses in rural areas, both through conversion and well designed new buildings. Further it cites that local plans should promote the retention and development of local services and community facilities in villages such as local shops, meeting places etc.

Whilst it is noted that the application site is located outside of the defined village boundary, the NPPF gives significant weight to supporting sustainable growth and expansion of businesses in the rural areas. The applicant has stated that the café and shop unit will work as one unit, with the café and shop continuing to promote each other. Further no objections have been made by the Highway Development Team with regards to the location of the development in terms of its siting outside of the village boundary. On balance therefore, given the above, there is considered to be no objection in principle to the expansion of this small scale village facility.

CHARACTER AND APPEARANCE: The building is located in a prominent location, readily visible from Freshford Lane and the surrounding area. The extension, due to its appropriate design and scale will appear as a subservient addition to the host building. It will be built in materials to match the existing building which will ensure that the development integrate successfully with this existing development. The extension to the decking area, due to the topography of the site is built up above natural ground level. This results in the decking area having a relatively bulky appearance and increases the prominence of the development particularly from Freshford Lane. However, on balance, given the fact that the decking area will be viewed in context of the main building, it is not considered to result in harm to a level as to warrant a refusal.

On balance therefore there is not considered to be any significant harm to the character of the building, the immediate area or the Area of Outstanding Natural Beauty in which the site is set.

HIGHWAY SAFETY: The parking needs of the shop and adjacent village hall are met by the shared car park which has space to accommodate approximately 30 cars. During most normal store opening hours, adequate space is available to users. At the beginning and end of the school day additional use is made of the store and car park as parents take and collect their children to/from the village school. Use of the car park is encouraged by the school governors as a means of easing congestion in the centre of the village. The operation of the car park at those periods has been observed and it is recognised that the various uses were accommodated successfully with room to spare. There is therefore no highway objection to this development.

RESIDENTIAL AMENITY: The site is set a sufficient distance away from any neighbouring properties to ensure that the development will not have an adverse impact upon the residential amenity of these occupiers.

OTHER ISSUES/CONCLUSION

The publication of the NPPF has amended the exceptions to 'inappropriate development' within the Green Belt. Therefore, as the extension/decking is considered to represent a proportionate addition to the original building, the development is not considered to result in inappropriate development in the Green Belt. Further the NPPF places significant weight on supporting a prosperous rural economy, and with this in mind, there are no

objections to the development in principle. There is not considered to be significant harm to the character and appearance of the building, or the rural character of the area. The development would not result in any undue harm to highway safety or to the residential amenity currently enjoyed by the neighbouring occupiers.

No other significant issues have arisen as a result of this planning application and for the reasons stated above this application is recommended for approval.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 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 permissions.

2 The materials to be used for the external surfaces of the extension shall match those of the existing building.

Reason: In the interest of the character and appearance of the building and the surrounding area.

3 No more than 46m² of the total floorspace of the building hereby approved shall be used for A3 purposes.

Reason: In order to ensure that the main use of the development remains as a shop.

4 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: 426/S/01-05 and 426/P/01-04 date stamped 16th January 2012

REASONS FOR GRANTING APPROVAL

1. 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

D.2, D.4, SC1, ET7, S4, S9, GB1, GB2, NE1, NE2, NE5, NE16, BH6, T1 and T24 of the Bath and North East Somerset Local Plan (including minerals and waste) adopted October 2007.

The NPPF was published on the 27th March 2012 and the impact of this on the above policies has been fully considered in the assessment of the planning application.

2. As the extension/decking is considered to represent a proportionate addition to the original building, the development is not considered to result in inappropriate development in the Green Belt or adversely affect openness. Further the NPPF places significant weight on supporting a prosperous rural economy, and with this in mind, there are no objections to the development in principle. There is not considered to be significant harm to the character and appearance of the building, or the rural character of the area. The development would not result in any undue harm to highway safety or to the residential amenity currently enjoyed by the neighbouring occupiers.

Item No: 02
Application No: 10/04399/FUL
Site Location: Folly Farm, Folly Lane, Stowey, Bristol



Ward: Chew Valley South

Parish: Stowey Sutton

LB Grade: N/A

Ward Members:	Councillor V L Pritchard
Application Type:	Full Application
Proposal:	Change of use from Class C2 to Mixed Use combining Classes C2/D2 for residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities (Retrospective)
Constraints:	Agric Land Class 1,2,3a, Agric Land Class 1,2,3a, Coal fields, Forest of Avon, Greenbelt, Sites of Nature Conservation Imp (SN), Water Source Areas,
Applicant:	Avon Wildlife Trust
Expiry Date:	16th February 2011
Case Officer:	Andy Pegler

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: The application has been referred back to Committee due to the fact that interested third parties had not received notification of the meeting held on the 15 February 2012, therefore denying parties the opportunity to make representation.

DESCRIPTION OF SITE AND APPLICATION: Folly Farm is remotely situated some 1.5km to the north of Stowey. It is accessed from the A368 via Folly Lane and a track which continues beyond. The authorised use of the farm, operated by Avon Wildlife Trust, is as a residential education centre, with ancillary facilities. The site is within the Green Belt; and is designated as a Local Nature Reserve and (in part) a Site of Special Scientific Interest.

The nearest residential neighbours are situated at the western end of Folly Lane, and at Lyde's Farm to the south-west.

The application is retrospective, and attempts to regularise the currently unauthorised use of the complex as a wedding venue by seeking planning permission for a mixed use, combining Use Classes C2 and D2. The application refers to weekend wedding facilities, with guests arriving on a Friday and departing on the Sunday, although the enterprise currently offers both weekend and weekday facilities. Wedding events are currently restricted to a total of 35 per year. Hours of operation are proposed as 9.00am-2.00am, Monday to Friday and 9.00am-23.00pm, Sundays and Bank Holidays. The application includes a planning statement and transport and noise assessments, amended and updated in response to issues which have been raised, and an ecological assessment.

RELEVANT PLANNING HISTORY: Planning permission was granted, in 2006, for the use of the farm complex as a residential education centre with ancillary café and teaching and workshop facilities (05/03279/FUL).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAY DEVELOPMENT OFFICER: Is satisfied that the visibility at the junction of Folly Lane with the A368 is of a satisfactory standard; and that the level of traffic generated by the proposed use would not be significantly greater than that generated by the current permitted use. A passing bay has been completed at the eastern end of Folly Lane, in accordance with the requirements of a Section 106 Agreement relating to a previous

planning application. While passing opportunities remain limited, the occasions when conflict might occur are unlikely to be significant. Conditions are suggested in the event of planning permission being granted.

ECOLOGICAL OFFICER: Is satisfied that, with appropriate mitigation measures, there would be no harm to ecological interests.

ENVIRONMENTAL HEALTH OFFICER: Is satisfied that the (updated) acoustic report correctly asserts that noise from activities on the site are likely to be inaudible at the nearest noise sensitive premises. Suggests that an appropriate noise management plan could be secured by condition.

OTHER REPRESENTATIONS / THIRD PARTIES:

Letters of objection have been received from, or on behalf of, the 3 neighbouring occupiers. They express the following concerns:

- the visibility and stopping distances at the junction of Folly Lane and the A368 are grossly inadequate (attention is drawn to highway concerns in relation to previous applications);
- traffic generated by Folly Farm exceeds the figures presented with the previous application, in 2006;
- no account has been taken of traffic generated by related services and staff, nor the potential for resident guests to travel to and from the site during the course of their stay;
- uncontrolled activity could further increase in the future;
- previous applications relating to premises on Folly Lane have previously been refused, and dismissed on appeal;
- disturbance by late night / early morning music;
- functions throughout a significant part of the year;
- noise disturbance by traffic late at night / early morning; and
- regular conflict involving 2 way traffic along the lane.

10 letters of support have been received from service providers to, and users of, Folly Farm as a wedding venue. They describe the benefits to local businesses/employers, and the attractive nature of the facility.

POLICIES/LEGISLATION

POLICY CONTEXT:

NATIONAL POLICY:

National Planning Policy Framework as published on the 27th March 2012

DEVELOPMENT PLAN: Bath and North East Somerset Local Plan (including Minerals and Waste Policies) 2007. Relevant policies:

- GB.1: Control of development in the Green Belt;
- GB.2: Visual amenities of the Green Belt;
- NE.8: Nationally important wildlife sites;
- NE.9: Locally important wildlife sites;
- NE.11: Locally important species and habitats;
- ET.9: Re-use of rural buildings;
- ES.12: Noise and vibration;

- D.2: General design and public realm considerations; and
- T.24: General development control and access policy.

The Council's Submission Core Strategy (May 2011) is out at inspection stage and therefore will be given only limited weight for development control purposes.

OFFICER ASSESSMENT

PRINCIPLE OF PROPOSED USE: The existing authorised use of the site was approved following referral to the Secretary of State, and in the face of Green Belt and Highway concerns, on the basis that the (then) proposal entailed a very worthwhile residential educational establishment, and that very special circumstances applied. The scheme was portrayed as being of low intensity, with tightly controlled and limited vehicle activity; and consistent with this tranquil environment. Activity to, from and at the site is not however restricted by condition.

Representations have expressed concern that the impact of the current (and proposed) uses far exceed that which was initially envisaged. Whilst that may be so, the approved use is unfettered in this regard, and the current proposal falls to be considered on its individual merits. Any assertion however that the use of Folly Farm for wedding functions is comparable with its use for conferences is considered unreasonable. The likely nature of activity generated by a conference associated with this education centre is likely to be significantly different to that generated by a wedding function.

GREEN BELT: The proposed additional use would, for the most part, utilise existing buildings and car park areas, and the applicant is prepared to accept a condition relating to marquees and temporary structures. Accordingly, the proposal - resulting in an extended mixed use - would not represent inappropriate development since it would maintain the openness of the Green Belt and would not conflict with the purposes of including land in it.

HIGHWAYS: The junction of Folly Lane with the A368 has been re-assessed against the current criteria and has been found to be of a satisfactory standard. The submitted Transport Statement and Update Report assess the traffic generated by the proposed use, including surveys of wedding events which took place during April and May of 2011. Whilst the figures appear not to include service at staff vehicles, the level of traffic generated by the proposed use and the likely incidence of conflict resulting from 2-way traffic within the lane would not be of such significance to warrant refusal on the grounds of highway safety.

Regard has been had to a previous decision of a Planning Inspector in dismissing an appeal against the Council's refusal of planning permission in respect of an application for retail sales at a nursery also served by Folly Lane - the Inspector determined that the lane was unsuitable for the likely level of traffic that would result. The current proposal however would generate traffic outside of peak hours and, furthermore, the movement would tend to be 'tidal'.

A planning condition had been suggested by the Highway Development Officer to limit the number of guests and events to be held at the venue. The applicants have however demonstrated that the number of guests to the venue has been fairly stable over a two year period. The size of the buildings on site and the limitations on guest numbers as part

of the wedding license also act as self-regulatory controls in this regard. A condition is not considered to be necessary in this instance and a condition may ultimately also prove difficult to enforce. The Highway Development Officer has therefore withdrawn his request in this regard.

RESIDENTIAL AMENITY: The applicants have sought to demonstrate that the proposal will have little or no impact upon the amenities of neighbours, who are some distance away from the farm complex. Measures have been installed within the main reception building in order to reduce the potential for disturbance from amplified music, etc. Further measures have been implemented in order to reduce the noise generated by vehicles moving over a cattle grid within the access drive. Further acoustic assessments have been undertaken which adequately demonstrate that it would be unlikely that the proposal would cause harm to the amenities of neighbouring residential properties. A noise management plan, to include the above measures, should be secured by condition.

The proposed use will generate traffic along Folly Lane, which runs adjacent to residential properties, at a level and time of day which would not reasonably be expected as a consequence of the currently approved use of Folly Farm. The submitted evidence suggests however that vehicle activity in the area - where residential properties are situated close to the main road - will not be significantly increased to the detriment of residential amenity.

WILDLIFE: An ecological assessment including proposed mitigation measures has been submitted in response to initial concerns regarding a lack of survey data. Such mitigation measures would be the subject of appropriate conditions if this application was found to be acceptable in principle.

SUSTAINABILITY: The Folly Farm Centre has been established employing low impact building techniques. No further operational development is proposed in association with the current proposal, which might otherwise raise issues relating to sustainability. Whilst the applicant has sought to implement sustainable transport measures in relation to the use as an education centre, the proposed additional use is likely to be largely reliant on private transport.

CHANGES TO PLANNING POLICY: Since this item was last considered by the Development Control Committee on the 15th February 2012 the National Planning Policy Framework (NPPF) has been released and brought into force. This document has replaced a number of national documents which were considered to be relevant to the determination of this planning application including PPS 1, PPG 2, PPS 4, PPS 7 and PPG 24. The NPPF guidance in respect of the issues which this particular application raises does not differ significantly from that offered in the now replaced national PPGs and PPSs referred to in the previous Development Control Committee report. Accordingly the application continues to be recommended for approval by your Officers.

OTHER MATTERS: It is clear from the representations received that the (unauthorised) use of the centre is welcomed by various service providers. Local employment benefits weigh in favour of the proposal, as do the benefits resulting from the contribution towards the conservation work of the Avon Wildlife Trust.

It became apparent during the consideration of this application when it was previously heard at the Development Control Committee that several planning conditions were inadvertently omitted from the report. These have now been added to this revised report and condition 4 which deals with hours of operation has been amended to correct an error in the suggested hours of operation. The condition now requires that the use for wedding ceremonies and receptions shall not take place outside of the hours of 09:00-02:00 Monday-Saturday rather than requesting such uses to cease at 20:00 on these days.

CONCLUSION:

The proposed, mixed, use involves no operational development and utilises existing buildings and areas of car park. With appropriate conditions, the proposal will maintain the openness of the Green Belt and would not therefore represent inappropriate development. The suggested benefits to the educational / conservation enterprise and the local economy weigh in favour of the development.

Notwithstanding the concerns of neighbours, the proposal raises no sustainable objections on grounds of highway safety. The junction of Folly Lane is of a satisfactory standard; and the additional traffic generated by the proposed use would be likely to occur outside of peak hours.

Whilst the proposed wedding facility would generate vehicle activity during the late night / early morning period, the impact upon the amenities of neighbouring residential properties would not be significant, having particular regard to the proximity of the properties to the main road.

Noise emanating from the proposed use would, with appropriate conditions and mitigation measures, cause no significant harm to residential amenities.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 The residential accommodation and café hereby permitted shall only be occupied or used ancillary to and in connection with the use of the site authorised by this planning permission and shall not be occupied or used independently or separately for any other purposes.

Reason: To prevent an over-intensive use of the site and to restrict additional traffic generation.

2 Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, as amended, (or any order revoking and re-enacting that Order with or without modification) the premises shall be used only for the purposes specified in the application and for no other purpose.

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

3 The development hereby approved shall operate in accordance with a Noise Management Plan which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the surrounding area.

4 The use of the site for wedding ceremonies and receptions hereby approved shall not operate outside the hours of 09:00 to 02:00 Monday to Saturday and 09:00 to 23:00 Sundays and Bank Holidays.

Reason: To safeguard the amenities of nearby occupiers.

5 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 marquees or other free standing buildings shall be erected within the curtilage of Folly Farm, unless a further planning permission has been granted by the Local Planning Authority.

Reason: To safeguard the openness of the Green Belt

6 Within three months of the date of permission and notwithstanding the currently submitted details the applicant shall submit;

(i) A document 'Wildlife Protection Guidance and Procedures at Folly Farm Centre' providing supplementary guidance to centre users, staff and managers for prevention of harm to bats and bat activity, and protection of other wildlife including nesting birds and great crested newts, to be adhered to at all times by all parties

(ii) A programme of implementation of the recommendations for changes to lighting as set out in the 'Bat Roost Inspection and Activity Survey, Folly Farm Centre Buildings' Craig Stenson AWT Consultancy August 2011, and implementation of recommendations of the 'Protected Species and Potential Impacts of Weddings at Folly Farm: Assessment, recommendations, actions' AWT September 2011

(iii) Evidence of implementation and completion of the lighting changes referenced at point (ii)

All uses at Folly Farm Centre shall thereafter operate in accordance with the approved Guidance and Procedure unless otherwise first approved in writing by the local planning authority

Reason: In order to safeguard protected species at and around the site.

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

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

PLANS LIST: This decision relates to the following drawings: 634/PL/101A date stamped 19 October 2010; and 634/BR.2D, 634/BR.3C and AWTF 001 date stamped 17 November 2010.

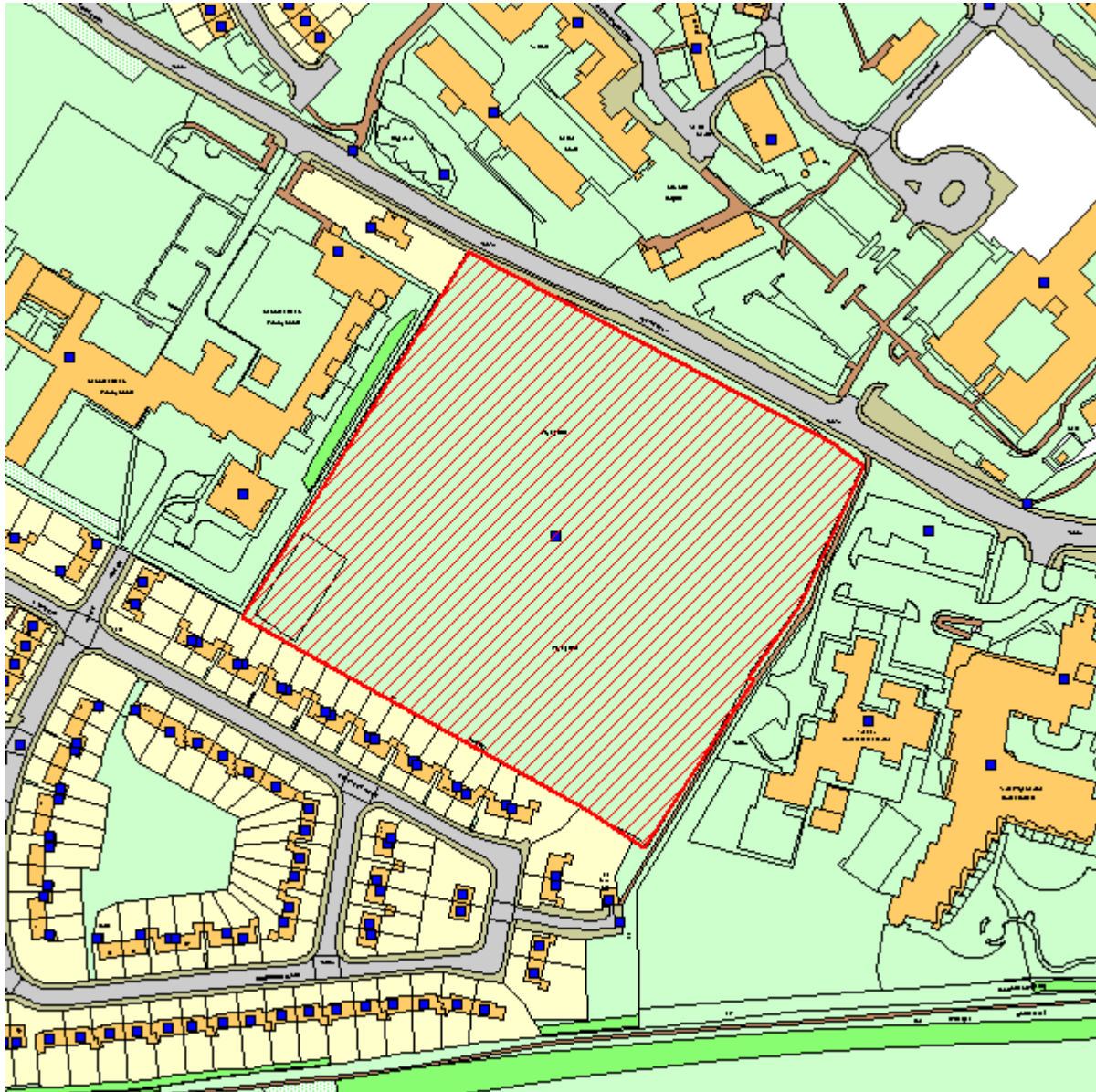
REASONS FOR APPROVAL

The application which is made retrospectively is to change the use of the site to allow a mixed use combining classes C2/D2 to allow residential education, wedding ceremonies and receptions with ancillary cafe, teaching and workshop facilities. The proposed use would for the most part utilise existing buildings and car park areas and subject to a condition to restrict the erection of marquees or other temporary structures then the development will not harm the openness of the green belt or conflict with the purposes of including land within the green belt. The Highway Department's advice is that the level of traffic generated from this proposal and the likely incidence of conflict resulting from 2-way traffic within the lane would not be of such significance to justify refusal of the application on highway grounds. Large amounts of traffic would be generated outside of peak hours and movements would tend to be tidal in their nature.

In respect of neighbouring amenity it is noted that residents are located some distance from the complex. Measures have been installed within the main reception building in order to reduce the potential for disturbance from amplified noise. Further measures have also been employed to minimise noise of cars crossing a cattle grid. A noise management plan is to be required by planning condition. It is accepted that cars will pass residential properties on the lane during late hours however these properties are located close to the main road and refusal of planning permission cannot be justified in this respect. The implications of the development on wildlife has been considered and a condition is recommended in this regard.

The decision to grant approval has taken account of the Development Plan and any approved Supplementary Planning Documents. The proposal is in accordance with Policies GB.1, GB.2, NE.8, NE.9, NE.11, ET.9, ES.12, D.2 and T.24 of the Bath & North East Somerset Local Plan (including Minerals and Waste Policies) 2007.

Item No: 03
Application No: 11/04808/VAR
Site Location: Sainsbury's Supermarket Limited, 170 Frome Road, Odd Down, Bath



Ward: Lyncombe

Parish: N/A

LB Grade: N/A

Ward Members: Councillor Katie Hall

Councillor D F Bellotti

Application Type: Application for Variation of Condition

Proposal: Variation of condition 29 of application 09/02389/OUT to allow deliveries from 06:00 to 23:00 seven days a week including bank holidays (Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout, and scale reserved for future consideration on this part.)

Constraints:	Agric Land Class 3b,4,5, Forest of Avon, General Development Site, Hotspring Protection, World Heritage Site,
Applicant:	Sainsbury's Supermarkets Ltd
Expiry Date:	13th February 2012
Case Officer:	Jonathan Fletcher

REPORT

REASON FOR REPORTING THE APPLICATION TO COMMITTEE:

A request has been submitted by Councillor Nigel Roberts for the application to be referred to the Development Control Committee if officers are minded to approve as concern is raised in relation to the impact of the changes to the delivery hours on residential amenity of adjoining occupiers.

DESCRIPTION OF SITE AND APPLICATION:

The application relates to a new supermarket located within the Bath World Heritage Site. The site is bounded by a mixture of residential and community facility uses. The application seeks a variation of condition 29 of planning permission 09/02389/OUT to allow deliveries between 06:00 - 23:00 seven days a week. The original planning permission currently restricts the delivery hours to between 07:00 - 22:00 Mondays to Fridays and 08:00 - 23:00 on Saturdays, Sundays and Bank Holidays. The original application was for a mixed use development comprising a supermarket and a residential development including a care home and retirement apartments.

RELEVANT HISTORY:

DC - 09/02389/OUT - APP - 21 July 2010 - Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout, and scale reserved for future consideration on this part).

DC - 10/04497/VAR - PERMIT - 17 January 2011 - Variation of condition 39 of application 09/02389/OUT in order to vary the plans list (Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout, and scale reserved for future consideration on this part).)

DC - 11/01432/COND - DISCHG - 24 June 2011 - Discharge of conditions 15, 17, 18, 27, 28, 29 and 37 of application 09/02389/OUT (Mixed use development comprising the erection of 1) a new foodstore and associated accesses including a new roundabout at Frome Road (no matters reserved for future consideration on this part) and, 2) the erection of 'extra care' retirement housing (Use Class C2) (appearance, landscaping, layout and scale reserved for future consideration on this part).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

ENVIRONMENTAL HEALTH OFFICER: It is considered that deliveries can be made to the store within the proposed hours without unreasonable disturbance to adjoining occupiers however a temporary planning permission is recommended.

HIGHWAY DEVELOPMENT OFFICER: No objection is raised to the application.

THIRD PARTIES: Two letters have been received in objection to the application which raise concern in relation to the disturbance from noise which would be generated by the deliveries.

POLICIES/LEGISLATION

Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

The following policies are relevant in this case:

D.2: General design and public realm considerations

BH.1: Impact of development on World Heritage Site of Bath or its setting

Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

Consideration has also been given to the Bath & North East Somerset Draft Core Strategy December 2010 however only limited weight can be attached to this document until it is formally adopted. The policies above have been saved indefinitely until they are replaced through the Local Development Framework.

National Planning Policy Framework - March 2012

NB: The National Planning Policy Framework was published on 27 March 2012 and has been considered in relation to this application. The NPPF guidance in respect of the issues which this particular application raises does not differ significantly from that offered in the now replaced national PPGs and PPSs. Accordingly the application continues to be recommended for approval by your Officers. The preservation of the residential amenity of all existing and future occupants of land and buildings is confirmed as a core planning principle at paragraph 17. Paragraph 123 also confirms that planning policies and decisions should seek to avoid adverse impacts on health and quality of life from noise. This is in accordance with policy D.2 of the Local Plan.

OFFICER ASSESSMENT

INTRODUCTION: The application relates to a new supermarket which is located on the former Hayesfield School playing field. The application site is bounded by residential properties on Cranmore Place to the south and a single dwelling on Frome Road to the north. The application proposes changes to the delivery hours under section 73 of the Town and Country Planning Act 1990 (as amended). The extant planning permission granted under applications 09/02389/OUT and 10/04497/VAR is a key material planning consideration in terms of the issues affecting the development as a whole. The primary issue to consider when determining this application relates to the impact of the revised delivery hours on the residential amenity of the adjoining occupiers.

RESIDENTIAL AMENITY: The delivery area of the supermarket is located to the rear (south) elevation of the building adjacent to the east boundary. The delivery vehicles

access the site from Frome Road and must travel adjacent to the rear boundary to arrive at the delivery area. The access road is located approximately 24 metres from the rear elevation of properties on Cranmore Place.

The application has been submitted with a noise report to evaluate the impact on the adjoining residential properties. The report concludes that quiet out of hours deliveries can be supported on the basis of the Department for Transport's recent publication 'QDDS consortium Quiet Deliveries Demonstration Scheme - Final Report.' (June, 2011). The noise levels during the daytime and night-time are predicted to be in accordance with the relevant noise intrusion criteria. The noise report includes a new solid service yard gate and an undated service yard management plan. A six month trial period is recommended in order to assess the predicted worst case noise levels against background noise levels.

The Council's Environmental Health Officer has provided a consultation response which supports planning permission being granted for a trial period. It is confirmed that the QDDS Report does illustrate the benefits of out of hours deliveries and it has been concluded that a trial period would allow the applicant to demonstrate that the development can be carried out in accordance with relevant principles.

In light of the points set out above, a temporary planning permission is deemed to be acceptable in order to safeguard the residential amenity of adjoining occupiers. An extension to the delivery hours on a temporary basis would allow the delivery hours to be restored to the times specified under the extant planning permission if unacceptable levels of disturbance occur.

CONCLUSION

The proposed variation of the planning permission to allow deliveries between 06:00 - 23:00 for a temporary period of 6 months is considered to be acceptable and is recommended for approval. This decision would have the effect of creating a new planning permission and therefore it is essential that the requirements set out in the conditions attached to the extant planning permission are retained. Although the supermarket has now been completed and the relevant conditions have been discharged, the conditions also relate to the outline planning permission for a care home which has not been commenced. Therefore, these conditions will need to be addressed by subsequent applications for reserved matters and discharge of conditions relating to the proposals for the care home. Condition 3 has been reformulated to ensure that the relevant time limit imposed for the residential development would not be changed as a result of this application. It should be noted that no changes are required to the S106 Agreement as there is a clause which confirms that the provisions of the Agreement will also apply when a planning application is approved for a 'substantially similar' scheme.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 Approval of the details of the (a) layout, (b) scale, (c) appearance, and (d) landscaping of the residential development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before the residential development is commenced.

Reason: This is an outline planning permission and these matters have been reserved for the subsequent approval of the Local Planning Authority under the provisions of Section 92 of the Town and Country Planning Act (as amended) and Articles 1 and 3 of the General Development Procedure Order 1995 (as amended).

2 Details to be submitted for approval of reserved matters in respect of the residential development shall indicate buildings of no more than two storeys in height and the development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory form of development.

3 The residential development hereby approved shall be begun either before the expiration of three years from 17 January 2010, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the latest.

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

4 No development shall commence to implement the residential development hereby permitted until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, for that particular use, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

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

5 No development shall commence to implement the residential development hereby permitted until a sample panel of all external walling materials, to be used in the construction of that use, has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed.

Reason: In the interests of the appearance of the development and the surrounding area

6 No development shall be commenced in relation to the residential development hereby permitted until a hard and soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority, such a scheme shall include details of all walls, fences, trees, hedgerows and other planting which are to be retained; details of all new walls, fences and other boundary treatment and finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; details of the surface treatment of the open parts of the site; and a programme of implementation.

Reason: To ensure the provision of an appropriate landscape setting to the development.

7 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.

8 No site works or clearance shall be commenced in relation to the residential development hereby permitted until protective fences which conform to British Standard 5837:2005 have been erected around any existing trees and other existing or proposed landscape areas in positions which have previously been approved in writing by the Local Planning Authority. Until the development has been completed these fences shall not be removed and the protected areas are to 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.

Reason: To safeguard the areas to be landscaped and the existing trees and planting to be retained within the site.

9 Prior to the commencement of any form of site works or clearance in the relation to the residential development hereby permitted, 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 required under condition No.10 have been implemented in accordance with the approved plans or conditions.

Reason: To ensure that adequate protection is given to the areas to be landscaped and the existing trees and planting to be retained within the site.

10 The proposed access roads, footways, footpaths, verges, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, access gradients, car parking and street furniture relating to the residential development hereby permitted shall be constructed and laid out in accordance with details to be submitted to and approved by the Local Planning Authority in writing before their construction begins. For this purpose, plans and sections, indicating as appropriate the design, layout, levels, gradients, materials and method of construction shall be submitted to the Local Planning Authority.

Reason: To ensure that the roads are laid out and constructed in a satisfactory manner.

11 The residential development hereby permitted shall not be occupied until the proposed works to Frome Road together with the parking, service yard, roads, footways and junctions serving/forming part of the development hereby permitted, including bus stop provision, crossing facilities and traffic regulation orders, have been completed in accordance with details submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

12 The roads and footways serving the residential development hereby permitted shall not be designed or constructed other than in accordance with the standard requirements and specifications of the Council as the Highway Authority.

Reason: In the interests of highway safety.

13 Provision shall be made within the site for the disposal of surface water so as to prevent its discharge onto the highway, details of which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity and highway safety.

14 The foodstore development shall be carried out in accordance with the Travel Plan approved under application ref: 11/01432/COND unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

15 The foodstore car park shall be operated strictly in accordance with the Management Plan approved under application ref: 11/01432/COND unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

16 An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(a) a survey of the extent, scale and nature of contamination;

(b) an assessment of the potential risks to:

(c) human health,

(d) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,

(e) adjoining land,

(f) groundwaters and surface waters,

(g) ecological systems,

(h) archaeological sites and ancient monuments;

(i) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's "Model Procedures for the Management of Land Contamination, CLR 11".

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

17 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

18 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 (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

19 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 Condition 17, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition 18, 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 Condition 19.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

20 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

21 No development or remediation work shall commence in relation to the residential development hereby permitted until a dust control monitoring and management plan has been submitted to and approved in writing by the Local Planning Authority. The dust monitoring and management works shall be implemented in accordance with the approved plan.

Reason: To ensure satisfactory measures for the control of dust in the interests of health and safety.

22 No development shall be commenced in relation to the residential development hereby permitted until a surface water run-off limitation scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted details shall clarify the intended future ownership and maintenance provision for all drainage works serving the site. The approved scheme shall be implemented in accordance with the approved programme and details.

Reason: To prevent the increased risk of flooding.

23 Prior to the commencement of the residential development hereby permitted, details of a Construction Management Plan for all works of construction and demolition shall be submitted to and approved in writing by the Local Planning Authority. The Management Plan shall comply with the guidance contained in the Council's Code of Construction Site Noise practice note and the BRE Code of Practice on the control of dust from construction and demolition activities. The Plan shall also include details of hours of operation, construction access, traffic generation and vehicle movements, and the location of parking

provision, site compounds and material stores. The details so approved shall be fully complied with during the construction of the development.

Reason: In the interests of highway safety and the amenities of adjacent residential properties.

24 The residential development hereby permitted shall not be occupied until full details of the siting and design of all fixed plant and equipment have been submitted to and approved in writing by the Local Planning Authority. The plant and equipment shall be installed strictly in accordance with the approved details.

Reason: To safeguard the amenity of nearby occupiers.

25 Any plant or equipment serving the development shall be attenuated to ensure that the noise level at locations R1, R2 and R6 on drawing number SK02 is at least 5dB below the background noise level as determined in Table 22 of the Noise Assessment undertaken by WYG Environmental dated November 2009. Prior to fixed plant and equipment serving the development coming into operation, a scheme of noise control shall be submitted to and approved in writing by the Local Planning Authority and the scheme shall subsequently be implemented as approved.

Reason: To safeguard the amenity of nearby occupiers.

26 The foodstore development hereby permitted shall be carried out in accordance with the details of the Service Yard Management Plan included within Appendix B of the Noise Report received 10 November 2011. No deliveries shall take place outside of the hours of 06:00 to 23:00 seven days a week for a period of 6 months from the date of this decision. Thereafter, no deliveries shall take place outside of the hours of 07:00 to 22:00 Mondays to Fridays and 08:00 to 23:00 on Saturdays, Sundays and Bank Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to give the altered delivery hours a trial run and to safeguard the amenity of nearby occupiers

27 On completion of the works but prior to any occupation of the approved residential development, the applicant shall submit to and have approved in writing by the Local Planning Authority an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise in accordance with BS8233:1999. The following levels shall be achieved: maximum internal noise levels of 30dBLAeq,T for living rooms and bedrooms; for bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax.

Reason: To ensure satisfactory internal noise levels.

28 No removal of trees/shrubs shall take place between 1st March and 31st August unless a survey to assess the 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 tree/shrub shall be removed between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.

Reason: In order to protect nesting birds.

29 No development shall commence in relation to the residential development hereby permitted until details of a mitigation plan for great crested newts has been submitted to and approved in writing by the Local Planning Authority, to include details of the proposed pond enhancement at St Martin's School. The development shall be carried out only in accordance with the approved scheme or any amendment to the scheme as approved in writing by the Local Planning Authority.

Reason: In order to prevent harm to the protected species.

30 The residential development hereby permitted shall be carried out only in accordance with an approved ecological enhancement scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall include inter alia:

- i) details of native planting around the perimeters and other areas on site;
- ii) details of perimeter vegetation to be retained and fenced off during site works;
- iii) evidence of a protected green buffer zone around the site perimeter suitable for use by badgers;
- iv) locations of bird nesting and bat boxes;
- v) reptile and great crested newt hibernaculae.

The supermarket development hereby permitted shall be carried out in accordance with the ecological enhancement scheme approved under application ref: 10/03516/COND unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of nature conservation.

31 No development shall commence in relation to the residential development hereby permitted until a lighting scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall:

- i) define areas that shall be completely unlit and demonstrate that these areas will not be affected by light spillage or ambient lighting from the site;
- ii) provide details of the management of lighting with particular regard to hours of operation;
- iii) minimise the risk of light spillage beyond the operational areas and into the sky;
- iv) demonstrate how potential effects on bats will be minimised by reference to current best practice guidance.

The development shall be implemented in accordance with the approved lighting scheme and there shall be no external illumination of the site other than in accordance with the approved scheme.

Reason: In the interests of the amenities of the area and to mitigate the impact of the development on bats.

32 No development shall commence in relation to the residential development hereby permitted until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written

scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work shall provide a field evaluation of the site to determine the date, extent, and significance of any archaeological deposits or features, and shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of potential archaeological interest and to enable the significance and extent of any archaeological remains to be evaluated.

33 No development shall commence in relation to the residential development hereby permitted until the applicant, or their agents or successors in title, has presented the results of the archaeological field evaluation to the Local Planning Authority, and has secured the implementation of a subsequent programme of archaeological work in accordance with a written scheme of investigation which has first been agreed and approved in writing by the Local Planning Authority. The agreed programme of archaeological work shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of potential archaeological interest and to enable any archaeological remains to be recorded and protected.

34 The residential development hereby permitted shall not be brought into use or occupied until the applicant, or their agents or successors in title, has secured the implementation of a programme of post-excavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site may produce significant archaeological findings and to enable the results to be published.

35 No development including enabling and construction works shall commence in relation to the residential development hereby permitted until a Dust Control Monitoring and Management Plan has been submitted to and approved by the Local Planning Authority. The dust monitoring and management measures shall be implemented in accordance with the approved plan.

Reason: In order to control dust emissions from the development.

36 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: CHQ.09.8579 - PL200, -PL201, - PL202E, - PL203B, - PL204, - PL205A, - PL206A, - PL207, - PL208, - PL209A, - PL210B, - PL211B, - PL212A, 686 - 01, 686 - 02A and 686 - 03B.

REASONS FOR GRANTING APPROVAL

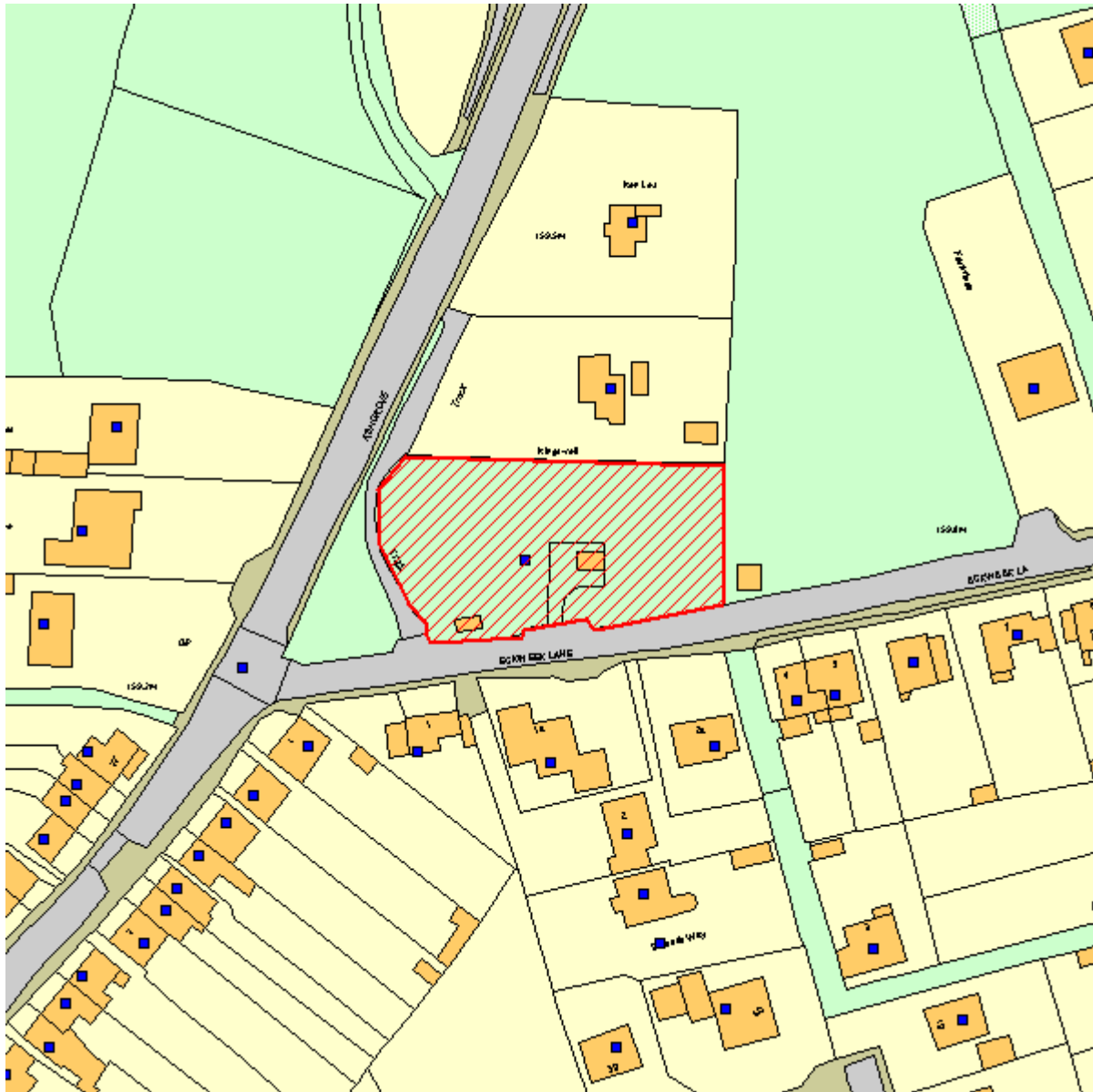
1. The proposed variation of condition 29 to allow deliveries between the hours of 06:00 and 23:00 for a temporary period of 6 months would not unduly affect the residential amenity of occupiers adjoining the application site.

2. 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

D.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

Item No: 04
Application No: 12/00351/FUL
Site Location: Land Adjacent To Kingswell, Eckweek Lane, Peasedown St. John, Bath



Ward: Peasedown St John

Parish: Peasedown St John

LB

Grade: N/A

Ward Members: Councillor S F Bevan Councillor N L R L Hartley

Application Type: Full Application

Proposal: Erection of 2no. dwellings (Resubmission)

Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon,

Applicant: Mr Stephen Gardner

Expiry Date: 15th March 2012

Case Officer: Rebecca Roberts

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

Recommendation contrary to Parish Council comments. Chair referred to committee.

DESCRIPTION OF SITE AND APPLICATION:

The application site is located on the northern fringe of the Peasedown Settlement and lies outside of the Housing Development Boundary within the designated Forest of Avon. The site relates to a parcel of land located on the corner of Eckweek Lane and Ash Grove. The site is well maintained with two small outbuildings dotted around the site. There are two access points into the site, a gated access recessed from the roadside of Eckweek Lane where a hardstanding has been constructed and a second access closer to the junction with Ash Grove, this is a shared right of way which provides access to two dwellings to the North of the site known as Kingswell and Ken Lea.

This locality displays a mix of dwelling styles and layout that results in no clear uniformity. The area linked closely with the site is the two to the north of the site which are characterised by large detached dwellings set in large plots and well separated and are enclosed by a mature hedge which acts as a natural screen along the roadside.

The application is a resubmission of a previously withdrawn application (11/02775/FUL) which proposes the erection of two detached two storey dwellings in a linear layout perpendicular to Eckweek lane. The dwellings will accommodate four bedrooms per unit and follows a simple design with pitched roof and low eaves to minimise the overall bulk of the dwelling with full dormer features above the windows on both the rear and front elevations. The front access will be recessed to create a porch. It is proposed to finish the property in recon Bath Stone and concrete brown tiles.

RELEVANT PLANNING HISTORY:

11/02775/FUL - Withdrawn - 16 August 2011 - Erection of 2no dwellings

The application has resolved the highways issues raised in the 11/02775/FUL application by altering the access into the site. Originally it proposed to use the existing shared access point close to the T-junction. It is now proposed to create a new access immediately adjacent to the existing gated access where a small layby exists. This will provide a private access point into the site and will provide two spaces per dwelling and turning provisions.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

PEASEDOWN ST JOHN PARISH COUNCIL - Support. No comments provided.

HIGHWAYS - No objection subject to conditions. The revised access position, when compared to the previous application for the site (11/02775/FUL), affords greatly improved access whilst affording the ability for casual visitor parking and service vehicles to use the layby on the site frontage, thus reducing the risk of obstruction to the highway. Parking provision is considered adequate for the scale of development proposed and affords the ability for vehicles to turn within the site.

HIGHWAYS DRAINAGE - Request that details of surface water disposal be submitted for approval. - The proposed drainage scheme should follow sustainable drainage principles. If the applicant proposes to discharge surface water to soakaways, infiltration testing to

BRE Digest 365 should be carried out to ensure a feasible soakaway design is possible. If soakaways are unfeasible the applicant will need to attenuate surface water onsite to the greenfield run-off rate.

ENVIRONMENTAL PROTECTION - would draw the applicants attention to the council code of practice for minimising noise during construction.

OTHER REPRESENTATIONS - 1x comment. There is no information on the plans regarding sewage. The existing pipe is privately owned by the two neighbouring properties. Although there is an old sewer pipe connection on the site the two new houses should not be connected to this.

POLICIES/LEGISLATION

LOCAL PLAN POLICY

At the meeting of the Council on the 18th October 2007, the Bath and North East Somerset Local Plan (including minerals and waste policies) was adopted. The following policies are material considerations

D.2 - General Design and public realm considerations

D.4 - Townscape considerations

HG.10 - Housing outside settlements (agricultural and other essential dwellings)

NE.1 - Landscape character

T.24 - General development control and access policy

T.26 - on-site parking and servicing provision

of the Bath & North East Somerset Local Plan (including minerals and waste policies) 2007.

SUBMISSION CORE STRATEGY

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes. The following policies should be considered:

D.2, D.4, HG.10, NE.1, T.24 and T.26 of the local plan are proposed as saved policies within the submission core strategy.

NATIONAL PLANNING POLICY FRAMEWORK

National Planning Policy Framework (March 2012) can be awarded significant weight however at present this proposes little change to the policies of the Local Plan that are relevant to this application particularly as the Council considers that an adequate supply of housing land has been demonstrated for the district. There is therefore no need for additional market housing to warrant development outside of the existing housing development boundary.

OFFICER ASSESSMENT

PRINCIPLE OF DEVELOPMENT: The site is located outside of the housing development boundary of Peasedown St John and therefore proposed housing developments outside of this area in principle are considered inappropriate as defined in policy HG.10. Given this consideration the proposal would be contrary to national and local planning policies aimed at protecting the countryside from development.

Local Planning Policies HG.9 and HG.10 make provision for affordable housing sites and other houses outside of the housing development boundary. The proposed development proposes market housing and therefore the development is not considered to be a rural exception site and is contrary to Policy HG.9. Policy HG.10 makes provision for new dwellings outside settlements that are essential for agricultural or forestry workers. As this is not the case for this development, it is contrary to this policy.

ACCESSIBILITY: The site is located outside of the housing development boundary, however it lies on the edge of Peasedown St John village which offers a range of facilities that provide for the general needs of local residents, and also provides access to a wider range of services and employment opportunities locally. The village benefits from a regular bus service between Bath and Radstock.

In view of this, the site is considered to be in a sustainable location in accordance with the key aims of PPG13, which seeks to reduce growth in the length and number of motorised journeys.

CHARACTER, APPEARANCE AND SITE LAYOUT: It is proposed to align the new dwellings with that of Kingswell to the north of the site at both the front and rear building lines which will provide each dwelling with an elongated plot with ample amenity space to the front and rear of the dwelling. The simple design of the dwellings will not compete with the existing character of the locality, however it is considered that two large dwellings will appear cramped within this site. This part of the local area is characterised by spacious plots which allows each dwelling to be well separated from its neighbour the proposed dwellings would encroach upon the boundaries of the site and would be located less than 5 metres apart. A single dwelling would fit more comfortably within the site and respond more positively to the local context.

RESIDENTIAL AMENITY: Due to the encroachment towards the neighbouring boundaries the proposed development has the potential to cause an overbearing impact resulting in loss of privacy to the amenity of neighbouring residents. However given the open nature of the sites to the east and west and the large amenity spaces provided the potential harm is not considered significant enough to warrant a reason for refusal.

HIGHWAYS: The application has addressed the concerns raised by the highways officer in the previous application and altered the access which is considered acceptable and meets the parking requirements set out within the local plan. The access and parking provisions will allow on-site turning for vehicles to exit the site in a forward gear as the layby acts as a secondary parking space or pull in, in addition to increased visibility up Ecweek Lane.

CONCLUSION:

The development is located outside the housing development boundary and, as such the development is considered to be inappropriate. The scale and proposed market housing mean the site cannot be considered as a rural exception site in terms of Policy HG.9. The proposed development is contrary to Policy HG.10, which restricts new dwellings outside of settlements to essential for agricultural or forestry workers.

The scale and layout of the proposed development would result in a cramped form which is detrimental to the character and appearance of this locality and does not positively respond to the local context.

In light of the above however, it is considered that the proposed development would represent a departure from the adopted Development Plan and there are no planning merits that outweigh the conflicts with the Development Plan Policies. The application is accordingly recommended for refusal.

RECOMMENDATION

REFUSE

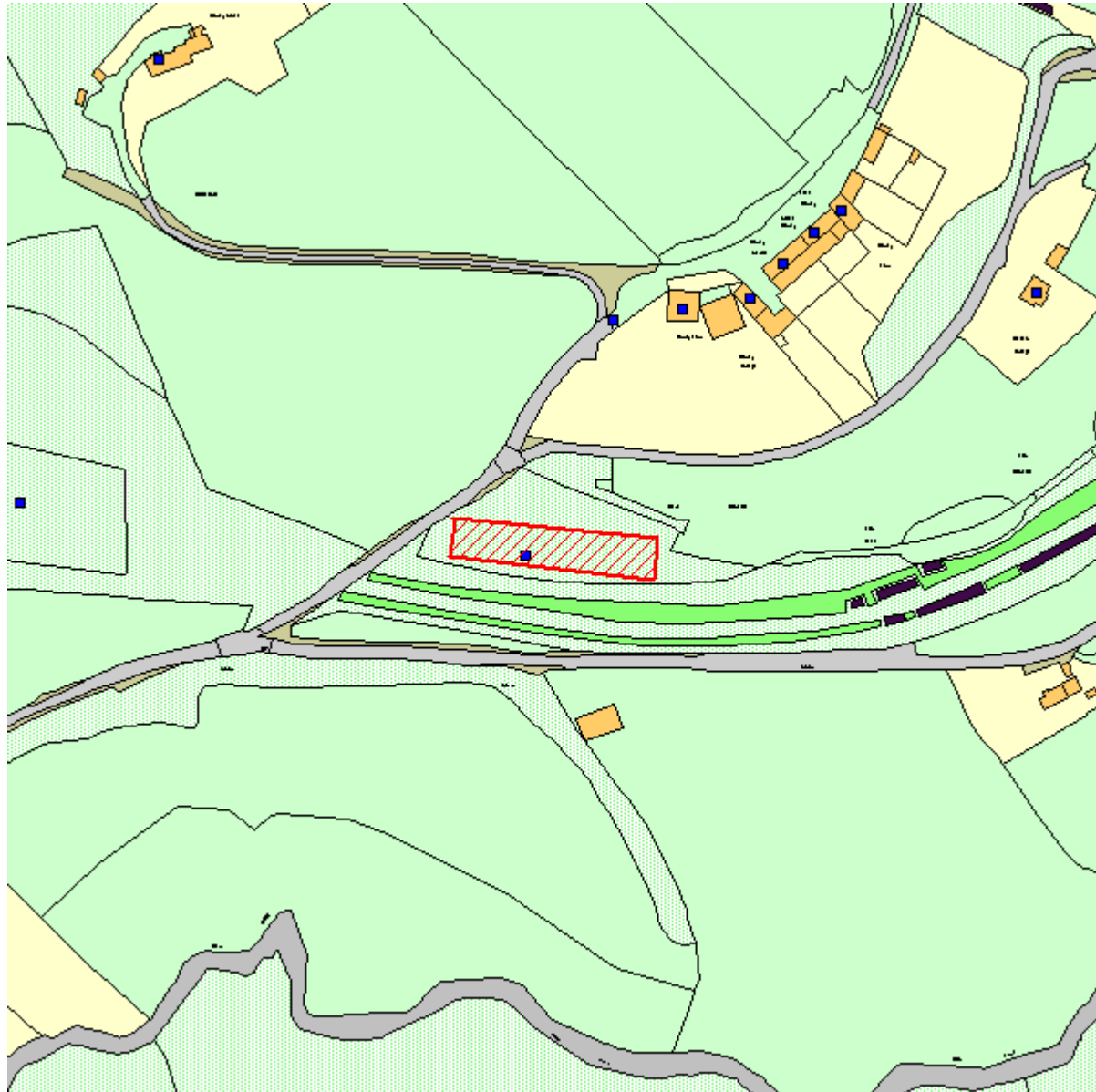
REASON(S) FOR REFUSAL

1 The proposed residential development of this site located in the countryside outside of any housing development boundary, is not considered to be a rural a rural exception site and is therefore contrary to Policies HG.9 and HG.10 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

2 Due to the scale and layout of the proposed development, it would result in a cramped built form which is detrimental to the character and appearance of this locality and does not reflect the the local context contrary to policy D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

PLANS LIST: This decision relates to drawing no's 7083/16419, 7083/16366/B and the design and access statement date stamped 19th January 2012.

Item No: 05
Application No: 11/04754/FUL
Site Location: Parcel 9015, Rowley Farm Lane, Combe Hay, Bath



Ward: Bathavon West **Parish:** Combe Hay **LB Grade:** II
Ward Members: Councillor David John Veale
Application Type: Full Application
Proposal: Installation of 250 solar PV panels in a ground mounted array.
Constraints: Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt, Regionally Important Geological Site RIG, Sites of Nature Conservation Imp (SN),
Applicant: Mr & Mrs Philip Honey
Expiry Date: 23rd February 2012
Case Officer: Suzanne D'Arcy

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: The application has been supported by Combe Hay Parish Council, contrary to Officer recommendation. The Parish Council support the proposal advising that it would not be harmful to the openness of the Green Belt or natural beauty of the AONB and does not conflict with other planning policies.

DESCRIPTION OF SITE AND APPLICATION: Parcel 9015, Rowley Farm Lane is a parcel of land sited within the Green Belt and Cotswold Area of Outstanding Natural Beauty (AONB). The site is bounded by Rowley Farm Lane and Anchor Lane to the south. The site is an open area, which slopes down towards Anchor Lane. The Somersetshire Coal Canal Locks, which are Grade II listed are adjacent to the site.

This is a full application for the installation of 250 solar PV cells in a ground mounted array. The proposed solar panels will be sited in two arrays, measuring 29m and 74m wide, which will be sited approx. 10m apart. The proposed panels will be mounted on a stand and set at a 35 degree angle. The maximum height from the ground will be 2.3m.

No Very Special Circumstances have been advanced as part of the submission.

RELEVANT HISTORY: None relevant

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

COMBE HAY PARISH COUNCIL: Support the proposal, with the following comments;

- Character of the nearby public realm will be maintained
- Amenity of neighbours would be preserved, subject to appropriate screening
- Proposed materials would be satisfactory provided the panels were non-reflective
- Landscaping would be satisfactory, as long as robust hedgerow screening were provided
- Enjoyment of adjacent right of way would not be diminished
- Would not conflict with other planning policies
- Not significantly degrade the openness of the Green Belt
- Screening would result in it not being visually detrimental to the Green Belt
- Not adversely affect the natural beauty of the AONB
- Not adversely affect ecology or nature conservation value
- Screening would not result in adverse impact on the Somersetshire Coal Canal
- Not prejudice the use of the former railway line
- Would request conditions for screening and non-reflective panels.

LANDSCAPE ARCHITECT: Objects to the proposal and raises the following points;

- Setting is a tranquil rural valley, which includes 3 listed structures, and is within the Green Belt.
- Concerned with regard to the visual impact and the impact on the character of the setting of the disused locks.
- Would also impact the enjoyment of the Limestone Link
- PV arrays are in straight lines but this is a sloping and gently curving site.
- The arrays will be 2.3m tall and will cover a significant area.
- They will be reasonably prominent in this tranquil valley and will have an unacceptable and detrimental impact.

- Whilst I support the use of renewable energy, they need to be erected in the correct location.
- There may be some benefit to the owners but this does not constitute Very Special Circumstances, especially as the electricity is not being provided to a wider area.

ECOLOGICAL OFFICER: No objection, subject to conditions

ARBORICULTURAL OFFICER: No objection

ENVIRONMENTAL HEALTH OFFICER: No comments

COTSWOLD CONSERVATION BOARD: Subject to no objections from the Council's Landscape Architect, the Board support this proposal, which is in accordance with the AONB Management Plan 2008-2013 and the Board's position statement on renewable energy generation in the Cotswold AONB

REPRESENTATIONS: 1 letter of support received, raising the following points;

- No objection to the applicant trying to take economic advantage of his land, on the basis that, once the work is completed, the installation will be quiet and provided it does not spoil the view of his neighbours which would appear to be the case from the plans viewed

POLICIES/LEGISLATION

National Planning Policy Framework (2012)

(Officer note: The National Planning Policy Framework (NPPF) has been released and brought into force. This document has replaced a number of national documents which were considered to be relevant to the determination of this planning application including PPG 2, PPS 5, and PPS 22. The NPPF guidance in respect of the issues which this particular application raises does not differ significantly from that offered in the now replaced national PPGs and PPSs)

D.2: General design and public realm considerations

D.4: Townscape considerations

BH.2: Listed buildings and their settings

GB.1: Control of development in the Green Belt

GB.2: Visual amenities of the Green Belt

NE.1: Landscape character

NE.2: Areas of Outstanding Natural Beauty

NE.4: Trees and woodland conservation

NE.9: Locally important wildlife sites

NE.10: Nationally important species and habitats

ES.1: Renewable energy proposals

Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007

Bath and North East Somerset Submission Core Strategy (May 2011) is out at inspection stage and therefore will only be given limited weight for development management purposes. The following policies should be considered:

DW1: District wide spatial strategy
CP3: Renewable energy
CP6: Environmental quality
CP8: Green Belt

OFFICER ASSESSMENT

IMPACT ON THE GREEN BELT: The site is located within the Green Belt and as such, strict controls exist to guard against inappropriate development, which by definition is harmful. Local Plan Policy GB.1 reflects the guidance given in NPPF and lists the forms of development which are considered to be not inappropriate. As solar PV arrays do not fall within the specified criteria, it should be considered against the criterion "other development ... which maintain the openness of the Green Belt and do not conflict with the purposes of including land in it." It should be noted that whilst this criterion is in Policy GB.1, it does not feature within the NPPF. Annex 1 of the NPPF relates to implementation of the new policies and states that within 12 months of the date of publication, decision-makers can give full weight to relevant policies adopted since 2004, even if there is limited conflict with the NPPF. As a result, Officers consider it appropriate to consider the scheme against the criterion detailed above. Notwithstanding this, the proposed solar PV arrays will introduce long, straight lines of panels, with a height of 2.3m. The siting and height of the panels will introduce a new and alien feature into the landscape, which is considered to be harmful to the openness of the Green Belt and therefore are considered to be inappropriate development, which by definition is harmful to Green Belt. This is echoed in the guidance given in paragraph 91 of the NPPF, which observes that many renewable energy projects will be considered to be inappropriate development.

Substantial weight must be given to this harm which is caused by the inappropriate development. This should be weighed against any Very Special Circumstances demonstrated by the applicant, and in this case, none have been put forward. In view of this, the proposed solar PV arrays are considered to be inappropriate development in the Green Belt, which is harmful by definition and therefore contrary to Policy GB.1 and the advice contained within the NPPF.

The proposed solar PV cells will be sited on a slope, which is visible from a range of views. There is a public footpath adjacent to the site and the valley side slopes up steeply to the south of Anchor Lane. The proposed solar arrays will be two straight lines across the site, which will juxtapose with its sloping and curving character. The siting of the arrays will not therefore respect the character of the landscape and this will lead to an erosion of the rural character of the site and the natural beauty of this part of the AONB. This will be further exacerbated by the length of the arrays. It is noted that there is some screening provided to the site by existing vegetation and appropriate conditions could be imposed to require further screening, though this has not been offered by the applicant. However, it is considered that this would not be sufficient to mitigate the impact from the wider views into the site nor to adequately mitigate the impact of the siting of the panels themselves. The proposed arrays are therefore considered to be contrary to Policies GB.2 and NE.2 of the Local Plan.

IMPACT ON THE LISTED CANAL LOCKS: English Heritage guidance, The Setting of Heritage Assets, states that "the significance of a heritage asset derives not only from its physical presence and historic fabric but also from its setting - the surroundings from which it is experienced." In this case, the setting of the locks is a tranquil, rural valley.

The NPPF requires the applicants to assess the significance of the asset and provide justification for the impact caused by the proposed development.

The applicants have submitted a Statement of Heritage Significance, which states "[the canal locks] are c.300m from the proposed PV array site and consequently their settings are not affected." As stated in the previous section, it is considered that the proposed arrays will lead to an erosion of the rural character and natural beauty of the area. As this is the character of the area, it forms an important part of the setting of the listed locks, and as such, it is considered that the proposed PV arrays will have an adverse impact on the setting of the listed structures thus being contrary to Local Plan Policy BH.2 and the advice contained within the NPPF.

RESIDENTIAL AMENITY: Due to the relationship with the surrounding neighbouring properties, and the proposed PV arrays being angled away from them, it is not considered that there will be a significant adverse impact on residential amenity.

SUSTAINABILITY AND RENEWABLE ENERGY: Officers recognise that the application will result in benefits to the environment as it will produce renewable energy. The NPPF states that, as discussed above, renewable energy projects often comprise inappropriate development in the Green Belt and it will be for the developers to demonstrate Very Special Circumstances. Very Special Circumstances can include the wider environmental benefits associated with increased production of renewable energy. Paragraph 79 of the NPPF states that the Government attached great importance to the Green Belt. Clearly the proposal will result in benefits for the applicant, but no evidence has been submitted to show the wider benefits of the proposal, for example electricity being provided to a wider area. In view of this, it is not considered that the benefits of the scheme outweigh the harm detailed above.

CONCLUSION:

The proposed solar PV arrays are considered to be inappropriate development, which is harmful by definition to Green Belt. The proposed arrays are set out as long straight rows, which juxtaposes with the landscape character, leading to an erosion of the rural character and natural beauty of the landscape. This will in turn have an adverse impact on the setting of the listed canal locks.

Whilst it is acknowledged that there is no impact on residential amenity and there will be benefit to the applicant in terms of renewable energy generation, it is not considered that this outweighs the harm caused to the Green Belt by the inappropriateness of the development, the character of the landscape and the setting of the listed structures as detailed above.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed solar PV arrays represent inappropriate development in the Green Belt, which is harmful by definition. No Very Special Circumstances have been demonstrated to outweigh the harm caused by the inappropriateness of the development. This is

contrary to Policy GB.1 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the advice contained within the NPPF.

2 The proposed solar PV arrays, by reason of their siting, scale, layout and design, will appear prominent in the landscape introducing alien features thus leading to an erosion of the rural character of the Green Belt and the natural beauty of this part of the AONB. This is contrary to Policies GB.2 and NE.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the advice contained within the NPPF.

3 The proposed solar PV arrays, by reason of their design and siting, would lead to an erosion of the rural character and this is harmful to the setting of the adjacent listed locks. No justification for the impact on this impact has been put forward. This is contrary to Policy BH.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the advice contained within the NPPF.

PLANS LIST: This decision relates to drawings numbered 002 and 100, and related Statement of Heritage Significance, Design and Access Statement, and technical specification, received by the Council on 4th November 2011, 3 Magic Maps, received by the Council on 22nd November 2012, Protected Species Survey, received by the Council on 29th December 2011, drawing numbered 100, received by the Council on 22nd February 2012 and drawing numbered 001, received by the Council on 27th March 2012.

Item No:	06	
Application No:	12/00495/FUL	
Site Location:	Bath Urban Area, Various Streets	
Ward: Newbridge	Parish: N/A	LB Grade: N/A
Ward Members:	Councillor L Morgan-Brinkhurst Councillor C M L Roberts	
Application Type:	Full Application	
Proposal:	Erection of 15 temporary plinths with name plaques in various locations (for the display of temporary public art works) (01/05/2012 - 01/11/2012)	
Constraints:	Agric Land Class 3b,4,5, Scheduled Ancient Monument SAM, Article 4, Bath Core Office Area, City/Town Centre Shopping Areas, Conservation Area, Cycle Route, Flood Zone 2, Flood Zone 3, Forest of Avon, General Development Site, Hotspring Protection, Listed Building, Local Shops, Prime Shop Front, Railway, World Heritage Site,	
Applicant:	Mr Justin Braithwaite	
Expiry Date:	29th March 2012	
Case Officer:	Richard Stott	

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The applicant's agent has a close association with Planning Services.

PROPOSAL:

This application relates to several different locations within Bath City centre and its environs and seeks temporary consent for the installation of arts projects associated with the London 2012 Olympic Games. The individual installations are to be situated on site between the 1st May 2012 and 1st November 2012. Full details of the individual sites will be discussed in this report, however it is intended to secure sculptures of figures carrying out Olympic sporting activities, the proposal will also include a sculpture of the torso of former Olympic swimmer Mark Foster and a wire statue of Olympic runner Jason Gardener, both of whom have connections with the City. The project is part of the wider Olympic celebrations and coincides with an art exhibition being held at the Victoria Art Gallery and is intended to be part of a walking tour around the city.

The original application indicated 15 sites across the city however following concerns raised by officers and requirement changes from the commissioning body the original list has been revised to 7 locations with 3 reserve options in the parks.

The original application as submitted lacked clarification as to the finished dimensions and materials however details have since been submitted clarifying the various installations.

RELEVANT HISTORY

Not applicable

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSULTATION:

HIGHWAY DEVELOPMENT OFFICER: Object for the following reasons:

- Errors on plan miss-referencing sites
- Objects to Site 3 (Green Park) due to lack of information.
- Objects to Sites 12 (The Circus). Concern over the proposed fittings on the cast iron lampposts in The Circus: no details of design or structural calculations, concern in respect of impact on users of the highway.
- Separate highway authority permission would be required for installations on the public highway

ARBORICULTURAL OFFICER: No Comments

ENVIRONMENTAL HEALTH: No Observations

REPRESENTATIONS:

1x Letter of objection received raising the following points:

- Lack of information relating to materials, size and art installation.
- Lack of information as to the materials of the plaques on the plinths
- Concern over certain locations and the impact on the setting of various listed buildings
- Works harmful to Conservation Area and various listed buildings

1x Letter of general comments received raising the following points:

- Questions raised due to the submission of absent and inconsistent information.
- Concern over lacking details of locations and orientation.

POLICIES/LEGISLATION

BATH & NORTH EAST SOMERSET LOCAL PLAN INCLUDING MINERALS AND WASTE POLICIES ADOPTED FOR OCTOBER 2007

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

BH.1 World Heritage Site

BH.2 Listed Buildings and their Settings

BH.6 Conservation Area

BH.9 Parks and Gardens of Historic Interest

BH.13 Significant Archaeological Remains in Bath

T.24 Development Control and Access

SUBMISSION CORE STRATEGY, MAY 2011 (The submission core strategy is a key material consideration but at this stage it has limited weight)

B4 World Heritage Site

Policies D.2, D.4, BH.2, BH.6, BH.9, BH.13 and T.24 are Saved Local Plan Policies

SUPPLEMENTARY GUIDANCE AND STRATEGIES

Bath & North East Somerset Public Art Policy and Strategy, 2010

World Heritage Site Management Plan, 2011

Bath Public Realm and Movement Strategy, 2010

NATIONAL PLANNING POLICY FRAMEWORK, 2012

The NPPF came into force on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's)

Chapter 7. Requiring Good Design

Chapter 8. Promoting Healthy Communities

Chapter 12. Conserving and Enhancing the Historic Environment

OFFICER ASSESSMENT

PREAMBLE: This application seeks consent for the erection of temporary art installations around the City of Bath. The original application sought consent for 15 separate locations however this has been reduced to 7 with an option kept open for a location within the Botanic Gardens, Gravel Walk and Green Park, in total 10 sites are under consideration.

The individual structures are bespoke, utilising a range of materials from timber to woven metal, one is to be set on a plinth of carved Bath stone, the rest are to be on ground level mounted platforms.

In principle there is no objection to the scheme following revisions to the site locations and confirmation of the individual installations. It is noted that several of the features will be in prominent locations and many are adjacent to heritage assets within the Conservation Area and World Heritage Site, notwithstanding, the impact and significance of each installation will be localised and the harm generally deemed negligible. Each of these shall be discussed in turn:

CONFIRMED SITES: The following 7 sites have been confirmed by the applicant with specific details of the installations given:

SCULPTURE 1 PARADE GARDENS (Top of Electricity Sub-Station)

This installation features a diver set on top of the electricity substation in Parade Gardens. The installation will be finished in resin and will not exceed 2.5m. Due to its size, although it is set on a structure which exceeds 2m, it is unlikely that the sculpture would project high enough to be seen from road level although it will be seen by pedestrians on the pavement. In the context of Parade Gardens it is noted that there are already several statues and free standing structures including the band stand, Edward VII memorial and King Bladuds statue, in addition there is an annual 3D flower arrangement set on one of the central flower beds. In light of these existing features, an additional temporary statue is unlikely to appear out of place or harmful to the setting of the gardens. The proposed installation in the shown location will not adversely harm the setting of any surrounding listed features and is unlikely to compromise the character and appearance of the Conservation Area or the setting of the World Heritage Site. On balance, the proposed is deemed to be acceptable in this location.

SCULPTURE 2 STALL STREET (Entrance to Southgate)

This installation is the carved torso of former University of Bath trained swimmer Mark Foster. The statue is carved of locally sourced Bath Stone and will be set on a purposefully carved Bath Stone plinth, the total installation measures c.3.4m comprised of a 1.7m high torso set on a 1.7m high plinth. This sculpture forms one of the centrepieces of the whole project.

The sculpture is to be located at the entrance to the Southgate development at the bottom of Stall Street and will be viewed against a back drop of large retail units in an open urban space. Due to the surrounding space the proposed is unlikely to adversely impede pedestrian movement and is unlikely to cause a highway safety issue.

In terms of the setting of the statue, though tall, it is a temporary feature and is unlikely to adversely harm the setting of the street scene in this part of the Conservation Area and World Heritage Site. The proposed is deemed acceptable for the temporary period specified.

SCULPTURE 3 BEAUFORD SQUARE (Rear of Theatre Royal)

This will feature a pair of Judo fighters locked in combat, the statue will feature two interlocked life-size human figures. The installation is to be finished in varnished timber and mounted on a ground level platform and will not exceed 2m in height.

This installation is to be sited on the lawn fronting the rear of the Theatre Royal on Beauford Square set behind the c.1.6m perimeter railings. The principle building is Listed Grade II* however it is considered that the installation will not adversely harm the setting of the heritage asset or compromise the character and appearance of the Conservation Area or World Heritage Site.

Overall the figure in this location is deemed acceptable, adding to the character of the area and enhancing the visual interest of the street scene. The materials, size, scale and mass of the structure is deemed acceptable.

SCULPTURE 4 THE CIRCUS (Appended to Two Lampposts)

This installation relates to two sites within The Circus, one approximately opposite the entrance from Gay Street, the other opposite the entrance from Brock Street. The installations are to be two wire acrobats approximately 2m high and affixed to the upper parts of existing lampposts.

In terms of the impact on the Historic Environment, these fixtures are deemed acceptable and will add some interest to the character of this prominent historical location. The old lampposts form part of the character of the setting of The Circus however are not protected in their own rights, notwithstanding, it is considered that the proposed will not adversely affect the contributions these historic features add to the setting of the surrounding area.

It is noted that no structural calculations have been provided to demonstrate that the structures are safe and secure and unlikely to damage either the lampposts or prejudice highway safety however this should not preclude the granting of Planning Permission. As the lampposts are located on highway land they will require consent from the highway department, in the event that the lighting engineer is not satisfied with the installations or the forthcoming structural calculations, consent may be rejected and the installations may not be erected.

On balance it is considered that the installations in The Circus are acceptable and the proposed materials and dimensions satisfactory.

SCULPTURE 5 SAW CLOSE (Top of Former Kiosk)

This feature is to be a wire statue of Olympic runner Jason Gardener who is from Bath. The installation, c.2m in height will be stood upon the kiosk within the Saw Close car park set on a mounted platform. As with the feature in Parade Gardens, this installation will be in an elevated position (the kiosk being c.3m in height) however as it is of a scaled human figure its overall mass will be low and its wider impact negligible. In terms of the impact on the character and appearance of the street scene and setting of the Conservation Area this installation is unlikely to be harmful or appear unduly out of character.

The installation is to be located in close proximity to Bluecoat House, a Grade II listed former school building however, and again due to its minimal mass and overall bulk, it is not considered to be harmful to the setting of this heritage asset. Ultimately, this installation is to be in place for a short time period and therefore its long-term impact would be negligible.

On balance no objection is raised to this feature in this location.

SCULPTURE 6

BATH STREET (Top of Entrance Canopy to Little Theatre)

This feature is to be a freestanding statue of a gymnast made from wire at c.2m in height and set on top of the entrance canopy to the Little Theatre (to the rear of BHS, opposite the Cross Bath and next to St John's Hospital).

As with the above installation in Saw Close, being a humanoid feature the overall mass and bulk is likely to be minimal thus reducing its actual impact when viewed from the street below. The feature will not be fixed directly into the fabric of the listed building and as due to its size, siting and form is unlikely to harm the setting of the surrounding heritage assets.

Overall no objection is raised to this feature in this location.

SCULPTURE 7

PULTENEY WEIR (Top of Flood Barrier)

This installation will depict a basketball player in mid-air finished in resin. In order to give the figure the appearance of jumping he will be mounted on a semi-circular stainless steel frame; the figure of the man himself will be c.1.8m however the total height of the installation will be 3.5m fixed to the top of the flood barrier.

At 3.5m, this is the tallest installation however will be set in an elevated position above the river, as such, the appearance of the overall size of the installation will be diminished by virtue of the distance from where it will be seen. The installation in this location will not adversely harm the setting of Pulteney Bridge and although prominent, its wider visual impact will be mitigated by the surrounding trees. Overall the basketball player is unlikely to harm the setting of the World Heritage Site or character and appearance of the Conservation Area. The materials, size, scale and mass of the structure is deemed acceptable.

OPTION SITES:

The applicant originally identified three park locations on the periphery of the City however has not yet confirmed any specific installation for these sites. Whilst five of the original submitted locations have been removed from this application the applicant has requested to retain an option on the park sites. This is considered to be acceptable subject to conditions being imposed to restrict the parameters of the individual sculptures. All three of these sites, if occupied, would again feature humanoid characters conducting Olympic activities, and based on the assessments made for the installations featured in more sensitive locations, by virtue of the park settings, no objection is raised to the proposed option sites.

SCULPTURE 8

BOTANICAL GARDENS (Main Lawn, Victoria Park)

This is to be situated on the east side of the Botanic Gardens within Victoria Park, as part of a wider city trail this site could promote walking within the city and would encourage visitors to Bath to venture further afield within the city, promoting out of centre recreation.

No objection is raised in respect of this location as any installation would be absorbed within the wider context of the park and gardens. Subject to the parameters that the total structure (any statue AND plinth) does not exceed 4m in height, the proposed site is deemed acceptable.

SCULPTURE 9 GRAVEL WALK (Front of Royal Crescent)

This site is located 75m to the south of Number 1 Royal Crescent on the edge of the Gravel Walk and Royal Avenue. Whilst there is no objection in principle to the siting of a humanoid figure on what will be part of the Olympic torch relay route, given the proximity to the Crescent it is recommended that any figure should be restricted to 2m high so as not to adversely harm the setting of this principal heritage asset.

SCULPTURE 10 GREEN PARK

This is to be located on the triangle of land adjacent to Green Park, as with the proposed location adjacent to the Botanic Gardens as part of a wider city trail this site could also promote walking within the city and encourage visitors to Bath to venture further afield within the city.

Again, subject to the parameters that the total structure (any statue AND plinth) does not exceed 4m in height, the proposed site is deemed acceptable.

CONCLUSION

Overall the impact of the proposed installations is considered to be localised and minimal within the context of the surroundings. The features are all directly related to the wider Olympic year celebrations and are for a short term period only, to be removed by the 1st November 2012. Given the temporary nature of these features any harm to adjoining heritage assets will be short-lived and will not compromise the setting, fabric or historical importance of these buildings.

Ultimately the benefits of this scheme to the city as a whole as well as visiting tourists in promoting the exploration of the wider city will be both interesting and intriguing, encouraging active engagement with the wider city is supported. Many of the features will be placed near key landmarks, adding to the setting of the wider city and the character and appearance of the Conservation Area and setting of the World Heritage Site. No objection is raised in respect of any of the sites or the installations as proposed.

RECOMMENDATION

For the reasons set out in this report it is recommended that temporary planning permission is given for the installation of the 7 confirmed installations and the 3 option sites with specific conditions imposing parameters on the installations in the parks (for which no specific details have yet been submitted). The concerns raised by the Highway Development Officer have been overcome as further information has been submitted in connection with Site 3 (Green Park) which demonstrates that there will be no highway

hazard and in relation to Site 12 (The Circus) the Council's lighting engineer will need to be satisfied that the work of art will not cause the structural instability of the lamp post.

PERMIT with condition(s)

CONDITIONS

1 This permission shall expire on 1st November 2012, the developments hereby permitted shall be removed and the use hereby permitted discontinued, in the case of installation directly on the land, the ground shall be restored to its former state.

Reason: These installations form part of an art project to coincide with the 2012 Olympics and will no longer be relevant or needed after the Olympics have finished.

2 Sculpture 8 in the Botanical Gardens and Sculpture 10 in Green Park shall be no higher than 4m above ground level and no wider than 3m.

Reason: in the interest of preserving the character and appearance of the Conservation Area and the setting of the World Heritage Site.

3 Sculpture 9 on Gravel Walk shall be no higher than 2m above ground level and no wider than 1.5m.

Reason: in the interest of preserving the character and appearance of this part of the Conservation Area and the setting of the adjacent Royal Crescent.

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

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

PLANS LIST: This decision relates to the Revised Design and Access Statement, and to drawings 1131/01 Rev A, 1131/02 Rev A, 1131/04 Rev A, 1131/05 Rev A, 1131/06 Rev A, 1131/06a, 1131/09 Rev A, 1131/012 Rev A, 1131/013 Rev A, 1131/014 Rev A and 1131/015 Rev A date stamped 30th March 2011

REASONS FOR GRANTING APPROVAL

1. 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.

2. All other material considerations, including the views of third parties, have been considered and they do not outweigh the reasons for approving the proposed development.

3. The proposed installations, forming part of a wider arts project and walking tour associated with the 2012 Olympic Games will promote the exploration of Bath and encourage recreational walking around the city, to the benefit of promoting healthy communities, one of the core objectives of the NPPF, 2012.

4. The proposed installations are carefully sited and designed so as not to adversely harm the setting of the World Heritage Site or character, fabric and setting of the various listed buildings around the city. By reason of their size, shape, mass and positions, the installations will not adversely harm the character of the various streetscapes and will preserve the character and appearance of the wider World Heritage Site.

A

BATH & NORTH EAST SOMERSET LOCAL PLAN INCLUDING MINERALS AND WASTE POLICIES ADOPTED FOR OCTOBER 2007

D.2 General Design and Public Realm Consideration

D.4 Townscape Consideration

BH.1 World Heritage Site

BH.2 Listed Buildings and their Settings

BH.6 Conservation Area

BH.9 Parks and Gardens of Historic Interest

BH.13 Significant Archaeological Remains in Bath

T.24 Development Control and Access

SUBMISSION CORE STRATEGY, MAY 2011 (The submission core strategy is a key material consideration but at this stage it has limited weight)

B4 World Heritage Site

Policies D.2, D.4, BH.2, BH.6, BH.9, BH.13 and T.24 are Saved Local Plan Policies

SUPPLEMENTARY GUIDANCE AND STRATEGIES

Bath & North East Somerset Public Art Policy and Strategy, 2010

World Heritage Site Management Plan, 2011

Bath Public Realm and Movement Strategy, 2010

NATIONAL PLANNING POLICY FRAMEWORK, 2012

The NPPF came into force on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's)

Chapter 7. Requiring Good Design

Chapter 8. Promoting Healthy Communities

Chapter 12. Conserving and Enhancing the Historic Environment