

# Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **21st November 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://isharemaps.bathnes.gov.uk/projects/bathnes/developmentcontrol/default.aspx>.

- [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.

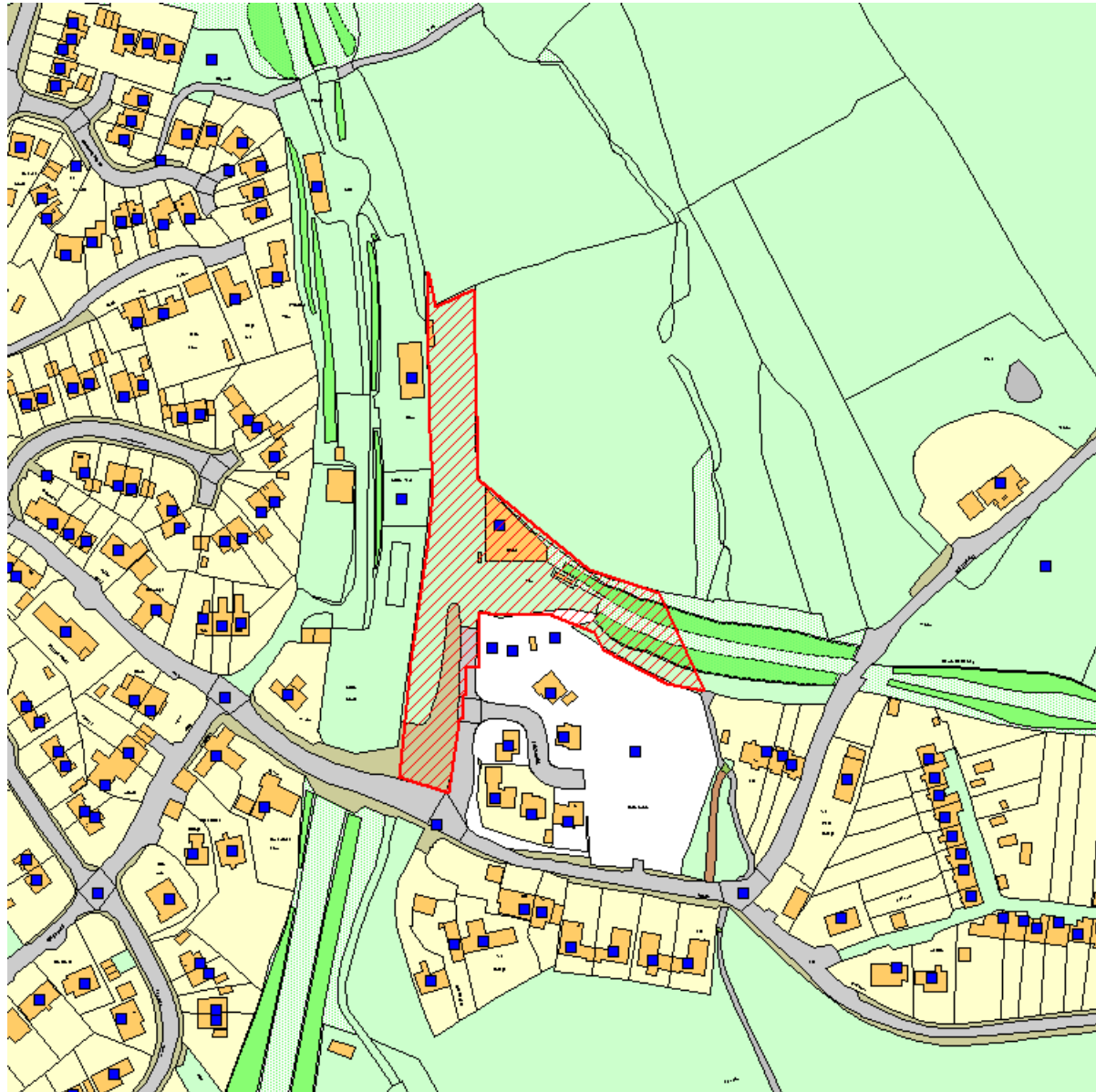
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02	12/00722/OUT 13 June 2012	Blue Cedar Homes Land Rear Of Holly Farm, Brookside Drive, Farmborough, Bath, BA2 0AY Residential development comprising 35 dwellings with associated access, car parking and landscaping (Resubmission)	Farmboroug h	Tessa Hampden	PERMIT
03	12/01882/OUT 30 July 2012	Somer Community Housing Trust Parcel 0006, Maynard Terrace, Clutton, Bristol, Bath And North East Somerset Erection of 36no. dwellings and associated works (revised resubmission)	Clutton	Richard Stott	Delegate to PERMIT
04	12/00879/FUL 22 June 2012	Jonathan & Shelagh Hetreed Paulton Engine, Hanham Lane, Paulton, Bristol, Bath And North East Somerset Extension and alteration of existing 3 bed house to provide 2 further bedrooms and dining room and demolition of 1960s single storey bathroom extension; reconstruction of roofless outbuilding to provide garage, workshop & studio over; erection of pair of semi-detached 2-bed holiday cottages; repair of derelict pigsties to provide potting sheds with bat loft; rebuilding of derelict stable; roofing & repair of 2 walls as open woodshed; lean-to greenhouse to replace kennels; rubbish clearance within site and landscape improvements.	Paulton	Andrew Strange	REFUSE

05	12/02315/FUL 1 October 2012	Salford Golf Club Salford Golf Club, Golf Club Lane, Salford, Bristol, Bath And North East Somerset Change of use of land and extension of existing golf course to create new golf academy, including contouring and landscaping, erection of a driving range building, provision of a car park and installation of ground level flood lighting to driving range.	Salford	Daniel Stone	REFUSE
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07	12/03325/FUL 24 September 2012	Mrs Rachael Ashbee 489B Bath Road, Salford, Bristol, Bath And North East Somerset, BS31 3BA Change of use to restaurant and takeaway (Use Class A3/A5) to include extension in rear courtyard and new shopfront (resubmission).	Salford	Jonathan Fletcher	PERMIT
08	12/03741/FUL 1 November 2012	Mr Samuel Ashburner Hope House, Shaftesbury Road, Oldfield Park, Bath, Bath And North East Somerset Erection of a two storey side extension and single storey rear extension following demolition of existing car port	Oldfield	Tessa Hampden	PERMIT
09	12/04102/FUL 22 November 2012	Mrs Rae Maylou, 118A Rush Hill, Southdown, Bath, Bath And North East Somerset Erection of a two storey extension and a single storey garage extension (revised resubmission).	Odd Down	Sasha Coombs	PERMIT

**REPORT OF THE DEVELOPMENT MANAGER OF PLANNING AND TRANSPORT  
DEVELOPMENT ON APPLICATIONS FOR DEVELOPMENT**

**Item No:** 01  
**Application No:** 12/00293/FUL  
**Site Location:** The Wharf, Greensbrook, Clutton, Bristol



**Ward:** Clutton                      **Parish:** Clutton                      **LB Grade:** N/A  
**Ward Members:** Councillor Jeremy Sparks  
**Application Type:** Full Application  
**Proposal:** Erection of 15no dwellings following demolition of existing workshop and stone shed

<b>Constraints:</b>	Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Coal - Referral Area, Forest of Avon, Tree Preservation Order,
<b>Applicant:</b>	Mr Jeffrey Bromilow
<b>Expiry Date:</b>	17th May 2012
<b>Case Officer:</b>	Gwilym Jones

## REPORT

Reason for Reporting Application to Committee

This application relates to a scheme that has generated significant comment both in favour of the proposals and against. In addition due to the policy issues it raises it is considered appropriate that the application is determined by Committee.

### Description of Proposed Development

This is a detailed application for the development of 15 dwellings (13 houses and 2 flats) on a site accessed off Station Road in Clutton. The site is 'Y' shaped and comprises a section of the former Bristol and North Somerset Railway station yard/sidings and branch line, part of which is on an embankment set at a higher level than land adjacent to the north, south and east. Following closure of the line the site has been used as a haulage yard but more recently the scale of activity has reduced to a vehicle repair business occupying a building in the centre of the site, with the remainder of the land unused or for informal open storage of vehicles and materials. The building is a double height industrial shed and there is also a small single storey structure that is understood may be a former railway weighbridge building.

The site has a gross site area of 0.62ha in size although given existing trees on the site and slopes of the embankment it has a developable area of 0.42ha. The application site is bordered to the south by houses in 'The Sidings', to the north and east by open farmland (within the Green Belt) and to the west by the route of the former railway line (designated in the adopted Local Plan as a Site of Nature Conservation Interest and a Sustainable Transport Route). There is a community building adjacent to the site (to the west), with housing on the eastern edge of Clutton beyond. Vehicular and pedestrian access to the site is from Station Road and Greensbrook, an unadopted road leading to the site and to The Sidings.

The proposals comprise:

- 2 x 1 bed flats
- 2 x 2 bed detached houses
- 8 x 3 bed detached houses
- 2 x 4 bed semi-detached houses
- 1 x 4 bed detached house

### Planning History

03/03050/CLEU - Certificate of Lawfulness permitted for mixed use including haulage storage & distribution (use class B8), office ( use class B1), vehicle repair (use class B2), coal yard and scrap yard.

03/00792/FUL - Refusal of planning permission for erection of 35 no. dwellings after demolition of existing buildings (includes adjoining land)

05/00026/FUL - Application withdrawn for demolition of existing buildings to allow for the erection of 35 no. dwellings with garaging, including live/work provision along with access, open space and landscaping (Resubmission) (includes adjoining land)

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Planning Policy - current planning policy seeks to prioritise the use of brownfield opportunities for new development to limit the need to develop greenfield sites and the application site is previously developed land. Local Plan Policy HG.4 will allow residential development in principle providing it lies within the Housing Development Boundary (HDB) or forms an element of major mixed use scheme as defined in Policy GDS.1 or forms an element of a scheme coming forward under criteria 2 and 3 of Policy ET.2 or criterion 3 of Policy ET.3. Although a small part of the site boundary does abut the HDB, the site lies in its entirety outside the HDB as defined on the Proposals Map. As a single use scheme for residential development the proposal does not strictly satisfy the provisions of Policy ET.3 (3) as it does not comprise an element of a scheme as required under the terms of Policy HG.4. The proposal would therefore need to comprise a mixed use scheme, and in this case to include retention of some employment use(s), to comply strictly with Policy HG.4 especially given the current lack of alternative employment uses in the village. The Local Plan Inspector was asked to consider the inclusion of this site within the HDB at the time of the Local Plan Inquiry in 2005. In her Report (2006) she concluded that in view of the current active use of the site, not to recommend its inclusion in the HDB or its allocation for residential development. However, the site should be included within a future settlement boundary, and in the meantime the potential for redevelopment would fall to be considered within the context of amended Policy HG.4 and new Policy ET.3(3). It is acknowledged there have been other recent planning approvals adjoining the application site: one outside but adjoining the HDB for 3 dwellings (10/03646/FUL) the precedent for which having been previously established at appeal (07/03530/FUL); and the other, which straddles the HDB, for 6 dwellings now built (06/00768/OUT and 07/00508/RES). A further application for 9 dwellings is still under consideration (11/05107/FUL).

The Core Strategy establishes the principle of reviewing the HDBs through the Placemaking Plan (site allocations and development management policies). In respect of the rural settlements Core Strategy Policy RA1, if amended as suggested (currently under consideration by the Inspector for Core Strategy Examination), will allow development of a scale, character and appearance appropriate to the village and its setting within the HDB provided the proposal is in accordance with the spatial strategy for the District (Policy DW1) and other criteria listed. Crucial to the successful long term planning for the rural settlements will be to identify the most appropriate development sites for each area through the Placemaking Plan and neighbourhood planning. Clutton would fulfil the requirements of a Policy RA1 village and the policy also makes reference to reviewing HDBs. This work has yet to be undertaken and in the rural settlements will take place within the context of Policy RA1. The policy does however accept residential development on sites adjoining the HDB at the villages which meet the policy criteria if identified in an adopted Neighbourhood Plan. It should be noted that the route of the A37 Clutton Temple Cloud bypass currently remains safeguarded through the Local Plan (Policy T.17) and this scheme is included in the Joint Local Transport Plan 3 (March 2011). Whilst there may be an opportunity to review this scheme through the Placemaking Plan any proposal on the application site will need to ensure

that the line of this route is not compromised notwithstanding it is also along the line of a site of nature conservation interest (Policy NE.9). In this context the applicant should also clearly demonstrate that the proposal could successfully integrate with not only the adjoining sites to the east of the route but more particularly to the remainder of the settlement lying to its west. In view of the site's proximity to the Green Belt the applicant will need to demonstrate that the proposed development will not be detrimental to the visual amenities within or from the Green Belt (Policy GB.2). Opportunities to introduce or link to the existing green infrastructure network should be explored more thoroughly (Core Strategy Policy CP7). Although the site is relatively small (0.62 ha) policy HG.8 expects to secure 35% affordable housing on a site of over 0.5ha or more than 10 dwellings where the population is under 3,000 (the target of 35% is also purposed through Core Strategy Policy CP10 which should also be referred to). Policy HG.8 requires a density in excess of 30 dwellings per hectare in order to maximise the use of sites. This would equate to at least 19 homes on a site of 0.62ha. The proposal therefore strictly falls short of the policy expectation by providing only 14 dwellings. The applicant should also ensure that the terms of other Local Plan policies relevant to the consideration of this site have been satisfied including those relating to nature conservation, archaeology, transport/highways/access and contaminated land.

Arboriculture - Trees T2-G19; T28 ; and trees T33-T35 of the tree survey are protected by TPO 511/8. The southern limb of T6 had been removed at the time of my site inspection on 28th February prior to determination of the planning application and without a TPO application. I agree with the tree survey findings, immediate recommendations and categorisation of the tree qualities. The proposed layout will result in the loss of a number of smaller trees within the northern area of the site. I have no objection to this. The most significant removals are the trees nearer the southern section of the site, near to Station Road. I have no objection subject to suitable replacement planting. The revised Site Plan has addressed a number of my concerns by maintaining distance between T6 (Ash) and the property to reduce conflicts; increasing the distance of the properties beside the group of Willows (G27) by approx. 1m (although these have the potential to reach larger proportions and will require future management, particularly if new buildings are constructed close to them as these trees will shade the properties as highlighted on the Tree Constraints Plan); improving the relationship between properties and T13 (Poplar); and including revisions relating to foul water treatment sewage information. I have noted the revised drawings in relation to the surface water and foul water drainage and note that the surface water drainage is still to be finalised subject to arboricultural advice. A revised Arboricultural Impact Assessment is necessary to incorporate details of surface water drainage (informed by responses by Wessex Water) and location of pipework proposed to the existing watercourse and the feasibility of no dig construction methods for the turning head around T13. If this information is not provided to ensure the protection of retained trees please treat this response as an objection since the revisions would not demonstrate due consideration of retained policy NE4. The revised proposed layout does have a negative impact on the relationship between the group of Sycamores (G19) and these trees will dominate the garden of plot 8 and will lead to issues relating to nuisance if these are not within the same ownership and problems with shading and debris including aphid honey dew. It will not be possible to allow these trees to reach their full potential and this in turn will reduce their screening potential from the surrounding land. Whilst I have a number of concerns relating to neighbouring trees, I appreciate that due to the shape and size of the site there are always likely to be some trees potentially affected by any proposal. I request that permitted development rights are removed.

Children's Services - estimate that the children generated by the development will create the need for a Developer Contribution for Children's Services as follows: Primary age pupil places 1.04 places at a cost of £13,512.11. There is sufficient provision in the area for other school age groups. Youth Services provision places 2.10 places at a cost of £2,801.40.

Contaminated Land - No objection subject to conditions. The site has had a number of potentially contaminative historical uses including station/yard sidings, fuel depot, coal depot, and transport and haulage. The ground investigation report was completed in 2001, eleven years prior to this application, and a number of changes to guidance and assessment criteria have occurred since the completion of this ground investigation report. Due to the age of the ground investigation report and changes to contaminated land guidance and assessment criteria and the lack of testing in certain areas, I recommend that supplementary investigation is undertaken to adequately assess the whole application site for the proposed use. The supplementary testing shall adequately represent the size of the development and cover areas of potential concern and include a full range of suspected contaminants.

Ecology - reservations regarding initial ecology survey lack of bat activity surveys as there is a risk that bats are roosting in the roof space of the inaccessible roof of the shed. A better knowledge of bat use of the site would enable more species-specific mitigation to be planned. In addition further comment regarding badger use of the site should be provided. There is a lack of consistency in the report regarding the bird breeding season and need to see a good reptile mitigation plan given the combination of scrub/tall ruderal and basking habitats. The revised ecological assessment includes completed bat surveys, more detailed survey findings and mitigation proposals for badgers, and mitigation proposals for reptiles. Measures to protect badgers and their main sett, and to mitigate for impacts on them, are detailed. The main sett will be retained on the land immediately adjacent to the development but due to its close proximity, and potential for disturbance during works, a licence application is recommended. Further pre-commencement checks will also be required and measures, including badger proof fencing of a specified height and design, to prevent future disturbance, damage or tipping and prevent access by badgers into the development area. The bat surveys found no roosts on site but did record bats using the woodland edges for commuting, and bats were recorded passing from woodland on the east side, across the middle of the site to the west side and continuing there along the woodland / scrub edge. The development will need to incorporate all the recommended mitigation measures into the scheme and onto drawings where applicable. This can be secured by condition. It will be necessary for any landscape/planting scheme to apply ecological objectives and incorporate a strong native and wildlife-friendly planting element, and to ensure new planting allows continued habitat connectivity and maximises the site's contribution to green infrastructure.

Highways - revised plans address previous comments on the layout and parking arrangements, and I am happy that the general form of the access road is now acceptable, indicating a shared surface, with a delineated service margin. Whilst street lighting has been shown indicatively on the plan, the locations will need to be the subject of separate approval, and therefore this plan should not be considered to indicate any approval to the street lighting scheme. It is noted that the submitted drawings indicate the proposed construction of the access but such details will be the subject of separate



approval under a Section 38 Agreement and therefore this drawing should be treated as indicative only. The level of parking is considered acceptable, although manoeuvring for the spaces for Plots 14 and 15 are not ideal they would only cause inconvenience to occupiers of the dwellings. The applicant's consultants have now submitted further information to inform the appropriate level of highway contribution, and I am happy that they have put forward a robust argument for a reduction in the level of contribution previously requested, which is line with other development proposals in the vicinity. The consultants have assessed census data and have calculated that of the working adults travelling to work by car/motorcycle or public transport, there would be 64 additional trips for the new dwellings, but only 44% of such trips would be towards Bristol or Bath. There would also be 12 additional trips for the office use. Having regard to the schemes within the SPD (Planning Obligations) the level of contribution per trip has been agreed as £214.40, and therefore the level of contribution now sought is £7,089.33, which should be used to improve pedestrian facilities and/or traffic management in the village of Clutton. Recommend no highway objection subject to conditions and the prior completion of a legal agreement to secure the highway contribution of £7,089.33 towards improvements to pedestrian facilities and/or traffic management in the village of Clutton.

Highways Drainage - the applicant has indicated that surface water will be disposed of via a sustainable drainage system to an existing watercourse. A Flood Defence Consent will be required. No details of the proposed sustainable drainage system have been provided and should be submitted including a drawing showing the SuDS elements proposed, their location and construction details. Calculations should be provided for the pre and post construction hard-standing areas and surface water run-off rates should be reduced compared to the existing. Electronic calculations to support the submission should also be provided.

Housing - the application triggers planning policy HG.8 thus requires a 35% affordable housing contribution. Based upon the application this equates to 5 affordable dwellings. Concerns regarding the number, dwelling size, tenure mix, location and design of the proposed affordable dwellings. Amended scheme addresses number, tenure mix, location and design issues. Recommendations on number, tenure and size mix, design / sustainability standards, funding and nomination rights and delivery.

Urban Design - this proposal has been the subject of pre-application engagement and serious in-principle concerns raised about the proposed development due to loss of green infrastructure links and impact on character. These comments stand however it is noted that the proposal has responded to a number of these issues. A response to maintaining GI connections is proposed through the northern access road; although the layout is largely driven by car access it is dictated by the linear nature of the plot and has harnessed shared space principles and positioned buildings to optimise solar gain; a visually permeable approach has been taken to maintain views to the Green Belt however, views from the rural environment need to be considered and the proposal should introduce rear boundary planting and fencing/walls that create an appropriate new urban edge. The proposed houses are based upon a stated appreciation of local context but adopt a contemporary simple design approach and this is considered appropriate within the mixed context of Clutton. Should the development be considered acceptable, samples of materials should be conditioned for approval.

Coal Authority - substantive concern as site falls within the defined Coal Mining Development Referral Area and therefore there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. Specifically, The Coal Authority's records indicate that shallow underground coal mining has taken place beneath part of the application site. In response the applicant has submitted a Coal Mining Risk Assessment Report and the Coal Authority now raise no objection subject to conditions.

Wessex Water - development should be connected to the public sewerage system.

Police (Crime Prevention Design Advisor) - object on the basis that crime, security and safety have not been addressed in the Design & Access Statement. In addition concern at the initial proposals due to the lack of 'pepper potting' and tenure blindness of the social housing and lack of natural surveillance over the car parking area.

Clutton Parish Council - concluded unanimously that it approves of this proposal, since it is for a limited amount of housing on a brownfield site within the village, and this is consistent with the Parish Plan and with our understanding of the proposed B&NES Core Strategy. Support subject to a condition that sewerage from the development is connected to the main sewage system in the village. The Parish Council has been concerned to learn that your department may have leaned towards a view that some part of the site should be retained for industrial purposes, and we wish to state that this site has been blighted for several years in the false hope that some employment use might be created at the site, and that we believe that the time has come to abandon this hope and permit the housing potential of this brownfield site near the centre of the village to be realised.

Councillor Sparks - support noting that the development is brownfield land, the village is in need of affordable housing, there is minimal impact on surrounding properties/residents, the change of use would cut out HGV movements and benefit the village, the size of development is appropriate for the parish, the scheme enjoys support of many residents.

1 letter of support on the grounds that:

- i) although at present the site is used for a small scale haulage business, in the past the size and volume of the vehicles has presented hazards on the inadequate infrastructure.
- ii) the site shares a single entrance/exit with The Sidings housing development compromising future appropriate (employment) use.
- iii) 14 dwellings means that the affordable housing contribution and 106 contributions will not be avoided.
- iv) the proposal goes a long way towards providing the identified housing need in Clutton without the sacrifice of providing unnecessary larger open market housing and balancing the village needs for housing in such a way will minimise the disruption/hazards presented the increase in traffic/pedestrians and the limited infrastructure.
- v) the site is brownfield and is not an incursion into open countryside.
- vi) the development is of an appropriate size for the amenities in the village
- vii) the development will not detract from the character of the village and will improve the visual amenity of the eastern end of the village.
- viii) its location close to the centre of the village means it is a more suitable use as housing than it's current use as a haulage yard.

ix) as a small development it will "fit" better into the village and will not strain the limited facilities of the village.

A letter has been submitted by 131 people in support of the proposals on the grounds that:

- i) it is a brownfield site, it is located near the centre of the village and not suitable for its current usage as a haulage and storage yard
- ii) when it did operate at a higher capacity the HGV traffic was of a size and volume that created major disturbance to residents and hazards to pedestrians including children going to school
- iii) housing development would reduce HGV traffic through the village which has very limited or few footpaths
- iv) the size of the development is appropriate to the overall size and limited amenities of the village
- v) there is industrial space available within the Parish.

6 letters of objection raising variously the following grounds:

- i) impact on existing highway/traffic problems (lack of footway from this site to Clutton's amenities, increased traffic a safety hazard for pedestrians given narrow roads and poor visibility, cumulative traffic generation/impact with adjoining sites, poor visibility at Station Road junction).
- ii) current inadequacies of local facilities (the village does not offer at present a wide range of facilities that could be considered to provide for the general needs of all residents, the bus service (376) location on the A37 exceeds the recommended distance of 400m but also involves walking on carriage ways without separate footways, the local school would have difficulty taking in extra numbers from this development and the proposed Clovelly development on the adjacent site).
- iii) health and safety considerations (potential health risk of overloading Paulton sewage works).
- iv) density of development and amenities for residents
- v) demolition of the Bristol & North Somerset Railway weighbridge office and associated weighbridge as it is likely to be the only surviving weighbridge office of its type built by this railway company. It might therefore be unique and in view of its architectural merit is worthy of retention and restoration. In view of its rarity it should be listed by English Heritage and a detailed survey carried out to record surviving features. The station area itself should also be fully recorded to document any structures or features.
- vi) encroachment on the former railway corridor in breach of Government and quite possibly BANES core strategy guidelines on protecting railway track beds for future potential public transport use.
- vii) loss of employment land.

## **POLICIES/LEGISLATION**

Bath and North East Somerset (including minerals and waste) Local Plan 2007 - IMP.1; GB.2; HG.4; HG.8; ET.3; T.9; T.24; T.26; D2; D.4; NE.1; NE.4; NE.5; NE.10; NE.11; CF.3; ES.5; ES.14; ES.15; Planning Obligations SPD. The application has been advertised as a departure from the development plan.

Draft Core Strategy (Submission Version 2010, as amended) - CP2, CP3, CP6, CP8, RA1, RA2. Consideration has been given to the Bath & North East Somerset Draft Core Strategy however only limited weight can be attached to this document until it is formally adopted.

National Planning Policy Framework (NPPF) March 2012 - the NPPF states that there is a presumption in favour of sustainable development and highlights the importance of boosting significantly the supply of housing, encouraging the effective use of land by re-using land previously developed/brownfield land provided that it is not of high environmental value, and in relation to (allocated) employment land treating applications for alternative uses of land or buildings on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities. Para 14 of the NPPF states that 'where the development plan is absent, silent or the relevant policies are out of date' the local authority should grant permission unless there are any adverse impacts in doing so that would 'significantly or demonstrably outweigh the benefits of the scheme'.

Paragraph 49 of the NPPF states that 'housing applications should be considered in the context of the presumption in favour of sustainable development' and that 'relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year land supply of deliverable housing'. Furthermore, in order to boost the supply of housing, paragraph 47 makes it clear that where there has been a record of persistent under delivery an additional buffer of 20% to this supply of deliverable sites should be identified to ensure choice and competition in the market for land.

### **OFFICER ASSESSMENT**

The application site comprises part of the former railway line and sidings on the old Bristol and North Somerset line. The site has been used for a range of industrial and storage purposes for a number of years, most recently for vehicle repair and storage purposes.

**PRINCIPLE OF DEVELOPMENT:** Clutton is designated in the adopted Local Plan as an R.1 settlement and Policy HG.4 of the Local Plan states that residential development in those villages defined as R.1 (and R.2) settlements will be permitted if it is within the defined Housing Development Boundary. The application site is located outside the defined Housing Development Boundary of the village and in such cases Policy HG.4 states that residential development will be permitted if it forms an element of either a comprehensive scheme for a major mixed use site defined in Policy GDS.1 (not applicable in this case) or a scheme coming forward under Policies ET.2(2&3), ET.3(3). In addition the development must be appropriate to the scale of the settlement in terms of the availability of facilities and employment opportunities and accessibility to public transport.

In terms of policies in the Draft Core Strategy, Clutton currently meets the criteria of Policy RA1 which seeks to direct development in the rural areas to the most sustainable villages. For those villages the policy states that proposals for residential development will be acceptable within the Housing Development Boundary and that development sites will be identified in the Placemaking Plan. The Housing Development Boundary will be reviewed accordingly to enable delivery of the overall scale of development directed towards the rural areas. Whilst this overall approach was supported in principle by the Core Strategy Inspector (Document ID/28), this needs to be set against the priorities set out in the NPPF (outlined above) and more particularly para. 49 of the NPPF which makes it clear that for authorities that cannot demonstrate a five year housing land supply the relevant policies for the supply of housing should not be considered to be up-to-date. Recent planning appeal decisions have reinforced the importance of providing a five year land supply. It

has been publicised through the Core Strategy process that Bath and North East Somerset Council does not have an up-to-date five year land supply. In light of the NPPF the relevant local plan policies cannot be considered up-to-date. The Local Plan was produced under the auspices of the Town and Country Planning Act 1990 and in accordance with paragraphs 214 and 215 of the NPPF where there is a conflict between existing policies, in this case housing supply policies, and those outlined in the NPPF significant weight should be attached to the NPPF in decision making despite a conflict with adopted Local Plan policy.

Whilst it remains the case that the site is outside the defined housing development boundary for Clutton, and therefore the development is contrary to Policy HG.4, there is clear evidence that the Secretary of State and the Planning Inspectorate are giving precedence to guidance set out in the NPPF especially where local authorities are unable to demonstrate a five-year land supply. In respect of the emerging policy position whilst limited weight can be attached to the Core Strategy it is noted that this seeks to direct development to the most sustainable villages by allowing for developments of around 30 dwellings to come forward. The level of housing proposed on the application site, even when taken together with other recent cases, is broadly in line with the level of housing that the policy would allow for and there is no assurance that other schemes, if permitted, will be implemented. On balance, it is accepted that the site can be considered sustainable in locational planning terms and it is noted that the SHLAA process has confirmed that there are no other suitable or readily available sites available for immediate delivery to meet the housing need in this area.

**LOSS OF EMPLOYMENT LAND:** In terms of policy set out in the adopted Local Plan, as a single use scheme for residential development the proposal does not strictly satisfy the provisions of Policy ET.3 (3) as it does not comprise an element of a scheme as required under the terms of Policy HG.4, however Policy ET.3(3) sets out criteria for the release of employment land which are considered to be of relevance in this case. These are whether the site is capable of continuing to offer adequate accommodation for potential business or other similar employment uses; or whether continued use of the site for business or other similar employment uses would perpetuate unacceptable environmental or traffic problems; or whether an alternative use or mix of uses offers community benefit outweighing the economic or employment advantages of retaining the site in business or other similar employment uses. When considered against these criteria the following observations can be made.

1. The site comprises a single industrial building that is in use for vehicle repair purposes together with open areas which are used for storage purposes. Whilst the building and site is capable of continued use for employment purposes the building is of a basic design and fit out and is likely to be suitable only for B2 or B8 uses. This limits its marketability as well as potentially perpetuating detrimental environmental and traffic impacts on the locality and village generally.

2. Bringing the site back into full active use would generate significant traffic and comments submitted on the application from local residents indicate that when in more intensive use than at present the site gave rise to significant numbers of heavy goods vehicles travelling through the village. This caused traffic and highway safety issues and it is considered that continued use of the entire site for employment uses, and particularly B2/B8 type activities, is likely to result in unacceptable impacts.

3. The application is solely for residential redevelopment and although the scheme provides for a potential pedestrian connection to the village (via the route of the former

railway line and thereby avoiding use of the main road) this community benefit is not dependent on the residential use of the site.

It is considered that retaining the entire site in employment use would result in unacceptable environmental and traffic impacts and when also assessed in terms of the objectives set out in the NPPF then on balance the loss of employment land is outweighed by the delivery of new housing (including affordable homes) and local environmental benefits of an alternative use.

**HOUSING MIX AND TENURE:** In terms of the dwelling size and tenure mix the application proposes a range of 2, 3 and 4 bedroom houses and two 2-bedroom flats. The development has a density of 25 dwellings per hectare (gross site area) and 35 per hectare (net). The dwellings comprise following tenure mix:

**Social Rent**

- 2 x 1 bed flats
- 1 x 2 bed house
- 1 x 3 bed house

**Shared Ownership**

- 1 x 3 bed house

**Private**

- 1 x 2 bed house
- 6 x 3 bed house
- 3 x 4 bed house

Policy HG.8 states that the Council will seek to secure the provision of 35% affordable housing in settlements where the population is 3000 or below on schemes for 10 dwellings or more or the site has an area of 0.5ha or more. The application is above the thresholds for providing affordable housing and includes 5 dwellings (approximately 35%) as affordable. The unit size is generally smaller than the preferred mix identified by Strategic Housing however it is considered that it provides an acceptable mix of smaller and family dwellings. The affordable housing is distributed through the site and generally indistinguishable from the private housing. One of the dwellings is designed to be wheelchair accessible and all other affordable homes will meet Lifetime Homes standards. It is considered that the affordable housing provision is acceptable and will be secured by legal agreement.

**VISUAL AMENITY OF THE GREEN BELT:** The site is bounded to the north and east by the Green Belt and Policy GB.2 of the Local Plan states that permission will not be granted for development within or visible from the Green Belt which would be visually detrimental to the Green Belt by reason of its siting, design or materials used for its construction. The existing building on the site is visible from a public footpath to the north of the site where the land rises up Clutton Hill. The proposed buildings will also be visible from this viewpoint although as a series of lower, individual buildings and partially screened by trees. The layout and design of the development allows for glanced views through the site and it is considered that the houses, replacing a larger industrial building, will not be visually detrimental to the Green Belt or impact negatively on its openness.

**URBAN DESIGN:** The layout of the proposed development is constrained by the shape of the site, as well as the topography and presence of trees along its northern boundary, and it is considered that the layout achieves a satisfactory arrangement given this context. The treatment of the road and public realm has been developed in consultation with Highways and given the relatively low-key nature of the development the use of shared surfaces is considered appropriate. The design of the individual buildings is contemporary with a mix of heights, layout and materials. The houses are generally two storeys in height but given the topography of the site the building closest to Station Road is set over three floors. All houses have pitched roofs (some presented as gables to the street) and a pair of houses also have rooms in the roof space with small dormer windows. The mix of building styles is considered appropriate and the orientation of buildings seeks to limit direct overlooking within the site and to adjoining houses within The Sidings development.

**ECOLOGY:** The applicant has undertaken ecological surveys and provided additional information regarding ecological enhancement measures and the Ecological Officer is satisfied that appropriate measures have been taken or can be secured by condition to safeguard any protected species on the site. Further information has also been provided on tree protection measures and replacement planting that can be secured by condition.

**ARBORICULTURAL IMPLICATIONS:** the applicant has submitted further information regarding the protection of trees on and adjoining the site and it is considered that subject to appropriate conditions the proposals are acceptable.

**HIGHWAY SAFETY:** The applicant has clarified means of access to the site and subject to completion of relevant agreements to secure access to the public highway (Station Road) the proposals are considered acceptable. The applicant has agreed to make a financial contribution towards improvements to pedestrian facilities and/or traffic management in the village of Clutton. Following a review of the level of contribution the Highways Officer advises that a payment of £7,089.33 is appropriate.

**OTHER ISSUES:** Education Services have advised of a need for a financial contribution of £16,313.51 towards Primary School Places and Youth Services and the applicant has agreed to this level of contribution. .

The Parish Council supports the development and there has been considerable support for the proposals including a 'standard' letter from over 130 local residents.

Objections to the application relate to:

i) vehicle movements from the site and consequential highway/traffic problems - the Highways officer has assessed the level of trip generation from the site and concluded that highway impacts are acceptable. They recommend that a financial contribution is secured towards improvements to pedestrian facilities and/or traffic management in Clutton.

ii) current inadequacies of local facilities - Children's Services have advised that providing additional school places at the local Primary School is feasible and a financial contribution for this (and Youth Services) is to be secured. Although the local bus service is more than 400m from the site, this is not considered unacceptable in this rural location.

iii) health and safety considerations - Wessex Water require connection to the mains sewerage system and this has been confirmed by the applicant.

iv) density of development and amenities for residents - the density of development is considered reasonable and within Local Plan guidelines, and all dwellings have private amenity space. Although the new dwellings are located on an embankment and so at a higher level than those adjoining, the distance between the proposed new dwellings and the nearest existing property is approximately 20m away, and windows in the new dwelling allow for only an oblique view towards this property. Properties on a site where planning permission has recently been granted are closer however the buildings have flank walls with secondary windows facing onto each other. It is considered that residential amenity of existing and proposed buildings is acceptable.

v) demolition of former Bristol & North Somerset Railway weighbridge office - the building can be considered as a heritage asset however all other contextual rail infrastructure and buildings have been removed from the site. Accordingly its retention on site is not considered essential however the applicant has indicated that they are willing to make the building available to interested parties (such as a railway heritage organisation) for them to dismantle and reconstruct elsewhere.

vi) encroachment on the former railway corridor - the development does not encroach onto the safeguarded transport corridor in the Local Plan.

vii) loss of employment land - the proposals will involve the loss of employment land however this is not considered to be sufficient reason to refuse permission. In addition the site is currently under-utilised and when fully occupied has given rise to local traffic problems. In the circumstances it is considered that the development of the site for residential purposes, including affordable housing, is acceptable.

viii) land contamination and former mine workings on the site - the Council's Contaminated Land Officer has advised that subject to appropriate site investigation and remediation (if required) they raise no objection to redevelopment for residential purposes. The applicant has submitted a Risk Assessment as required by the Coal Authority who have reviewed the report and advised that the coal mining legacy potentially poses a risk to the proposed development and that a condition should be imposed requiring intrusive site investigation works be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site. The condition should also ensure that, in the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings to ensure the safety and stability of the proposed development, these works should also be undertaken prior to commencement of development.

**CONCLUSION:** The proposed development is contrary to Policy HG.4 of the Local Plan, being located outside the Housing Development Boundary of Clutton. However the proposals also need to be considered in the light of the NPPF which promotes sustainable development, the importance of boosting significantly the supply of housing and encouraging the effective use of land by re-using previously developed/brownfield land not of high environmental value. Given the characteristics of this site and its setting, the local environmental benefits of an alternative use to employment, and the lack of a five year supply of housing land it is considered that on balance and subject to conditions and the completion of a legal agreement the proposed development is acceptable.

## **RECOMMENDATION**

(A) Authorise the Planning and Environmental Law Manager to secure an Agreement under Section 106 of the Town and Country Planning Act 1990 to secure:

i). The provision of 5 dwellings as affordable homes comprising:



## Social Rent

2 x 1 bed flats

1 x 2 bed house

1 x 3 bed house

## Shared Ownership

1 x 3 bed house

ii). A financial contribution of £7,089.33 towards improvements to pedestrian facilities and/or traffic management in the village of Clutton.

iii). A financial contribution of £16,313.51 towards Primary School Places and Youth Services.

(B) Upon completion of the Agreement authorise the Development Manager to PERMIT the application subject to the following 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 No development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

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

3 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management.

Reason: To ensure the safe operation of the highway.

4 Before the dwellings are first occupied, new resident's welcome packs shall be issued to purchasers which should include information of bus and train timetable information, information giving examples of fares/ticket options, information on cycle routes, a copy of the Travel Smarter publication, car share, car club information etc., together with complimentary bus tickets for each household member to encourage residents to try public transport. The content of such packs shall have been approved in writing by the Local Planning Authority.

Reason: In the interests of sustainable development.

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

Reason: In the interests of amenity and highway safety.

6 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. Such details shall include (but not limited to) the pre and post construction hard standing areas calculations; the pre and post construction discharge rates from the site; details of surface water discharge points; a site layout drawing with details of suds features and the overall drainage strategy; how potential pollution from the site will be removed and controlled. Any drainage calculations carried electronically should be submitted in an electronic format.

Reason: In the interests of highway safety.

7 All houses in the development shall be designed to achieve level 3, or better, of the Code for Sustainable Homes.

Reason: To ensure that the development is constructed as specified in the application and to secure the sustainable development of the site.

8 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.

9 Where required 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.

10 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.

11 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 8, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 9, 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 10.

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.

12 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 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.

13 Prior to commencement of development an intrusive site investigation survey of the site shall be undertaken in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority in consultation with the Coal Authority.

In the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings to ensure the safety and stability of the proposed development, these works shall be undertaken prior to commencement of development.

Reason: Coal mining legacy potentially poses a risk to the proposed development and intrusive site investigation works are required to establish the impact on the safety and stability of the proposed development and the need, if required, for remedial works.

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

Reason: To ensure that no excavation, tipping, burning, storing of materials or any other activity takes place which would adversely affect the trees to be retained.

15 No development activity shall commence until the protective measures as stated in the approved Detailed Arboricultural Method Statement are implemented. The local planning authority is to be advised two weeks prior to development commencing of the fact that the tree protection measures as required are in place and available for inspection.

Reason: To ensure that the trees are protected from potentially damaging activities.

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

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

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

(i) Finalised details of badger mitigation including findings of pre-commencement checks for new badger activity; mapped location and specifications for fencing; confirmation that fencing is in place; details of licence application

(ii) Details of proposed street lighting and external lighting demonstrating retention and provision of dark corridors to enable continued passage across the site and use of the site and adjacent woodland edge by bats for commuting and foraging

(iii) Specifications and location for bat roost provision to be shown on soft landscape scheme

(iv) Specifications and location for reptile mitigation to be shown on soft landscape scheme

(v) Details to be incorporated into soft landscape scheme of wildlife-friendly and native species planting, including boundary planting, to maximise wildlife benefit and minimise impacts of the development on ecological value on adjacent land

(vi) Details of ecological enhancements as appropriate

All works within the scheme shall be carried out in accordance with the approved details, unless otherwise approved in writing by the local planning authority. The works shall be carried out prior to the occupation of any part of the development.

18 No development shall commence until details of the proposed: estate road(s); footways; footpaths; verges; junctions; street lighting; sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays; accesses; carriageway gradients; drive gradients; car parking; street furniture and programme of implementation shall be submitted to and approved in writing by the Local Planning Authority and the development shall not be carried out other than in accordance with the approved details and programme of implementation without the prior written approval of the Local Planning Authority.

Reason: In the interests of highway safety.

19 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:**

L100, L101, L102, L103 Rev.B, L105, L106 Rev. G, L107 Rev. B, L109, L110, L111, L112, L115, sk 32 Rev. B, sk 35 Rev.A, HT 5-1 Rev. A, HT 5-2 Rev. A, HT 7-1 Rev. A, HT 7-2 Rev. A, HT 8 Rev. A, HT 8-2, HT 15 Rev. A, HT 19, HT 25-1, HT 25-2, HT 26, HT 26b, HT 28, A201.

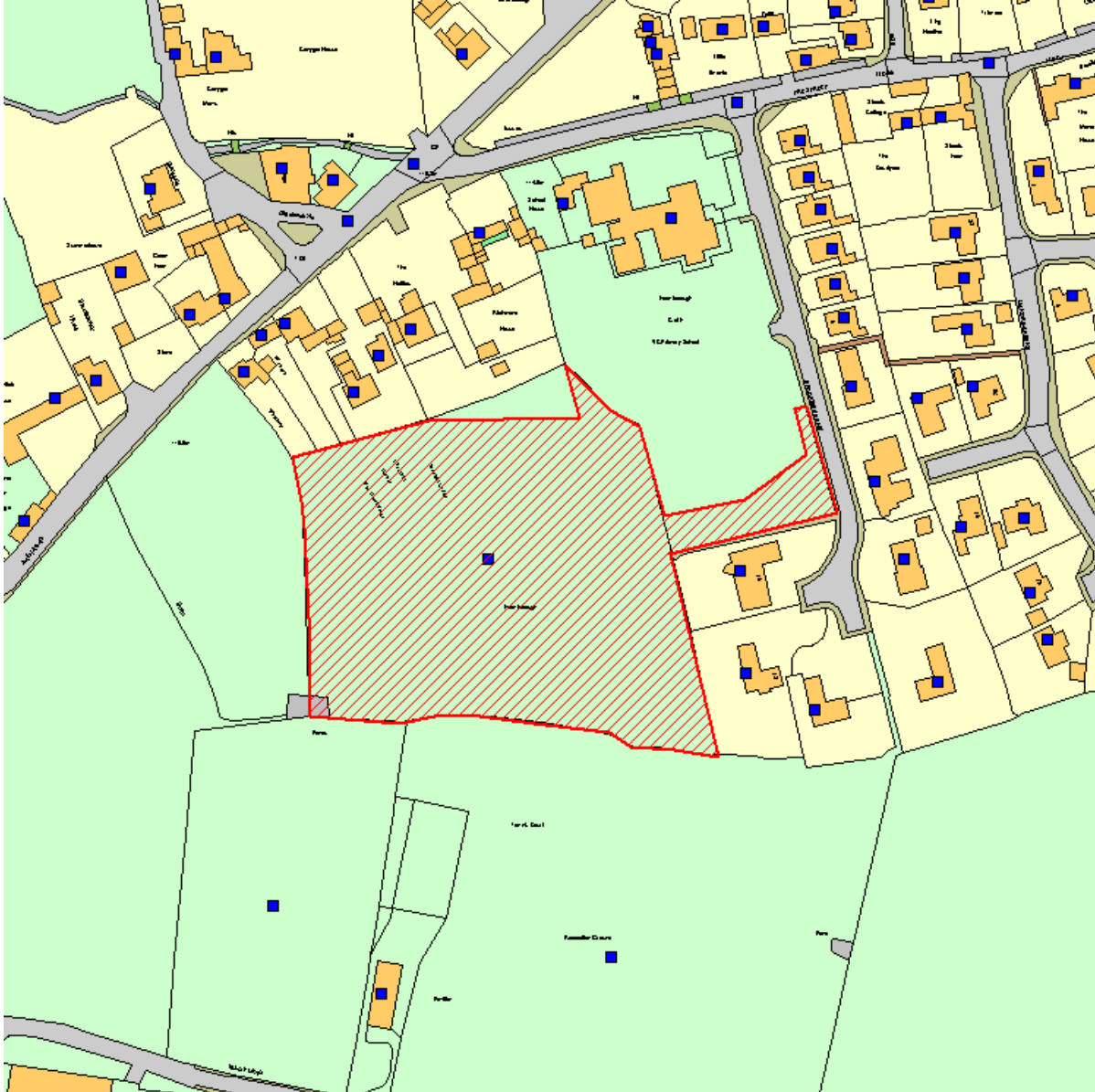
## **REASONS FOR APPROVAL**

The decision to recommend approval has taken account of relevant policies set out in the Development Plan and adopted Supplementary Planning Documents and the National Planning Policy Framework. The decision has also been taken into account other material considerations including emerging policy set out in the Draft Core Strategy and the responses from statutory consultees and other interested parties.

The proposed development is located outside the Housing Development Boundary as defined in the adopted Bath and North East Somerset Local Plan (including minerals and waste policies) 2007 and therefore contrary to policy HG.4 (Residential development in the urban areas and R.1 settlements) of the Local Plan and to policy RA1 of the Draft Core Strategy (Development in the villages meeting the listed criteria). However this is outweighed by guidance set out in the National Planning Policy Framework in respect of promoting sustainable development and ensuring an adequate supply of land for housing.

Subject to conditions and a s.106 agreement secured in accordance with policies IMP.1 (Planning obligations), by virtue of site area and number and tenure mix of the proposed dwellings the development is in accordance with policy HG.8 (Affordable housing on allocated and large windfall sites) and CF.3 (Contributions from new development to community facilities) of the Local Plan. It is considered that the scale, layout and design of the proposed buildings is acceptable and would not materially affect the amenities of the neighbours in accordance with Policy D.2 (General design and public realm considerations) and D.4 (Townscape considerations). Subject to implementation of measures to safeguard trees and protected species the development is in accordance with policies NE.4 (Trees & woodland conservation), NE.10 (Nationally important species and habitats) and NE.11 (Locally important species and habitats). The site adjoins the Green Belt however by virtue of the siting, design and materials of the development it will not be visually detrimental to the Green Belt nor impact negatively on its openness in accordance with policy GB2 (Visual amenities of the Green Belt). The proposed site access and layout is considered acceptable and subject to a planning obligation in respect of improvements to pedestrian facilities and/or traffic management the development is in accordance with Policy T.24 (General development control and access policy) of the Local Plan. Subject to site investigations (and, if required, mitigation and remediation) the development is in accordance with policies ES.14 (Unstable land) and ES.15 (Contaminated Land) of the Local Plan.

**Item No:** 02  
**Application No:** 12/00722/OUT  
**Site Location:** Land Rear Of Holly Farm, Brookside Drive, Farmborough, Bath



**Ward:** Farmborough                      **Parish:** Farmborough                      **LB Grade:** N/A  
**Ward Members:** Councillor S Davis  
**Application Type:** Outline Application  
**Proposal:** Residential development comprising 35 dwellings with associated access, car parking and landscaping (Resubmission)  
**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenfield site, Housing Development Boundary, Public Right of Way, Safeguarded Land,  
**Applicant:** Blue Cedar Homes  
**Expiry Date:** 13th June 2012

<b>Case Officer:</b> Tessa Hampden
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## **REPORT**

### **REASON FOR REPORTING APPLICATION TO COMMITTEE**

This application was previously heard at committee in June, when the committee resolved to delegate to permit this application subject to the applicant entering into a S106 agreement. This agreement included a clause to ensure that a village shop was operational prior to development commencing. This application is being brought back to committee as no legal agreement has been entered into.

### **DESCRIPTION OF SITE AND APPLICATION**

The application site relates to a parcel of land of approximately 1.3 hectares in size, located to the south-west of the village of Farmborough. The land has previously been used for agricultural purposes. The site is bounded by residential development to the north and the south-east, by Farmborough Primary School and the associated playing field to the north-east, open fields to the west and a recreation ground to the south. The buildings to the north include listed buildings, including the Hollies and Richmond House.

The site is relatively level and set within well-defined boundaries comprising hedgerows, trees and fencing. The strip of land which will form the access to the site contains a number of trees. Two public right of ways run through the site, the first runs from Brookside Drive between no. 14 and the school playing fields and crosses the site to the north west corner. It is at this point that it meets the second right of way; this crosses the site to the south, leading to the recreation ground.

The application site is located outside of the Housing Development Boundary of Farmborough but the land is identified in Local Plan Policy GB.4 as safeguarded land. The site is adjacent to the designated Bristol/Bath Green Belt.

The application seeks outline planning permission for residential development comprising 35 dwellings, with detailed approval being sought at this stage only for the means of access. The proposed access to the site is from Brookside Drive and a land exchange has been agreed with the school to allow for this. The application illustrates that the dwellings would be a mix of 12 retirement cottages, 11 open market dwellings and 12 affordable homes.

Outline planning permission was refused by the Development Control Committee on 20th December 2011 for the erection of 38 houses at this site. However, this was allowed at appeal on 3rd October 2012, with full costs awarded to the appellant.

### **RELEVANT PLANNING HISTORY**

DC - 11/02432/OUT - REFUSED - 20 December 2011 - Residential development comprising 38 dwellings with associated access, car parking and landscaping.

AP - 12/00032/RF - ALLOW - 3 October 2012 - Residential development comprising 38 dwellings with associated access, car parking and landscaping



## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Summary of Consultation/Representations:

Childrens' Services - a total contribution sought of £6,203.10

Sport England - No objection to the development subject to the inclusion of a condition

Urban Design - No objection subject to conditions - comments in line with previous application

Environment Agency - No objections subject to conditions

Wessex Water - analysed options put forward, and recognise that a number of the options may require access to third party land. Applicant advised to contact the development engineer to discuss the options above and to ensure that the layout of the on site sewers meet existing and imminent legislation

Arboricultural Officer - No objection subject to the inclusion of conditions and additional/updated information being submitted at reserved matters stage.

Strategic Housing - Support the application in principle subject to the issues of suitability being addressed in the full planning application and requests that the Housing Development Officer's recommendations should be included as Heads of Terms in the S106 Agreement

Ecology - No objections subject to condition

Planning Policy - The Council has a 5 year supply of deliverable housing sites including a 5% buffer and do not consider that a 20% buffer needs to be demonstrated. Brookside Drive forms part of the 5 year housing supply on account of the fact that it was identified as safeguarded land in the Local Plan for development beyond 2011 and can reasonably be expected to come forward before 2017. The Local Plan process established that Brookside Drive was the most sustainable site for development at Farmborough. Any review of that decision would likely result in the same conclusion subject to the provision of the village shop. The Core Strategy as a material consideration actively seeks to direct modest level of development to the most sustainable rural villages. A refusal would only serve to delay the development of this site until such time as a formal allocation was recommended to supersede its safeguarded status.

Highway Development - Given the outline nature of this planning application only the immediate point of access from Brookside Drive will be considered for detailed approval, and all internal access roads and driveways will be subject to further detailed approval if permission is granted on this outline application. The junction of the new access road with Brookside Drive is proposed with visibility splays of 2.4m x 43m to the north and 2.4m x 17m to the south, which are considered appropriate.

The lack of a full range of local services within the village and the limitations in the public transport provision, would result in a heavy reliance in the use of the private car as a main mode of travel. although it is accepted that the site has been allocated as a safeguarded site for residential development. The applicants have demonstrated a commitment

towards improving the sustainability of the village with assistance being offered towards the setting up of a local community shop and a contribution towards improvements to public transport.

Notes the concerns raised regarding the impact on the junction of The Street with the A39, and refer to the absence of personal injury accidents. This junction is not considered to be of an acceptable standard, but having regard to the level of development within the village, it would be difficult to argue that the proposed development would result in a material increase in the use of the junction.

Comments have also been made in respect of the concerns raised regarding the effect on existing parking, which seems to relate to the parking which takes place on Brookside Drive attributed mainly to the school. The control of such parking is within the Council's gift to restrict, if this is considered to cause highway safety problems, and therefore would not be a legitimate reason to object to the development.

It is recommended that any permission is withheld pending the completion of a legal agreement to secure the following:-

The construction of a footway within the existing highway, from the site access to the junction of Brookside Drive with The Street.

A contribution of £13,428.21 towards Strategic Highway and Transport Works.

A contribution of £26,000 towards improvements to public transport facilities, in the vicinity of the site.

A contribution of £5,000 towards traffic management measures in the vicinity of the site.

It is also recommended that a number of conditions are attached to any permission granted.

Public Rights of Way Team - Public footpaths CL9/18 and CL9/21 run through the application site as shown in purple on the attached plan. The 'Concept Plan' shows these footpaths following a new alignment however a public right of way can only be diverted by legal order and the Council does not currently have the resources to process diversion applications. The development would obstruct the current legal line of the rights of way and the PROW Team therefore object to the application. If permission is granted despite this objection then a condition should be applied to the permission prohibiting any works being carried out on the line of the right of way prior to the path being legally diverted

Police - No objection but further information is requested at any full planning application

Farmborough Parish Council - Object to the planning application for the following reasons:  
- there is a substantial local opposition to these plans which is considered to be in opposition to the philosophy laid out in the NPPF, development would represent the overdevelopment of the site, highway safety matters with regards to suitability of nearby junctions and access points near the school, and with regards to issues during the construction phase. Further concerns with the sustainability of the development, with the houses to be constructed in only the minimum building standards.

25 objection comments have been received (although it is noted that additional comments from the same households have also been received). Further a letter and petition signed by 127 residents has been received. The comments can be summarised as follows:

Overdevelopment of the site

Increase in car usage, and increased congestion around the A39 junction.

Community shop will not meet everyone's need

Lack of need for the development - large developments in nearby villages

Child safety

Drainage and impact upon trees

Rubbish/recycling

Distance from bus stops

Unsustainable location

Brownfield sites should be considered first

Local opposition to the development -contrary to the Localism Act

Accidents not recorded

Little change from refused application

Construction and lack of information on how this will be managed

Damage to school field through works relating to sewerage etc.

Development out of keeping with the surrounding area

Contrary to the Direction of the County Engineer and Surveyor, dated 26th October 1988, in which the development of Brookside Drive was restricted

Loss in value of existing properties

Can the school cope with the additional children\_

Lack of parking and resultant issues

Loss of views

Noise disturbance

Access road in close proximity to bedroom window

Lack of facilities

Land swap inappropriate

Development out of keeping with rural character of the area

Overlooking and loss of privacy

Loss of landscaping for access road

Intrinsic value and beauty of the countryside

Arable use of land should not be changed

Emergency vehicular access

Impact upon listed buildings

Protected species

Density of development

## **POLICIES/LEGISLATION**

The National Planning Policy Framework - March 2012

The Planning System: General Principles - 2005

Draft Revised Regional Spatial Strategy for the South West (incorporating the proposed changes) - July 2008

SD1 The Ecological Footprint

SD3: The Environment and Natural Resources  
Development Policy C: Development at Small Towns and Villages  
Development Policy E: High Quality Design  
HMA1: West of England HMA  
HD1: Sub-Regional Distribution of Housing 2006-2026  
RTS3: Parking  
H1: Housing Affordability  
H2: Housing Densities  
H3: Mix of Housing  
ENV1: Protecting and Enhancing the Region's Natural and Historic Environment  
ENV5: Historic Environment

Joint Replacement Structure Plan - adopted September 2002

Policy 1  
Policy 2  
Policy 4  
Policy 16  
Policy 17  
Policy 18  
Policy 19  
Policy 33  
Policy 35  
Policy 59

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

IMP.1: Planning obligations  
D.2: General design and public realm considerations  
D.4: Townscape considerations  
ET.7 Use of agricultural land  
GB.1: Control of development in the Green Belt  
GB.2: Visual amenities of the Green Belt  
GB.4: Safeguarded land  
CF.3: Contributions from new development to community facilities  
CF.2 Provisions of new or replacement community facilities  
SR.1A Protection of playing fields and recreational open space  
SR.3: Provision of recreational facilities to meet the needs of new development  
S9 Retention of local needs shops outside of the identified centres and development of new small scale local shops  
ES14 Unstable land  
HG.1: Meeting the District housing requirement  
HG.7: Minimum housing density  
HG.8: Affordable Housing on allocated and large windfall sites  
HG.10: Housing outside settlements (agricultural and other essential dwellings)  
NE.1: Landscape character  
NE.4: Trees and woodland conservation  
NE.10: Nationally important species and habitats  
NE.11 Locally Important Species and their habitats  
NE.12: Natural features: retention, new provision and management

BH12 Important archaeological remains

T.1: Overarching access policy

T.24: General development control and access policy

T.25: Transport assessments and travel plans

T.26: On-site parking and servicing provision

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

Planning Obligations Supplementary Planning Document - adopted July 2009

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

RA1: Development in the Villages meeting the listed criteria

CP2: Sustainable construction

CP6: Environmental quality

CP8: Green Belt

CP9: Affordable housing

CP10: Housing mix

Policies IMP1, D.2, D.4, ET7, GB2, GB4, BH.2, HG.8, HG10, T.24, T.26, NE1, NE4, NE11, NE12, BH12,T1, T24, T26 are Saved Local Plan Policies

## **OFFICER ASSESSMENT**

### **PRINCIPLE OF DEVELOPMENT:**

Outline planning permission for 38 dwellings was allowed on appeal in October 2012, and therefore the principle of development was accepted by the Inspector for development at this site for a larger number of houses than proposed under this scheme.

It was recognised by the Inspector that in the context of the National Planning Policy Framework (NPPF), the Council cannot demonstrate a five year supply of deliverable housing sites and that for the purposes of paragraph 47 of the NPPF the Council was a '20%' authority. This fact was given very significant weight by the Planning Inspector in the determination of the Planning Appeal.

Further, the Inspector recognised that Policy GB4 makes it clear that the principle of development is acceptable on this safeguarded site. The site is also identified within the Council's Strategic Housing Land Availability Assessment (SHLAA) as providing some 35 dwellings in the first five year period of the trajectory suggesting that there are no issues with the principle of development at the site. He also recognised that planning permission had been granted for the 35 dwellings subject to the completion of a S106 agreement.

Whilst the Council are satisfied with the above points and would not disagree with the outcome of the decision on this basis, there are aspects of this decision that the Council are not in agreement with, but given the above conclusions, and the significant weight attached to the above material planning considerations, have made the decision not to

challenge the appeal decision. There are however concerns with regards the interpretation by the Inspector of Policy GB4 and the weight given to elements of the Core Strategy.

Policy GB4 states 'Land defined on the proposals map between the existing limits of development and the Green Belt at Whitchurch and Farmborough is safeguarded during the period of the Plan to meet the demands for development beyond 2011. In the meantime Policy GB.1 will be applied.'

In the previous assessment for residential development on this site, in light of the above policy, the Council considered that the development would be premature pending the consideration of the future of the site through the preparation of the place-making Plan and that the site should be treated as Green Belt pending this review. The Inspector did not support this approach stating that neither the policy nor the supporting text ties the release of safeguarded land to a review of the development plan. Further the Inspector questioned how, as the land was not within in the Green Belt, policy GB1 could be applied.

Whilst we are now beyond 2011, the Planning Inspectorate saved Policy GB.4 indefinitely despite the fact that it refers to 2011. By saving policies from the Local Plan this has extended the plan period pending adoption of the Core Strategy and Place Making Plan. It is therefore considered appropriate that the safeguarding policy be applied in this case.

It is therefore officer's view that Policy GB.1 applies and the development represents inappropriate development for which Very Special Circumstances would have to be demonstrated which outweigh the harm by reason of inappropriateness and any other identified harm.

However, in this instance it is considered that very special circumstances can be demonstrated and these are as detailed below:

- The appeal decision allowing outline planning permission for 38 dwellings
- The Council's failure to demonstrate a five year supply of deliverable housing sites
- The identification of the site within the Council's Strategic Housing Land Availability Assessment (SHLAA) as providing some 35 dwellings in the first five year period of the trajectory.

The above are considered to represent very special circumstances which outweigh the harm by reason of its inappropriateness. It should be noted that there is only one other safeguarded site within the Local Plan, and this site has specific constraints, so the proposal is not considered to set a precedent for future development.

Whilst it is acknowledged that the site is not within the Green Belt, it is to be treated as green belt. Following consideration as to whether the development is inappropriate, which is harmful by definition to Green Belt, it must now be considered whether the proposed development is harmful to the openness of the Green Belt and its rural character. The site is currently open fields, bounded with hedgerows and by nature of the scale of the development, the proposal is considered to be harmful to the openness of the Green Belt. However, as recognised by the Local Plan Inspector, the development will have a close visual link to the existing built form, and the harm to the visual amenities of the Green Belt is not considered to be so significant as to warrant the refusal of this application.

Emerging policy identified Farmborough as a settlement capable of accommodating additional growth. Farmborough was identified as an RA1 Village within the Draft Core Strategy. However the informal changes to Policy RA1 removes the list of RA1 settlements. It is instead cited that there are a number of villages where access to facilities and public transport is best and there is capacity for development. These villages are now the focus for small scale development under Policy RA1. However, Planning permission has been granted for 38 dwellings, without the need for a village shop or a contribution to a village shop.

Overall the development is considered to be inappropriate development within the Green Belt but very special circumstances are considered to have been demonstrated that allow for a departure from the usual policies of constraint.

#### LOSS OF PLAYING FIELD:

The main vehicular access to the site from Brookside Drive will involve the loss of a small section of the school grounds adjacent to the formal playing field. However, in order to facilitate this, a land swap agreement has been made with the school, which will be of equal value and will not compromise the ability of the school to use these facilities. Overall there will be no loss of playing field facilities for the school site and there will be no harm resulting from this arrangement. There have been no objections from Sport England with regards to this development.

#### HIGHWAY SAFETY:

The Planning Inspector looked at two main issues with regards to highway safety:

Whether the appeal site would represent a sustainable location for the development proposed?

The Inspector gave significant weight to saved Local Plan policy SC.1, which classifies Farmborough as a R.1 village. The supporting text refers to the concept of settlement clusters where a range of services may be shared and specifically identifies Farmborough as a village that contributes to the provision of services for village clusters. The Inspector considered this to be consistent with what is said in paragraph 55 of the NPPF. The Local Plan therefore assumes a certain amount of travel between places to access the full range of services.

Whilst it was accept that submitted Core Strategy policy RA1 promotes more services within the village, this was given very little weight by the Inspector. It was previously recommended by Development Control Committee that in order to make this development sustainable that a village shop should be operational. However it was considered by the Inspector that this seems very unlikely to be achieved and is out of the applicants control. Furthermore, the evidence given by local residents is that there is a significant difference of view between the Farmborough Community Shop Steering Committee and the Memorial Hall Committee as to whether the Hall site is a suitable location for a shop

The Inspector noted that he saw no conflict with the approach set out in paragraph 34 of the NPPF, in particular or the policies elsewhere in the NPPF. Furthermore, it was

considered that the proposal would be consistent with the objectives of saved LP policy SC.1 in this regard.

The effect that this development would have on the safety of users of the highway:

The internal access roads would be of 5.5m width, together with 2m footways/service margins on either side. The junction of the new access road with Brookside Drive is proposed with visibility splays of 2.4m x 43m to the north and 2.4m x 17m to the south, which are considered appropriate for the form of development.

The proposal will require the provision of a continuous footway from the junction of the new access road to the north, to link with the footway by the School, at the junction of Brookside Drive with the Street.

Dealing with the appeal the Inspector noted that with regards to the effect that the development would have upon the safety of users of the highway, the main issues relates to the effect on parking on the surrounding roads, mainly Brookside Drive and The Street, and the use of the junction between the A39 and The Street. It is noted that the Council's Senior Highway Officer did not raise an objection on these grounds.

Although it may well be short term in nature, traffic associated with the development of the site is a concern. However, this is a matter that can be addressed by a construction method statement and this method statement approved could include restrictions on the times that delivery and other construction related vehicles can access the site so as to avoid conflict with school traffic if that was deemed appropriate.

Both The Street and Brookside Drive are subject to an advisory 20 mph restriction in the vicinity of the school and note that parking in the manner shown in the photographs submitted by local residents in representations to the Council narrows the width of the highway to such an extent that there is likely to be a reduction in vehicle speeds as a result.

The control of such parking is within the Council's gift to restrict, if this is considered to cause highway safety problems, and therefore would not be a legitimate reason to object to the development. It has not been the Council's view that any material harm would be at a level as to warrant a refusal.

The A39 passes generally to the west/north west of the village. Although there is some frontage development the main part of the village lies at a lower level than the A39 which might be seen by some users as a village bypass notwithstanding the 30 mph speed limit over much of its length. The geometry of the A39/The Street junction is such that vehicles joining the A39 do so from a level slightly lower than the main highway. In addition the angle is such that when exiting The Street, visibility to the right is restricted by the boundary planting of the corner property.

The Inspector recognised why local residents consider that it has to be negotiated with care questioning why the double yellow lines on The Street do not extend to the entrance of the first property to prevent vehicles waiting on the junction since this compromises the available road space for turning.



However he also noted that the junction is at a low point on the A39 and that the junction markings are actually slightly forward onto the highway. Given that the A39 is relatively straight at this point drivers in both directions have a very clear view from height and over a very considerable distance of both the junction and any vehicles emerging from it. So, while the visibility to the right for emerging traffic may not be ideal, the visibility for the traffic being joined is very good.

It has previously been concluded that this junction is not of concern to the Council in respect of either its operational capacity or its safety record and the Inspector cited that he had no reason to conclude that the appeal proposal would be contrary policy T24 which addresses issues of highway safety.

**PUBLIC RIGHTS OF WAY:** The Transport Statement refers to the two public rights of ways which are within the application site, and states that one of the routes (CL9/18) will be generally incorporated within the access road layout, and the other route (CL9/21) is proposed to be legally diverted to allow for the development on the western side of the site.

A public right of way can only be diverted by legal order. The development would obstruct the current legal line of the rights of way and the PROW Team therefore object to the application. If permission is granted then a condition should be applied to the permission prohibiting any works being carried out on the line of the right of way prior to the path being legally diverted. The applicants are aware of the need to divert one of the rights of way, and if permission is granted, they would seek to make an application for the diversion.

#### **CHARACTER AND APPEARANCE OF THE PROPOSED DEVELOPMENT:**

This application has been submitted with 35 units. This is in line with the Council's SHLAA (May 2011) which identifies the site as having the potential to deliver approximately 35 dwellings. The density is now 27 dwellings per hectare.

Although the application is an outline application, indicative details of the design and layout have been put forward. There are some concerns with this indicative layout in that it does not demonstrate fully how the scheme integrates with the wider context and community. It is critical that the new housing on this site will be readily assimilated into the landscape and visual context without detriment to the character of the area. Further work is needed with regards to concept development in relation to a numbers of factors to ensure the successful integration of this development. There is concern that the retirement community appears to be segregated from the proposed development and the wider community although it is recognised that the northern dwellings address the main access route, and this is welcomed. This part of the development should be connected to the street, space and green infrastructure.

A key factor in the success of the development lies with the landscape treatment and the protection of the hedgerows. There is scope for landscape enhancement within the scheme and this could include planting a specimen tree within a central focus space or elsewhere in the development. The entrance from Brookside Drive also has the potential for an avenue landscape treatment.

A density of 27 dwellings per hectare is proposed which is considered appropriate for this edge of settlement location. The indicative layout indicates that it is likely that this density can be achieved without compromising the overall character and appearance of the site and the rural character of the wider area. However, it is noted that this may not be in the form of the indicative layout submitted due to the concerns previously raised, including parking and access issues within the development. Any future development is likely to require changes to this indicative layout, which may include the reduction in house sizes, the omission of a number of the garages etc. in order to accommodate this number of houses successfully.

An indicative building design has also been put forward. On balance, this would seem to be acceptable, proposing a mixture of individual and grouped buildings to reflect the identified character of the village. The heights of the buildings will vary, reflecting the character and appearance of the surrounding development and the rural area of the application will therefore not be compromised. It is stated that the materials and styles of the buildings will reflect the local character of the area, and again full consideration will be given to this during any future application.

The development will be set in close proximity to listed buildings and any development needs to be designed to ensure that the development does not impact upon their setting. The concept plan illustrates that the buildings have been positioned to minimise the disruption to the setting of the listed buildings by placing a buffer in the form of open space between the listed buildings and the proposed development. Careful consideration would need to be given to the scale of the adjacent buildings at the time of any future reserved matters application.

On balance, it is considered that the development proposed could be achieved without harming the rural character of the area, and at the density proposed would have an acceptable overall appearance, subject to the approval of the details at reserved matters stage. It is not considered that the development would result in the overdevelopment of the site. Further, it should be noted that the Inspector did not uphold the previous reason for refusal which related to the overdevelopment of the site for the erection of 38 dwellings.

#### RESIDENTIAL AMENITY:

The access road will pass number 14 Brookside Drive, which will result in a significant number of vehicles passing this property and its associated curtilage. It is considered that appropriate screening should be put in place, which may involve the erection of an acoustic fence, to ensure that the occupiers of this property do not suffer from an unacceptable level of noise and disturbance. This can be fully considered at reserved matters stage.

Enhanced planting is proposed along the boundaries with the existing residential boundaries and this is necessary to provide the required screening between these properties and the proposed development. The layout plan is only indicative at this stage, but it is considered that, subject to satisfactory details being submitted relating to proposed screening and the design, siting and orientation of the dwellings, the privacy of

the existing neighbouring occupiers can be safeguarded. In the indicative layout the larger units have generally been located away from the boundaries with the neighbouring properties, and this would be encouraged in any full planning application in order to reduce the impact on these neighbouring occupiers. It should be noted that any full planning application may need to make alterations to the proposed layout to ensure that there is no harm to the amenity of these occupiers.

The impact upon the neighbouring occupiers will be fully considered at reserved matters stage. It is essential to carefully consider these details to ensure that the occupiers of these properties are not unduly harmed by this development, with regards to loss of privacy, light, overbearing impact upon any other noise and disturbance.

#### AFFORDABLE HOUSING:

Policy HG.8 of the Local Plan requires 35% affordable housing contribution without public subsidy. The application meets this criterion. The mix of the affordable dwellings is as follows and is considered to be acceptable meeting the requirements of the policy.

3 x 1 bed (2 person) dwellings  
7 x 2 bed (4 person) dwellings  
2 x 3 bed (5 person) dwellings

The applicant has proposed a tenure split of 8 social rented and 4 intermediate housing units. This does not meet policy requirements. The issue is easily resolved upon the applicant confirming a revised intermediate housing mix and this can be done at reserved matters stage. The applicant has provided a range of one & two bed open market accommodations to help serve a range of income levels and create a balanced community. This is in line with NPPF requirements.

B&NES SPD affordable housing + annexes require that planning applications provide detailed affordable housing information. This application has a supporting Affordable Housing statement within which the applicant confirms: `The applicant is aware of Bath and North East Somerset's requirement that the affordable homes be designed to accord with the minimum space standards sought within Annexe B of the council's Planning Obligations SPD, Homes and Communities Agency -Design and Quality Standards, HQI, CSH4 and confirms that these will be met through provision within the Section106 Agreement.

The indicative layout geographically groups the affordable housing into one main section and although the section has breaks in the form of turning heads and car parks, the massing of affordable housing ensures the clustering of the affordable units is contiguous and thus considered over the 8 max grouping as required by the SPD. However this issue may be resolved by locating the Intermediate dwellings (shared Ownership) in such a way as to break up the grouping of the rented dwellings. The applicant is advised to consider this opportunity at the reserved matters stage. The car parking attributed to the affordable housing on the indicative layout is largely on plot and helps to maintain a tenure blind development.

The Strategic Housing Services support the application in principle (subject to the issues above being suitably addressed in the full application) but asks that the following recommendations are to be included as Heads of Terms in the Section 106 Agreement.

1 35% of the overall residential provision is affordable and grant free, with a 75/25 percent split between Social Rent and Intermediate Market housing. (Affordability, including service charges and size mix as set out in the Housing Development Officer's report).

2 The affordable housing obligation is secured in perpetuity through a section 106 Agreement as set out in the Development Officer's report.

3 Lift the stair casing restrictions for New Build Homebuy Lessees and instead ring fence the released equity.

4 The Council has full nomination rights as set out in the section 106 Agreement.

5 All the affordable housing units must fully comply with the current Homes & Communities Agency (HCA) 'Design and Quality Standards' and that the Code for Sustainable Homes (CSH) level 4 will be achieved. It is the Developers responsibility to take on board future improvements to the HCA and CSH standards.

6 All the affordable housing units must fully comply with the B&NES SPD design, layout & construction standards. In particular;

7 Certification submitted showing that 60% of the affordable housing will achieve lifetime home standards and be identified on plan &

8 Certification submitted showing that 10% of the affordable housing will achieve full wheelchair user standards and be identified on plan. (1 x two bed house)

9 To transfer the units to an approved partnering Registered Housing Provider (HP) or other Affordable Housing Provider (AHP) as approved by the Council.

10 The affordable housing land is transferred to a HP or AHP at nil cost.

11 Public subsidy (grant) will only be made available in the event that the HP's or AHP's supportable deficit is insufficient to pay for the build costs. Grant will be subject to a comprehensive financial viability assessment.

12 A 'pepper potting' strategy is included in the Section 106 Agreement and that the development is tenure blind.

13 Phasing conditions on affordable housing triggers to be set out in the Section 106 Agreement.

#### FLOODING:

A Flood Risk Assessment (FRA) and Drainage Strategy has been prepared for the site. The FRA concludes that as the site is located within Flood Zone 1 there is a low risk of it flooding. The Environmental Agency have raised no objection to this development subject

to the inclusion of a condition to prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal. It is requested that the surface water drainage scheme for the proposed development must meet a number of set criteria. This can be secured through the inclusion of a condition. Wessex Water has also assessed the information submitted and analysed the options put forward. The developer has been advised to contact Wessex Water with regards to the development.

#### ECOLOGY:

An updated and revised ecological assessment has been submitted. This incorporates measures to address all the points and concerns raised arising from the previous application 11/02432/OUT and it is therefore considered that the proposal is ecologically acceptable subject to securing the implementation of all the ecological mitigation set out in the report (Ecological Appraisal, Malford Environmental Consulting 8th February 2012).

#### LAND CONTAMINATION:

A Ground Investigation has been submitted with the application and has been assessed by the Environmental Health Team. In view of the observations of the contamination investigation conditions should be applied in respect of land contamination on any planning permission granted.

#### CRIME:

The Crime Prevention Design Advisor has no objection to the scheme as proposed but notes that it is expected that the affordable housing element will require Secured by Design certification, part 2, as a minimum requirement. The rest of the site should not be built to a security standard below this minimum standard.

#### ARCHEOLOGY:

Detailed Archaeological reports have been submitted as part of this application and on the basis of these, the Archaeological Officer has no objection to the development subject to the inclusion of a condition relating to a watching brief.

#### SUSTAINABILITY

The agent has confirmed that the affordable housing will be built to Code Level 4 with the remaining units to Code Level 3.

#### PLANNING OBLIGATIONS:

Planning obligations were dealt with during the planning appeal for 38 houses. However he had concerns that a number of the suggested conditions did not meet the 3 tests of CIL Regulation 122.

It was not considered that the contributions to the village shop or the highway contributions would meet these tests and for this reason the Inspector did not consider that these contributions could be justified.

The following are therefore proposed to be dealt with via a Section 106 agreement:

#### Highway Works

The construction of a footway within the existing highway, from the site access to the junction of Brookside Drive with The Street.

Childrens' Services - a total contribution sought of £6,203.10

#### Strategic Housing:

1 35% of the overall residential provision is affordable and grant free, with a 75/25 percent split between Social Rent and Intermediate Market housing. (Affordability, including service charges and size mix as set out in the Housing Development Officer's report).

2 The affordable housing obligation is secured in perpetuity through a section 106 Agreement as set out in the Development Officer's report.

3 Lift the stair casing restrictions for New Build Homebuy Lessees and instead ring fence the released equity.

4 The Council has full nomination rights as set out in the section 106 Agreement.

5 All the affordable housing units must fully comply with the current Homes & Communities Agency (HCA) 'Design and Quality Standards' and that the Code for Sustainable Homes (CSH) level 4 will be achieved. It is the Developers responsibility to take on board future improvements to the HCA and CSH standards.

6 All the affordable housing units must fully comply with the B&NES SPD design, layout & construction standards. In particular;

7 Certification submitted showing that 60% of the affordable housing will achieve lifetime home standards and be identified on plan &

8 Certification submitted showing that 10% of the affordable housing will achieve full wheelchair user standards and be identified on plan. (1 x two bed house)

9 To transfer the units to an approved partnering Registered Housing Provider (HP) or other Affordable Housing Provider (AHP) as approved by the Council.

10 The affordable housing land is transferred to a HP or AHP at nil cost.

11 Public subsidy (grant) will only be made available in the event that the HP's or AHP's supportable deficit is insufficient to pay for the build costs. Grant will be subject to a comprehensive financial viability assessment.

12 A 'pepper potting' strategy is included in the Section 106 Agreement and that the development is tenure blind.

13 Phasing conditions on affordable housing triggers to be set out in the Section 106 Agreement.

## CONCLUSION:

The Inspector's decision on the previous application is given significant weight in the assessment of this planning application. The Council maintains the position that Policy GB1 should be applied, but is satisfied that very special circumstances have been put forward which outweigh the harm by reason of definition. As in this case, the Council cannot show a five-year supply of deliverable housing sites the relevant housing supply policies should not be considered up-to-date.

## RECOMMENDATION

(A) Authorise the Planning and Environmental Law Manager to secure an Agreement under Section 106 of the Town and Country Planning Act 1990 as detailed in the report to Committee.

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

## CONDITIONS

1 Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

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

2 Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.

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

3 The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.

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 Approval of the reserved matters shall ensure that no more than 35 dwellings shall be erected on the site.

In the interests of the visual amenities of the area

5 Approval of the reserved matters shall ensure that no dwelling exceeds the two-storey height indicated on illustrative drawing 08.075.APP2-SK3-HTS , the Sketch Layout-Heights Plan.

reason: In the interests of the visual amenities of the area

6 Approval of the reserved matters shall ensure that the finished floor levels of all dwellings shall be set no lower than 300mm above the surrounding ground level.

Reason: To protect the development from flooding.

7 The development hereby permitted shall be carried out in accordance with the following approved plans: the undated and unnumbered drawing showing the site edged red and Figure 3.1 within the Transport Statement dated May 2011 but only in respect of those matters not reserved for later approval.

Reason: In the interests of highway safety.

8 Before the access hereby approved is first brought into use the area between the nearside carriageway edge and lines drawn between a point 2.4m back from the carriageway edge along the centre line of the access onto Brookside Drive and points on the carriageway edge 17m to the south and 43m to the north of the centre line of the access shall be cleared of obstruction to visibility at and above a height of 150mm above the nearside carriageway level and thereafter maintained free of obstruction at all times

Reason: In the interests of highway safety.

9 No development approved by this permission shall be commenced until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the local planning authority. The drainage works shall be implemented in accordance with details and timetable that have been approved.

Reason: To prevent the increased risk of flooding by ensuring the provision of a satisfactory means of surface water disposal.

10 No development shall take place until a Wildlife Management and Enhancement Scheme has been submitted to and approved in writing by the local planning authority. The Scheme shall be in accordance with the submitted proposals including the letter dated 27 July 2011 from Malford Environmental Practice and shall include:

- i) wildlife-friendly habitat management practices that shall be implemented for all native hedgerows, pond and all other wildlife habitat to include frequency, timing, locations and methods;
- ii) the information that will be included within the homebuyers welcome pack about ecology;
- iii) details of precautionary measures and appropriate timing of works shall be incorporated into the scheme for the protection of wildlife;
- iv) details of new planting, bat and bird boxes;



v) details of all enhancements proposed.

All works shall be carried in accordance with the approved Scheme prior to the occupation of any dwelling hereby permitted.

Reason: In the interests of ecology

11 No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- i) access for construction vehicles;
- ii) the parking of vehicles of site operatives and visitors;
- iii) loading and unloading of plant and materials;
- iv) storage of plant and materials used in constructing the development;
- v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- vi) wheel washing facilities;
- vii) measures to control the emission of dust and dirt during construction;
- viii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

Reason: To ensure the safe operation of the highway

12 No development including site works or clearance shall take place until protective fences which conform to British Standard 5837:2005 have been erected around any existing trees and hedgerows and other existing or proposed areas of landscaping in positions shown in details that have been submitted to and 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. There shall be no entry to the protected areas except for approved arboricultural or landscape works.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals

13 No development shall take place within the application site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority. The approved scheme shall provide for a controlled watching brief during ground works with provision for excavation of any significant deposits or features encountered and shall be carried out by a competent person and completed in accordance with the approved scheme of investigation.

Reason: To ensure that archaeological remains and features are adequately recorded.

14 The development shall be carried out in accordance with the recommendations and control measures set out in the ground investigation report dated 16 February 2011 and prepared by Core Geotechnics Limited. If, during the course of development, any

contamination is found which has not been identified in the ground investigation report dated 16 February 2011 and prepared by Core Geotechnics Limited, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

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.

15 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.

### **REASONS FOR GRANTING APPROVAL:**

1 The proposed development is considered to be acceptable in principle. Although the development is not within the Green Belt, policy GB1 applies. There are considered to be very special circumstances which allow for a departure from the normal policies of constraint. As in this case, the Council cannot show a five-year supply of deliverable housing sites the relevant housing supply policies should not be considered up-to-date. Planning permission should therefore be granted for this sustainable development as there are not considered to be any adverse impacts which would significantly and demonstrably outweigh the benefits. An acceptable access is to be provided for the development and the scheme is not considered to result in significant harm to highway safety. Although there are concerns with the indicative layout, the concerns can be addressed at reserved matters stage. The development is not considered to result in an increase in flooding, or significantly harm residential amenity. Subject to a satisfactory design, siting and scale, it is considered that the development will integrate successfully with the surrounding area.

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.

IMP1, D2, D4, ET7, GB1, GB2, CF1, CF2, SR1A, SR3, S9, ES14, HG1, HG7, HG8, HG10, NW1,

NE4, NE10, NE11, NE12, BH12, T1, T25, T26, of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

The developer is advised to contact the development engineer Peter Weston (01225 522157) at Wessex Water to discuss the options above to ensure that the layout of the on site sewers meet existing and imminent legislation

**Item No:** 03  
**Application No:** 12/01882/OUT  
**Site Location:** Parcel 0006, Maynard Terrace, Clutton, Bristol



**Ward:** Clutton                      **Parish:** Clutton                      **LB Grade:** N/A  
**Ward Members:** Councillor Jeremy Sparks  
**Application Type:** Outline Application  
**Proposal:** Erection of 36no. dwellings and associated works (revised resubmission)  
**Constraints:** Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Coal - Referral Area, Cycle Route, Flood Zone 2, Flood Zone 3, Forest of Avon, Housing Development Boundary, Public Right of Way,  
**Applicant:** Somer Community Housing Trust

<b>Expiry Date:</b>	30th July 2012
<b>Case Officer:</b>	Richard Stott

## **REPORT**

### **REASON FOR REPORTING APPLICATION TO COMMITTEE:**

This application was referred to Committee in September 2012 as the proposal raised policy issues for Members to consider in relation to the proposed provision of affordable housing above the required levels to be weighed against the siting of the development outside the housing development boundary.

Whilst Members agreed to move the Officer's original recommendation to delegate to refuse the application, the decision was not issued as a complaint was received about the committee process. In light of the complaint it is considered appropriate that the application is re-presented to Members for consideration.

### **DESCRIPTION OF SITE AND APPLICATION**

The site is located on land to the south of Maynard Terrace. The site is currently a green field site, which is used for agriculture. The application site is not within designated Green Belt land.

The site is approx. 1.5 hectares in size and is located outside of, but adjoining the Housing Development Boundary of Clutton.

The site is an undulating plot of land, sloping from the north and east to towards the south-western boundary. There are mature native hedgerows marking the north, south-west and eastern boundaries of the site.

Maynard Terrace is characterised by two storey 19th Century terraced properties to the north of the site, there is also a detached property adjacent to the eastern boundary of the site, with a further row of terraced properties beyond.

This is a revised outline application for the erection of 36 dwellings. Access is to be considered as part of this application, with other matters reserved. The original application was submitted with layout to be considered however this element of the proposal has been removed from the current application and is to be treated as a reserved matter. The layout plans as submitted are therefore indicative only and do not form part of this application.

It is proposed to reconfigure the access to the site and also along Maynard Terrace with a new road serving the development being formed at the Clutton Hill and Maynard Terrace junction - this junction would be reconfigured as part of the application to change the priority of the road.

The proposed scheme indicates that there would be 17 market dwellings, with a mix of 2, 3 and 4 bedroom houses and 19 affordable dwellings, with a mix of 2, 3 and 4 bedroom houses, representing an affordable housing level of 52.8%.

The applicants have provided site sections showing the parameters of the proposed dwellings; they will be predominantly two storey dwellings with some two and a half storey dwellings towards the rear of the site. The sections indicate that the dwellings will vary in height from approx. 7m to approx. 10m.

The hedgerow on the south western boundary will remain with a green area adjacent and a balance pond to the southern corner of the site. The hedgerow fronting Maynard Terrace will in part be moved to accommodate a new footway and in part removed in the areas surrounding the reconfigured site access.

## **RELEVANT HISTORY**

12/00340/SCREEN - Screening Opinion for Land at Maynard Terrace - NOT EIA DEVELOPMENT

11/04300/OUT - Erection of 43no. dwellings and associated works - WITHDRAWN - This application was recommended for refusal with the following reasons:

1. The proposed residential development of this site located in the countryside outside of any housing development boundary, remote from services and employment opportunities, and poorly served by public transport, is contrary to the principles of sustainable development and would be likely to result in unsustainable transport movements in the private car. Due to the size and inclusion of market housing, it is not a rural exception site. The proposed development is considered to be contrary to Policies HG.4 and HG.9 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007 and the advice contained within PPS 3, and PPG 13.

2. The proposed development fails to respond the local context of the area, due to it being dominated by the access road and the introduction of detached development clusters, which are an alien form of development. This is contrary to Policies D.2 and D.4 of the Bath and North East Somerset Local Plan - adopted October 2007 and PPS1.

3. Plot 43 is likely to directly overlook the private amenity space of An-Yah, due to its proximity to the boundary and orientation. This will lead to a significant loss of privacy and is contrary to Policy D.2 of the Bath and North East Somerset Local Plan - adopted October 2007.

4. The proposed development will remove parts of the hedgerow fronting onto Maynard Terrace and other parts will be at risk due to it being in different ownerships resulting in pressure for maintenance. Combined with the introduction of the access road, this will lead to an erosion of the rural character of the area and is contrary to Policies NE.1 and NE.12 of the Bath and North East Somerset Local Plan - adopted October 2007.

5. The Local Planning Authority and the Local Highway Authority in adopting the publication 'Residential Roads In Avon', have agreed standards for the layout of new streets. The proposed access roads do not conform to these agreed standards and are not, therefore, adequate to serve the development proposed. This is contrary to Policies T.1 and T.24 of the Bath and North East Somerset Local Plan - adopted October 2007.

6. The proposed development would result in an increase in vehicles turning right into Maynard Terrace from Station Road at a point where forward visibility from and of such

vehicles is inadequate which would create additional hazards to all road users. The proposed access road serving the development would be likely to result in the conflict of traffic movements at the new Maynard Terrace junction and the junction of the private access road, and also close to the existing junction with Station Road, resulting in additional hazard and inconvenience to all users of the road. Furthermore, the layout of the parking results in inadequate provision and some spaces are remote from their corresponding dwellings. This is contrary to Policies T.24 and T.26 of the Bath and North East Somerset Local Plan - adopted October 2007.

7. Inadequate details have been submitted to enable the Local Planning Authority to fully assess the potential impact on nationally and internationally protected species, locally important species and flora and proposed mitigation, therefore the development is contrary to Policies NE.9, NE.10, NE.11 and NE.12 of the Bath and North East Somerset Local Plan - adopted October 2007.

8. The proposed affordable housing is geographically clustered and insufficiently integrated with the market housing. This is contrary to Policy HG.8 of the Bath and North East Somerset Local Plan - adopted October 2007 and Planning Obligations SPD - adopted July 2009.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **CONSULTATION:**

#### **PLANNING POLICY: OBJECTION**

Following initial comments, the Policy Team have provided an updated objection in light of ID/28, the Core Strategy Inspector's preliminary conclusions on strategic matters following the Core Strategy Examination in Public which took place earlier in 2012:

- The Development Plan relevant to the consideration of this application is primarily provided by the adopted Bath & North East Somerset (B&NES) Local Plan. Specifically policy HG.4 and the associated Housing Development Boundary (HDB) defined for Clutton
- The application site lies outside the HDB defined for Clutton and therefore, the proposed development would be contrary to the adopted Development Plan.
- The B&NES Local Plan was prepared and adopted under the provisions of the 1990 Act. Therefore, the weight that can be given to Local Plan policies will relate to their degree of consistency with policies in the NPPF.
- The Council's Core Strategy is at an advanced stage in the process. It is currently at Examination which has been suspended to enable the Council to do further work to address issues raised by the Inspector. The Council attaches significant weight to the policy approach set out for the rural areas including the approach towards site allocations and HDB review both of which are supported by the Inspector in ID/28. The principle issues of concern to the Inspector requiring further work do not relate to the rural areas policy framework.
- It is agreed that as a result of the Inspector's preliminary conclusions (ID/28) relating to the strategic housing requirement the Council cannot demonstrate a 5 year supply of housing land.
- Given the Inspector's criticism of the Council's methodology in deriving the overall housing requirement (due to its unsuitability and non-compliance with the NPPF) the Council does not have a confirmed strategic requirement against which to calculate housing land supply.

- The Council accepts that it cannot demonstrate a five year land supply and land supply cannot be used as a reason for refusal.
- Paragraph 49 of the NPPF makes it clear that for authorities that cannot demonstrate a five year housing land supply the relevant policies for the supply of housing should not be considered to be up-to-date.
- The policies for the supply of housing in B&NES include policies setting the strategic housing requirement, as well as Local Plan Policies HG.4 and HG.6 and the associated HDBs. However, it should be noted that policies HG.4 and HG.6 and the HDBs also address other issues including preventing unsustainable patterns of development; ensuring new development takes into account local character and distinctiveness; protecting the countryside surrounding villages; and helping to sustain balanced communities by enabling areas to be retained for other uses e.g. employment or recreation.
- Whilst housing land supply cannot be used as a reason for a refusal proposed schemes need to be carefully considered to determine whether they are 'sustainable development' in the context of Local Plan policies and those set out in the NPPF.
- It is intended that in parallel to the above work on the Core Strategy work will continue on the Placemaking Plan (Site Allocations and Development Management Policies DPD).
- In addition to allocating sites for development the Placemaking Plan will also review HDBs. This approach is established in policy RA1 of the draft Core Strategy (informal changes, February 2012) which seeks to direct development in the rural areas to the most sustainable villages. For those villages meeting the criteria of policy RA1 (relating to the presence of key facilities in the village and public transport access) the policy states that proposals for residential development will be acceptable within the HDB and that for these villages development sites will be identified in the Placemaking Plan and the HDBs reviewed accordingly to enable delivery of the overall scale of development directed towards the rural areas.
- In his preliminary conclusions outlined in ID/28 the Inspector has confirmed his support for the policy approach to the rural areas set out in the draft Core Strategy as proposed to be changed in February 2012. In relation to the rural areas and applications for residential development outside HDBs the conclusions of the Inspector in paragraph 3.69 of ID/28 are especially relevant. He supports the criteria based approach of policy RA1 and concludes that "...it is justified to remove from the policy the acceptance of housing outside the HDBs at this stage. Housing beyond existing HDBs will have to await the review of such boundaries through the Placemaking Plan or identification of sites in a Neighbourhood Plan, both of which provide appropriate mechanisms for community involvement regarding the scale and location of new housing in a village."
- Clutton currently meets the criteria of policy RA1. Reference to the offer of the applicant to contribute to the funding of a community shop is also noted which would help improve the range of facilities available within the village.
- As a RA1 village, the Council will, through the Placemaking Plan, and with the involvement of the local community, be looking at the most appropriate or sustainable solution for providing the scale of housing envisaged by the Core Strategy (around 30 dwellings).
- Given the preparation programme for the Placemaking Plan outlined above it is considered it would be premature to grant permission for the development of the application site in advance of the consideration of other potentially more sustainable solutions.
- The Council also places significant importance on the need to fully involve the local community in this process in accordance with the principles enshrined in the Localism Act.

## HIGHWAY DEVELOPMENT: OBJECTION

- Whilst the Highway Officer notes the improvements to the junction and access arrangements and comments on the level of parking as being acceptable as well as there being no adverse impact on the capacity of the local roads by the projected additional vehicle movements, the site is located in an unsustainable location outside the housing boundary, is remote from services and is poorly served by public transport and is therefore likely to give rise to an increased reliance on private car usage. On balance there remains an objection to this application.
- The contribution towards the local bus service is welcomed however would need to be secured through a legal agreement, in addition, the improvements to the access by reprioritising the Clutton Hill/Station Road/Maynard Terrace junction would need to be secured ahead of any construction on site
- Conditions have been recommended in the event that planning permission is granted.

## AFFORDABLE HOUSING: Comments:

- Large demand for small houses in Clutton is demonstrated by the Homeseach register.
- Effective integration of market and affordable housing required - clusters of affordable homes above 8 dwellings could contravene the adopted obligations SPD.
- Parking arrangements remains an issue.
- 60% of the affordable units should reach Lifetime homes standards and 10% should be to full wheelchair user standards, this would need to be incorporated in the design phase.
- Phasing conditions on the affordable housing triggers should be set out in an S106 agreement.
- Policy HG.8 is not applicable as the affordable housing level is above the 35% threshold set out in HG.8 therefore could be challengeable should Somer Housing Trust (now Curo) ultimately not be the developer.
- Legal covenants should be robust enough to enable the 53% affordable housing provision to be delivered in full.

## URBAN DESIGN/LANDSCAPE: APPLICATION NOT ACCEPTABLE IN ITS CURRENT FORM

- Presumption against development outside the Housing Development Boundary.
- The principle of need for the development in this location needs to be made.
- Highly visible site on the edge of Clutton.
- Pasture, hedgerow and ridgeline give Maynard Terrace a strong and legible landscape feature.
- Site makes a positive contribution to the rural and semi-rural character of this part of Clutton.
- No enhancement benefits to be gained by this development.
- Development placed on the highest parts of the site will increase visual impact.
- Indicative street-scene and architecture have the potential to be acceptable.
- Landscape details relating to car parking needs are required to minimise visual impact.
- The amount of development would put significant pressure on landscape assets and increase visual impact and as such the scheme design needs to be reviewed.
- The movement hierarchy needs to be reviewed.

## ECOLOGY: OBJECTION

Initial Comments:



- Two of the most species rich environments fall within the development site boundary.
- The site should not be excluded from a potential SNCI boundary.
- The submitted survey shows that the field in its entirety qualifies as an SNCI and therefore Policy NE.9 applies.
- Insufficient assessment of the impacts of the development on the ecological value of the site.

Revised Comments:

- The level of detail of survey within the site of the proposed development is constrained by the chosen survey methodology of using quadrats to evaluate the quality of the grassland. Only three quadrats (E4, E5 & E6) were surveyed within the open area of grassland proposed for development, whilst a total of six quadrats were used along the western boundary and in the northern tip of the site. Having visited the site and noted variations in species diversity within this open grassland area proposed for development, including patches of grassland that clearly contain a higher forb content and lower proportion of grass than other areas and then indicated by the quadrat results, I am not confident that the data obtained from these three quadrats and conclusions of the ecological survey report sufficiently acknowledges the ecological value of the grassland proposed for development.
- The ecological report makes statements about this area being less species rich than the southern half of the field, and that it would not qualify in its own right as an Site of Nature Conservation Interest (SNCI). However when looking at the detail of the survey findings two of the most species rich areas of the field do fall within the development site boundary, and the grassland within the proposed development area is described as dominated by grass with herb species such as black knapweed and common sorrel - both of which are indicators of habitat quality. I therefore do not accept that this area has insignificant ecological value and when considering the sites' potential for designation as an SNCI, this area would not be expected to be excluded from the SNCI boundary without good reason.
- The field is likely to qualify as an SNCI. As such, Policy NE9 applies.
- The assertion that the proposal will deliver "biodiversity enhancement" is not correct. The proposal will result in the loss of habitats of ecological value and a net negative ecological impact.
- Impacts of hedgerow removal and pressures of housing use on site (hedgerows) and on adjacent land do not appear to have been considered.
- The scheme does not sufficiently acknowledge the ecological value of the site within the proposed development boundary, nor the degree of ecological harm that will result. It does not demonstrate any attempt to first avoid harm to ecology nor does it provide any commitment or sufficient proposals for measures to compensate for unavoidable impacts.
- To compensate for loss of grassland, the ecological report states in section 5.2.1 that "the southern half of the field will be retained and managed to maintain and extend the MG5 community already present". This statement is not however backed up by any commitment to this or proposals for this in the submitted scheme and it is not clear that it

would be feasible. Such management could potentially contribute in part to an ecological mitigation and compensation package, and this would reduce the degree of overall ecological harm. However this alone would be insufficient. The remainder of the field would need to be safeguarded in perpetuity and managed as species rich grassland, with long term implementation of a sensitive habitat management regime that aims to increase the botanical diversity of the grassland, and extend the area of botanically rich grassland. Other significant ecological measures would also be necessary to attain an acceptable level of ecological mitigation and compensation, including for losses of and impacts to hedgerows and trees, use of the site by protected species, and overall ecological value.

- It does not appear possible for the degree of ecological mitigation and compensation needed for this scheme to be achieved within the current proposal.

Additional Comments November 2012:

1. The scheme does not yet sufficiently acknowledge the ecological value of the site within the proposed development boundary, nor the degree of ecological harm that will result. Proposed mitigation measures do not demonstrate that they will sufficiently compensate for habitat loss, to an overall equivalent ecological value, nor that this would be feasible within the proposed site boundary.

2. The recommendations of the applicant's own submitted ecological report have not been incorporated into the scheme.

3. I believe an ecologically acceptable package could however be achieved, and I welcome the applicant's confirmation that they would be willing to accept a requirement for an ecological management plan. However, this could only be realistically achieved in accordance with Policy NE12, by providing a significantly greater area of land for nature conservation purposes, to compensate for habitat loss, than has been available to date within submitted layouts and with the number of units and area of land to be developed that have previously and so far been proposed.

4. I am not against the principle of development within the submitted site boundary line but I would only be able to support the proposal if it can be demonstrated that the scheme can incorporate replacement ecological habitats of equivalent ecological value (and if, for example, proposed replacement habitat is to cover a smaller area of land than the existing site, then greater ecological quality per unit area will be required). The area of land available for ecological mitigation within the site boundary is very limited and I have my doubts as to whether a scheme could accommodate ecological mitigation to a sufficient area and quality to compensate adequately for that being lost. I therefore believe off-site mitigation should be part of the proposal, if appropriate in addition to on-site mitigation, and it would be necessary to demonstrate that all mitigation can be achieved to sufficient ecological quality and sustained in the long term.

5. If the above can be secured I would consider an acceptable scheme can be achieved.

**ARBORICULTURE: APPLICATION NOT ACCEPTABLE IN ITS CURRENT FORM**

- No justification for the loss of trees

- Planting of London Plane trees are less favourable to a species more typical of the wider rural landscape.

**EDUCATION: COMMENTS**

Contributions for school places and youth provision for £54,625.93 would be required and should be secured through a S106 agreement.

#### PARKS AND OPEN SPACES:

In respect of application 11/04300/OUT (the withdrawn scheme for 43 houses) the Parks and Open Spaces team responded stating that contributions would be required in the event that permission was granted for this site. In respect of this current application despite being consulted, no revised request for contributions has been made however it has been confirmed that the previous comments and request still stands. The applicable comments therefore are as follows:

- Required financial contribution towards off site open space and allotments provision.
- The appropriate basis for calculating estimated occupancy levels is made against a 35% affordable housing mix (as opposed to the 53% mix shown on this application)
- The reference in the D&A Statement to on site public open space is noted. Of the 0.4 ha referred to, much of it appears to be amenity landscaping in essence e.g. the strip alongside the access road which contains the Balance Pond/SUDS.
- There is a small open space bisected by a path opposite the SUDS which may constitute a usable 'doorstep' formal recreation space in terms of the Green Space Strategy categorisation.
- To qualify as a doorstep space it would need to meet the minimum size specification (area 1,000m<sup>2</sup> with a min dimension of 15m)
- I am not clear at present on the area of this space but in the event that the space is of adequate size it could count towards the total amount of additional public open space required to meet the demands created by the proposed development.
- If the current space falls below the minimum dimensions it would either need to be: increased in size in the design of the development or, disregarded in terms of meeting green space needs and an additional financial contribution of £86,640 made towards off site provision.
- In terms of green space/outdoor recreation facilities, only the sums towards enhancement/maintenance of the playing fields and possibly funds for the football club (depending on the proposals for using the funds and wider community benefits in terms of outdoor recreation) might be acceptable contributions.
- The other contributions relate to built community facilities.
- Financial contributions towards green space provision secured as part of development in rural areas would normally be transferred to the Parish Council and I am not aware that it has been party to identifying possible future open space requirements (e.g. in terms of meeting Parish Plan aims).
- In addition no provision appears to be made for allotments so a contribution of £4,445 would be required towards off site provision.

#### ARCHAEOLOGY: COMMENTS

- The coal mines on the eastern edge of Clutton are extremely early (1610) - potential for archaeology on the site.
- Recommend conditions are applied to any permission granted relating to a scheme of investigation and field evaluation in advance of any works taking place.

#### ENVIRONMENT AGENCY: NO OBJECTION

- Recommend conditions relating to drainage and flooding.

#### COAL AUTHORITY: OBJECTION

#### Initial Response:

- Layout shows development over a recorded mine entry.
- Phase 1 geo-environmental report does not adequately address the mining legacy on the site.
- Further survey required to demonstrate that the site is safe and stable.

Following the initial comments, the applicant has amended the application to remove layout from this outline application, in addition a more detailed survey of the extent of mine activity has been presented.

The Coal Authority has reconsidered the additional material and made the following observations:

- Mining Survey Report concludes that shallow underground workings are not present under the application site.
- No indication given by the applicant as to how the issue of the recorded mine entry on site is to be addressed.
- Further confirmation by the applicant required.

#### WESSEX WATER: COMMENTS

- Limited capacity in the downstream sewer and pumping station.
- Network modelling of the nature and scope of capacity improvements necessary to serve the site are required.
- Development should not precede any necessary works to the sewerage treatment works.

#### HIGHWAY DRAINAGE: NO OBJECTION

#### CONTAMINATED LAND: NO OBJECTION

- Due to the historic presence of mining in the area land contamination conditions are suggested.

#### PUBLIC RIGHTS OF WAY: COMMENTS

- A public right of way crosses the corner of the site and must not be obstructed during or after works to the site.

#### CRIME PREVENTION: NO OBJECTION

#### CLUTTON PARISH COUNCIL: OBJECT

- Site is outside the Housing Development Boundary (HDB) and impinges on the Clutton/Temple Cloud buffer.
- Large scale development not in keeping with the village.
- Development conflicts with the Parish Plan.
- Enough capacity on brownfield sites exists to fulfil the local housing needs.
- No independent survey has been conducted within the parish to establish the need for this level of affordable housing.
- Large scale development at nearby Paulton is failing to sell which suggests there is no demand in the area.
- Site fails to meet criteria for access to facilities and amenities.
- Sum offered to fund a bus service is considered too low.
- Many roads in Clutton have no footways, are unlit and are narrow.

- Change in priority of the road will in effect make Clutton Hill a side road and could send unfamiliar drivers into Maynard Terrace which is a dead end with little capacity to turn.
- Only beneficiary of the proposed road change would be the developer.
- Clutton has a Ward Profile grade E putting it in the bottom 20% of places to live in the district, region and country - this is based on its poor access to facilities and services.
- An appeal in 1988 for a site to the north of Maynard Terrace sited the poor road access through Clutton.
- Unacceptable additional pressure on the school.
- Sewerage problems.
- Less favourable than the recently rejected Barratt scheme.

#### REPRESENTATIONS:

Approximately 580 representations have been received comprised from approximately 520 individuals (note some representations were duplicated or in the form of petitions and some households wrote more than one letter).

For the purposes of this report the comments received summarise the salient points as many letters echoed the same concerns or observations.

The representations are broken down as follows:

Approximately 255 letters of support from 250 individuals.  
 Approximately 320 letters of objection from 270 individuals.  
 4 letters of general comments.

#### SUPPORTING COMMENTS (Summarised):

- Affordable housing is needed
- Site is well suited to development
- Fits in well with Maynard Terrace
- It will improve the existing terrace
- Nice mix of housing designs
- Local tie for affordable housing is important
- Houses are too expensive in Clutton
- Site is in easy walking distance of school and centre of the village
- Not too visible or intrusive
- In keeping with older parts of the village
- Development will bring jobs and affordable housing to the village
- Benefits to the school, footpath, bus services and other community facilities
- Site is not used for agriculture
- Most Clutton residents welcome more development
- Give residents more space
- The site is not green belt
- Design has a village feel to it
- Well-designed development
- Local need for affordable housing
- Application is concerned with the community
- There are other areas for walking
- Young people cannot afford to stay in the village
- Maynard Terrace end of the village has not been developed
- Villages need housing for young people or they will be unsustainable

- Rural areas need affordable housing
- Shortage of housing in this area
- 50%+ affordable housing is a benefit to the village

OBJECTIONS (Summarised):

- Proposal does not accord with Core Strategy
- Does not accord with the proposed revision to Strategy and Clutton's designation
- Does not conform with Parish Council's village plan
- No Parish Council support
- Outside the village boundary
- More suitable brownfield sites in Clutton
- Would set a precedent
- Dangerous for pedestrians
- Highway safety issues
- School's future is secure
- School is unable to cope with any increase
- Statement of Community Involvement misrepresents public consultation
- Negative impact on the environment
- Flooding issues
- Field contains rare wildlife
- Loss of view
- Spoil Maynard Terrace and ruin its history
- Security issues for existing dwellings - No jobs in Clutton to support people in social housing
- Why would people buy houses in Clutton?
- Wholly inappropriate for Clutton
- This size of development on green belt land will significantly impact on the infrastructure of the village (Officer note: The site is not within the green belt)
- Where is the rationale for this decision and who has been involved in its development?
- No public transport to Bath or Midsomer Norton
- Limited public transport to Bristol
- Other areas of social/affordable housing in the village
- Contrary to Local Plan policies
- No housing needs survey has been conducted
- Development out of character with Maynard Terrace
- Unsustainable location
- No need for large scale housing
- Lack of local amenities
- No support for the development
- Not against small scale development on brownfield sites
- Loss of rural character
- Loss of amenity as the development would be seen from large parts of the village
- Development is too large on a green field site
- Proposal is not infill
- What is affordable housing?
- Devaluation of property
- Density of development is out of character with Maynard Terrace
- Limited sewage capacity
- Increase in traffic

- Excessive disturbance to properties on Maynard Terrace from additional traffic
- Loss of privacy to 18 Maynard Terrace from access
- Possible mine works on the site
- Development is too big for Clutton
- Previous application in 1988 was refused
- Site is currently agricultural
- Inadequate parking provision
- Many of the statements in the application need to be challenged publically
- Much of the development at Paulton remains unsold
- Survey was conducted in a biased way
- Proposed affordable housing is just to get round the planning restrictions
- Inadequate consultation by developers
- Lack of visibility from the proposed access
- Promised sums of money seem large and unrealistic
- Litter from proposed development
- Term "affordable housing" is meaningless
- Long way to walk to the bus services
- Development should be closer to cities
- Land for farming is needed to support the village in the future
- Other housing developments have been built
- Volume of traffic passing 147 Greensbrook
- Loss of habitat
- Proposed housing opposite 9-15 Maynard Terrace are in front of the established building line and are too close to the existing houses
- Loss of privacy to 11 Maynard Terrace
- Proposed housing mix will not meet local needs
- No mention of other appropriate sites
- Overlooking to properties in Maynard Terrace

#### GENERAL COMMENTS (Summarised):

- No objection in principle
- 50% seems a little excessive for affordable housing
- If this is allowed, no further development should be allowed in the village
- How can planning inducements be secured?
- How can B&NES ensure that one or both parties fulfil their obligations?
- Empathise with those trying to get on the property ladder
- What is the cost of the affordable housing?
- Support does not prove need
- Support letters appear to be standard letters

#### **POLICIES/LEGISLATION**

##### LEGAL FRAMEWORK

Town and Country Planning Act, 1990

##### JOINT REPLACEMENT STRUCTURE PLAN - ADOPTED SEPTEMBER 2002

Policy 1

Policy 2

Policy 17

Policy 18

Policy 33

Policy 35  
Policy 59

#### NATIONAL PLANNING POLICY FRAMEWORK

The NPPF came into effect on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's). The NPPF is of primary consideration in the determination of this application.

In the case of the B&NES Local Plan, although adopted in 2007 this was made in accordance with 1990 Town and Country Planning Act and therefore Para 215 of the NPPF is applicable where it is stated "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

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

D.2: General design and public realm considerations

D.4: Townscape considerations

IMP.1: Planning obligations

CF.3: Contributions from new development to community facilities

ES.2: Energy conservation and protection of environmental resources

ES.5: Foul and surface water drainage

ES.14: Unstable land

ES.15: Contaminated land

HG.1: Meeting the District housing requirement

HG.4: Residential Development in R.1 Settlements

HG.7: Minimum housing density

HG.8: Affordable Housing on allocated and large windfall sites

HG.9: Affordable Housing on rural exception sites

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

SR.3: Provision of recreational facilities to meet the needs of new developments

NE.1: Landscape character

NE.4: Trees and woodland conservation

NE.9: Locally important wildlife sites

NE.10: Nationally important species and habitats

NE.11: Locally important species and their habitats

NE.12: Natural features: retention, new provision and management

NE.14: Flood risk

T.1: Overarching access policy

T.23: Airport/Aerodrome Safeguarding Areas

T.24: General development control and access policy

T.25: Transport assessments and travel plans

T.26: On-site parking and servicing provision

#### DRAFT CORE STRATEGY, MAY 2011

The Draft core strategy is currently suspended following an Examination in Public however remains a material consideration. At this stage the Core Strategy has limited weight but



should be read in conjunction with ID28, the Inspector's Preliminary Conclusions on Strategic Matters and Way Forward, June 2012:  
Chapter 3, Rural Areas of ID28 is pertinent to this application

Draft Core Strategy Policies:

DW1: District wide spatial strategy  
RA1: Development in the Villages  
CP2: Sustainable construction  
CP6: Environmental quality  
CP9: Affordable housing  
CP10: Housing mix

Policies D.2, D.4, IMP.1, CF.3, ES.2, ES.5, ES.14, ES.15, HG.1, HG.7, HG.8, HG.9, HG.10, SR.3, NE.1, NE.4, NE.9, NE.10, NE.11, NE.12, NE.14, T.1, T.23, T.24, T.25, T.26, of the adopted Local Plan are saved policies.

## **OFFICER ASSESSMENT**

PREAMBLE:

This application is a revised resubmission following the withdrawal earlier in 2012 of a similar application for 43 dwellings. The revised proposal has sought to address the 8 suggested reasons for refusal that were set out in the withdrawn scheme and whilst reducing the number of dwellings to 36 - providing 19 affordable units - and suggesting an improved road layout to address highway concerns, many of the issues raised with the previous application remain the same for this application. This application seeks outline consent to establish the principle of development and whilst the application considers the access arrangements, all other matters including the layout are reserved.

In September 2012 this application was presented to the Development Control Committee with a recommendation for refusal, Members voted in favour of the recommendation and the application was duly delegated to be refused. Notwithstanding, as set out in the Reason for Reporting Application to Committee, due to a procedural complaint received, the decision could not be issued.

The original recommendation accompanying this application carried two suggested reasons for refusal:

1. The proposed development of this site, located in the countryside outside of any housing development boundary, remote from services and employment opportunities, and poorly served by public transport, is contrary to the principles of sustainable development and would be likely to result in unsustainable transport movements in the private car. Due to the size of the site and the inclusion of market housing, it cannot be classified as a rural exception site. The proposed development is considered to be contrary to Policies T.1, HG.4 and HG.9 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007, Policy 1 of the Bath and North East Somerset, Bristol, North Somerset and South Gloucestershire Joint Replacement Structure Plan, and contrary to the National Planning Policy Framework, which seek to facilitate the use of sustainable modes of transport.

2. Inadequate details have been submitted to enable the Local Planning Authority to fully assess the potential impact on nationally and internationally protected species, locally important species and flora and proposed mitigation, therefore the development is contrary to Policies NE.9 and NE.12 of the Bath and North East Somerset Local Plan (including minerals and waste policies) adopted October 2007.

In the intervening period between the September Committee and this Committee Officer's have noted many recent appeal decisions from around the country (and including one within the B&NES district) which represent a material consideration in the determination of this case. An examination of the evidence has shown that the Secretary of State has been giving greater weight to the NPPF and allowing developments on sites such as this where authorities cannot demonstrate a five year housing land supply and where extant policies are considered out of date (as is the case with B&NES). In light of the evidence the original recommendation for this application is no longer considered to be robust or sound and therefore Members are asked to reconsider this application with a revised recommendation.

#### PRINCIPLE OF DEVELOPMENT:

Paragraph 49 of the NPPF states that "housing applications should be considered in the context of the presumption in favour of sustainable development" and that "relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year land supply of deliverable housing". Furthermore, in order to boost the supply of housing, paragraph 47 makes it clear that where there has been a record of persistent under delivery an additional buffer of 20% to this supply of deliverable sites should be identified to ensure choice and competition in the market for land.

Para 14 of the NPPF states that "where the development plan is absent, silent or the relevant policies are out of date" the local authority should grant permission unless there are any adverse impacts in doing so that would "significantly or demonstrably outweigh the benefits of the scheme". Examples of these impacts being given as sites protected under the Habitats Regulations or being designated a SSSI, Green Belt, Area of Outstanding Natural Beauty or heritage asset. In respect of this site the application is proposing a high level of affordable housing and will clearly help towards the shortfall in housing within the Bath & North East Somerset district, fundamentally it is noted that none of the aforementioned designations are applicable and the impact on landscape character has previously been considered localised only but not significant enough of an issue to preclude development

It has been publicised through the Core Strategy process that Bath and North East Somerset Council does not have an up-to-date five year land supply and therefore in light of the NPPF the relevant local plan policies cannot be considered up-to-date.

Whilst it remains the case that the site is outside the defined housing development boundary for Clutton and therefore the development is contrary to extant policy HG.4 and that at less than 100% affordable housing, the parcel of land cannot be considered a rural exception site (making the proposal contrary to Policy HG.9), there is clear evidence that the Secretary of State and the Planning Inspectorate are no longer finding these

objections credible on their own in light of the National Planning Policy Framework and that the NPPF is taking precedence in the decision making process, especially where local authorities are unable to demonstrate a five-year land supply.

Since the publication of the NPPF in March 2012, there have been a multitude of appeal decisions issued across the country allowing housing developments on sites outside development boundaries. In the majority of these cases, the Inspectors (and indeed the Secretary of State) have attached little weight to relevant local policies restricting development where a clear shortfall in housing provision has been shown and/or where a five-year land supply is not up-to-date - this includes a recent decision within the Bath & North East Somerset district in Farmborough (ref: 11/02432/OUT). What is most striking about these appeal decisions is the limited weight that is being given to wider considerations including (but not limited to) the impact on landscape character, residential amenity and nature conservation - in almost all cases it would appear that addressing the reduction in the shortfall in housing land is the primary consideration and is consistent with the NPPF. It is worth noting that this particular site is not within a designated AONB or conservation area where more emphasis maybe put on maintaining the existing character, and the site is not within the green belt.

In respect of the emerging policy position, whilst limited weight can be attached to the Core Strategy, given the suspension of the examination, it is noted that this seeks to direct development to the most sustainable villages by allowing for development of around 30 dwellings to come forward at villages that meet the criteria of Policy RA1 - Clutton at present meets the criteria to be considered an RA1 settlement and whilst the site is outside the housing boundary, the level of housing proposed is broadly in line with the level of housing that the policy would allow for. The work being undertaken on the Core Strategy to address the inspectors concerns will determine whether this level of development remains appropriate against the background of the overall level of housing to be planned for across the District.

The scale of development at RA1 villages is for the Core Strategy Review to determine whilst the process of identifying the most appropriate solution in terms of site specific policies would be through the Placemaking Plan, this approach has been supported by the Core Strategy Examination Inspector in his report (set out in ID/28). In respect of Policy RA1 the Inspector concludes that "... it is justified to remove from the policy the acceptance of housing outside the HDBs at this stage. Housing beyond existing HDBs will have to await the review of such boundaries through the Placemaking Plan or identification of sites in a Neighbourhood Plan, both of which provide appropriate mechanisms for community involvement regarding the scale and location of new housing in a village." Notwithstanding the comments of the Inspector, the argument that this development should wait until a full review has taken place through the Placemaking Plan would in effect be arguing that the proposed development is premature, an argument which in itself has carried little weight at recent appeals and even in the courts. It is noted that the issue of prematurity was disregarded in respect of the aforementioned Farmborough appeal albeit relating to different matters.

(It is worth noting that the Core Strategy Inspectors view on the preferred plan making process is not a commentary on how Development Management should operate in the meantime, particularly in the absence of a 5 year housing land supply. Where this is an

issue the relevant parts of the NPPF (paras 49 and 14) present the framework for decision making.)

In terms of the sustainability issues relating to this site, the applicant has commented that the site is located in a settlement that has been identified in both the adopted Local Plan and emerging Core Strategy as being suitable to receive additional growth (R.1 settlements - under the Local Plan - and RA1 villages - under the Core Strategy - are generally regarded as being the most sustainable). Whilst officers have previously questioned the applicants evidence in respect of the site being accessible to existing local employment opportunities and facilities this has been from the perspective of using "other modes of transport" in order to reduce reliance on using private cars. Notwithstanding it is conceded that, by car, Clutton is accessible to both employment opportunities in the wider area (including Bath and Bristol) and has access to a range of existing retail and other facilities.

Whilst the proposal will inevitably lead to an increase in car usage, the applicant has agreed to fund additional bus services to the village thus improving alternative modes of transport and in respect of the above observations weight must be given to the fact that combined there is enough evidence for Clutton to sufficiently comply with the criteria of emerging Core Strategy Policy RA1.

On balance, it is accepted that the site can be considered sustainable in locational planning terms, and it is noted that the SHLAA process has confirmed that there are no other suitable or readily available sites available for immediate delivery to meet the housing need in this area. The previous argument against the development on sustainability grounds is therefore considered to be limited.

Overall, in light of the NPPF, specifically with reference to paragraphs 14 and 49 and in light of the evidence that has come from the multitude of recent appeal decisions it is clear that resisting this application on the grounds of its location alone would be insufficient. Furthermore, whilst it is accepted that the most appropriate process for reviewing development opportunities of this size in locations such as this would be through the Placemaking Plan, it is clear that prematurity also cannot be used as a reason to withhold a recommendation for permission at this stage.

Whilst recommending this application for permission remains contrary to the relevant Bath & North East Somerset Council policies, as stated only limited weight can be attributed to these policies and therefore the NPPF takes precedent. It is concluded that this application is compliant with the NPPF and therefore no overall in principle objection to the development can be sustained.

#### CHARACTER, APPEARANCE AND SITE LAYOUT:

Maynard Terrace has a strong and distinct character of continuous terraced properties with high hedgerow boundaries and narrow access points. The site itself forms a highly visible and legible urban edge to Clutton. The pasture, hedgerow and ridgeline of Maynard Terrace form a strong and legible landscape feature across the valley to the south. The proposed development will extend the development of the village beyond the existing housing development boundary and into the valley and whilst it is indicated that

there would be some level of terracing the majority of the proposed development is described as being detached clusters of development, as the previous case officer concluded this is alien to the distinct character of Maynard Terrace and would fail to respect the character or respond to the local context.

It is noted that layout is a reserved matter and therefore this report does not focus on the indicative scheme as presented, notwithstanding, should this application be successful, a careful reconsideration of the layout would be required in order to create a scheme that is acceptable in terms of the local context and setting. Notwithstanding, Officers are content that a scheme for 36 dwellings on this site could be achieved without significantly harming the character and appearance of the adjoining street

#### RESIDENTIAL AMENITY:

It is noted that in general the previous case officer assessed the majority of the layout of the site to be acceptable in terms of its impact on the adjoining properties along Maynard Terrace, given the topography and level of separation of the site from the existing terrace it was felt that in general there would not be a significant loss of amenity to surrounding residents if this site were developed.

The previous application raised concerns in respect of the impact on the residential amenity of the adjoining dwelling An-Yah and it is noted that the applicant responded to this by amending the layout so as to overcome the previous concern. Officers are content that a development of this scale on this site could be achieved without adversely harming residential amenity. By removing the layout element from this application, the Council cannot make a judgement of the impact on of the proposed development on individual adjoining properties and as such the issue of residential amenity in respect of individual properties would need to be assessed at a later stage.

#### LANDSCAPE AND TREES:

The site is currently an open and undulating field, laying between Maynard Terrace and the brook to the south of the site. The local topography of the site is considered to be a locally important feature. The need for flat development plots and an access road will inevitably lead this topography being irrevocably changed leading to an erosion of the rural character of this area nevertheless it is noted that this is not a designated or protected site and would be seen against the backdrop of existing development. The impact of the development in terms of overall rural character is considered to be localised and would not significantly outweigh the benefit of providing additional housing.

Concern was previously raised in respect of the loss of hedgerow fronting Maynard Terrace, this formed the fourth suggested reason for refusal. In light of the concerns, the applicant has confirmed that the healthiest parts of the existing hedge is to be transplanted and largely retained with access gaps created to serve various parts of the site. The only element of hedgerow to be completely removed surrounds the area of the proposed realignment of the road network.

In view of the above, it is considered that the proposed development whilst resulting in the loss of some of the hedgerow will ultimately preserve the natural landscape of the area.

Full details of the landscaping and landscape enhancements would need to be addressed through a reserved matters application.

The application has been submitted with an Arboricultural Method Statement which is comprehensive in assessing the merits of the trees onsite. There are some good semi-mature trees on site, predominantly on the site boundaries. These trees have the potential to be valuable landscape features and to be integrated into the proposed development. It is noted that the arboricultural officer did not previously object to the development of the site however has stated in respect of this application that the scheme is unacceptable in its current form. The primary reasons for not supporting this scheme relate to the lack of assessment or reference of retained Policy NE.4 and the proposal to plant London Plane trees, a less favourable species than the typical rural species noted in the wider area. Both of these observations are noted however as landscaping is a reserved matter it is felt that there is insufficient weight to refuse the outline application on the grounds of the impact on the hedgerow and trees.

In summary, it is felt that the applicant has adequately addressed the previous objection to the development of the site. The confirmation of the retention of the majority of the hedgerow is welcomed however details of the landscaping and areas of enhancement would require further assessment as part of a reserved matters application in the event that outline permission is granted for the site.

#### HIGHWAYS:

Maynard Terrace currently serves approx. 60 dwellings with a high proportion of these dwellings having parking served by a private access road leading off Maynard Terrace at an oblique angle, close to the junction with Station Road; the current access to Maynard Terrace is narrow and has severely restricted visibility. Maynard Terrace is of approximate length 430m, and terminates without any standard turning head, and with a gated access leading to an old roadway off to the east. This former roadway is not part of the public highway or a public right of way.

The previous scheme indicated an unacceptable highway layout, which the Highway Officer considered would result in an increased use of the sub-standard junction of Maynard Terrace/Station Road, and would result in conflicting traffic movements at the proposed new Maynard Terrace junction and the junction of the private access road, close to the existing junction with Station Road.

In response to the highway objections, negotiations were held with the applicants and the Highway Development Team to seek an appropriate highway scheme. The current application proposes the realignment of Maynard Terrace, so that the main part of this road forms a priority junction with the new access road and would result in the private access road forming a junction with the realigned Maynard Terrace, the existing residential units off Maynard Terrace would be served by a new priority junction onto the proposed site access road. As part of the application the applicant has proposed a reprioritisation of the junction between Clutton Hill, Station Road and Maynard Terrace, this would give the priority to traffic using the new access road and Station Road. This approach has been agreed in principle by the Highway Development Officer however is conditional on the success of this application - there appears to have been some confusion raised by objectors as to when the reprioritisation would happen however it is

understood that this would only come forward in the event that consent were granted for the housing development.

The new access road, continuing on from Station Road, would include a 2m wide footway on its eastern side, which would link to the proposed virtual footway to the north-west. The realigned junction serving the existing Maynard Terrace would also have 2m footways to both sides of the road for the initial section, with a single footway continuing to the end of the road across the northern frontage of the proposed development.

This revised arrangement for access serving the development, compared to the previous planning submission, would achieve safer junctions for the existing Maynard Terrace road and the private access road, whilst also achieving an acceptable arrangement for movements between Station Road and Maynard Terrace, and Clutton Hill with Station Road/Maynard Terrace. The Highway Officer is content that the revised proposal adequately addresses the previous objection in relation to the increase in vehicle movements at the junction between Maynard Terrace and Station Road. It is concluded therefore that the applicant has adequately overcome the sixth reason for refusal as cited in the previous application.

Turning to the comments raised by the Highway Officer in respect of internal layout of the site, it is noted from the revised layout that was initially submitted that the Highway Officer has stated in general the access roads and parking arrangements area acceptable, thus overcoming the previously published fifth reason for refusal. Notwithstanding, as the applicant has withdrawn layout from this outline application the Council is unable to assess the relative merits of this part of the scheme and a full assessment would be required in line with a reserved matters application should outline consent ultimately be granted.

Despite the confirmation that the access arrangements to the site as proposed are now deemed acceptable, the Highway Officer remains of the view that the site is in an unsustainable location on terms of the fact that it is not served by enough public transport to offer sufficient choices to residents for more sustainable modes of travel, notwithstanding it is recognising that the village has a number of local facilities and there are some bus services. The Highway Officer has maintained the objection that the application is contrary to Policy T.1 of the Local Plan. As has been noted the applicant is willing to contribute to a better bus service to the village thus improving alternative modes of transport, with this in mind and for the reasons set out previously in respect of the NPPF position and the weak B&NES policy position, it is concluded that only limited weight can be attributed to the extant local policy and as stated it is felt that a sustainability reason for refusal could no longer be substantiated.

The Highway Officer has previously stated that in the event that the highway reasons for refusal are set aside, any permission should be withheld pending the completion of a legal agreement to secure the highway works, highway contributions, and appropriate conditions should be applied.

ECOLOGY:

It is acknowledged that the application is accompanied by comprehensive ecological surveys. However, the proposed development site boundary and ecological survey boundary differ and the ecological assessment appears to have been based on a masterplan concept that differs from the submitted proposals.

The site and the adjacent land, which forms part of the same field but outside the development boundary, are of considerable ecological value. This includes botanically species-rich grassland; species rich mature hedgerows, including hedges that would qualify as "important" under the Hedgerow Regulations; badger activity; breeding populations of grass snake and slow-worm; and bat flight routes, including records of at least six different species and possible records of use of the south west boundary by the very rare Barbastelle bat.

The ecological surveys find there is ecological value at the site and the Council Ecologist has stated that there is evidence for the site to qualify as a Site of Nature Conservation Interest (SNCI) although it is noted that the applicant's ecologist has provided evidence to the contrary which would suggest the site does not qualify as an SNCI.

The Council Ecologist has stated that she is not against the principle of development within the submitted site boundary line but would only be able to support the proposal fully if it can be demonstrated that the scheme can incorporate replacement ecological habitats of equivalent ecological value (and if, for example, proposed replacement habitat is to cover a smaller area of land than the existing site, then greater ecological quality per unit area will be required).

The area of land available for ecological mitigation within the site boundary is very limited and there are doubts expressed as to whether the scheme could accommodate ecological mitigation to a sufficient area and quality to compensate adequately for that being lost. The Ecological Officer has suggested that off-site mitigation should be part of the proposal (if appropriate) in addition to on-site mitigation, and it would be necessary to demonstrate that all mitigation can be achieved to sufficient ecological quality and sustained in the long term. It has been noted that an acceptable package could be achieved for this site, and the applicant's confirmation that they would be willing to accept a requirement for an ecological management plan is welcomed. Notwithstanding, this can only be realistically achieved in accordance with Policy NE12 by providing a significantly greater area of land for nature conservation purposes to compensate for habitat loss than has been available to date within submitted layouts and with the number of units and area of land to be developed that has previously and so far been proposed.

When this application was originally considered by Members in September 2012 there was a recommended reason for refusal stating that inadequate details had been submitted to enable the Local Planning Authority to fully assess the potential impact on nationally and internationally protected species, locally important species and flora and proposed mitigation. Whilst the comments and concerns of the ecological officer are noted, there is no in principle objection raised in respect of this application in terms of ecology. The primary concerns centre around the ability to provide both the number of houses and sufficient mitigation to comply with Policy NE.12 however it must be stressed that this is an outline application with layout reserved. Details of the layout can be addressed at a later stage allowing the opportunity to find a solution that ensures adequate compensation is provided.



Overall it is felt that the current concerns in respect of ecology are not sufficient to substantiate a refusal of this application as the requisite mitigation can be achieved either on site through a revision to the layout or off-site secured through additional obligations (which the applicant has confirmed they are willing to accept).

## HOUSING:

The Housing Development Officer has previously raised concerns that additional affordable housing above the 35% required by Policy HG.8 can only be brought forward if Curo (formally Somer Housing Trust) is the final land owner and developer and that this could be secured through a Section 106 Agreement. The applicant has confirmed that it is intended that Curo will be the final developer of the site. Subject to the tie through the S106 (or a tie to another registered social landlord), it is felt that the concern of the Housing Development Officer can be set aside.

The information submitted alongside the application contains details of Clutton's need for additional market housing. Local and National policy recommends the mix of market housing should provide choice by ensuring a range of house types, having regard to the existing mix of dwelling in the locality and the character and accessibility of the location. This means providing a wide choice of housing to meet the needs of the whole community in terms of tenures and price ranges.

Market housing on the site should seek to support the sustainability of Clutton, such as provision for first time buyers or housing for older people looking to downsize from family housing and wanting to remain within the village. It is anticipated that local market housing needs will require an element of one and two bedroom houses and a lesser percentage of three and four bed dwellings in order to ensure a range of affordable market housing options to address local needs.

Whilst the application in its original form proposed a higher number of affordable homes than policy requires, the layout showed that it failed to provide the full mix of affordable housing types that respond to the identified local need. As with the previous application, this proposal failed to deliver any one bed affordable homes, despite the applicants supporting housing statement identifying a high one bed need, determining there are very few one bed affordable dwellings within the affordable housing stock and that no turnover within the existing one bed affordable housing stock has occurred since 2009. When first submitted this scheme showed a proposal for a market housing mix that was not considered to address local needs as there is an identified general lack of smaller units within the village.

Despite the comments above in respect of the lack of provision of one bed dwellings, as the application does not seek consent at this stage for design or layout, the above issue could be addressed at a later stage as part of a reserved matters application and therefore should not be seen as a reason to reject this current application. The issue raised with the application earlier in 2012 (the eighth reason for refusal) in terms of clustering does not apply to the determination of this application as layout is a reserved matter.

Overall the high level of on-site affordable housing, secured and delivered by Curo (or another registered social landlord) and prioritised for local people is welcomed and will help to address the housing need identified in this part of the district.

#### COAL ACTIVITY:

The site is located within the defined Coal Mining Development Referral Area as there is evidence of coal mining hazards and features in the site or its surrounding area. The applicant initially submitted a Geo-Environmental Assessment Report to accompany the application and has subsequently provided a Mining Survey Report. In light of comments made by the Coal Authority the applicant has confirmed that they propose to conduct the recommended investigations at the post-permission stage in the event that consent is granted and can then incorporate any requisite mitigation and remediation at the reserved matters stage. With this in mind, given the position of the identified location of the bell pit on site and the fact that layout is to be considered as a reserved matter, the presence of historic mining activity on site should not be seen as a reason to refuse this application.

#### EDUCATION:

The Education Department has identified a shortfall of primary school places and youth services provision in the local area however has requested contributions of £54,625.93 to ensure adequate provision is made. The Council's Education Department is satisfied that that there is room for the school to expand, subject to the above contributions. These contributions would need to be secured as part of a S106 agreement.

#### OPEN SPACE:

The proposed open space is not considered to be acceptable in its current form and contributions of £86,640 would be sought for off-site provision of open space to replace that lost by the development and £4,445 in respect of the provision of off-site allotments. It is acknowledged that the applicant confirms a commitment to cover the requirements for open space provision as part of a legal agreement in the planning statement.

#### CRIME:

The Crime Prevention Officer has raised no objection to this application making specific reference to the detailed account of how safety, security and crime prevention are to be addressed within this development.

#### ARCHAEOLOGY:

The Archaeological Officer has stated that the plateau around Clutton is rich in prehistoric find spots. In addition the coal mines on the eastern side of the village are extremely early and date from at least 1610 with the control point for the area of open cast mining lying within 100m of the proposed development area. In addition English Heritage record that these coalmines are clearly visible on their aerial photographs of the area. Conditions are recommended for: (1) an assessment/evaluation of the site, (2) the subsequent programme of archaeological work or mitigation, and (3) publication of the results, are attached to any planning consent.

## OTHER MATTERS:

Representations have made reference to how the obligations can be secured. Should permission be granted for the site, the applicants and other interested parties would enter into a Section 106 Legal Agreement with the Council. The S106 would include trigger points for when the contributions would be required to be paid and the Local Planning Authority regularly monitor schemes to ensure the contributions are being paid. If the land is sold, the S106 Agreement would be transferred to the new owners and any contributions become their responsibility.

A Screening Request was submitted to the Council in January 2012 seeking a view as to whether the proposed residential development of this site represented Environmental Impact Assessment (EIA) development. The assessment concluded that the proposed development of the site is likely to have an impact on the visual character of the surrounding landscape and contribute to traffic and congestion however these issues are largely localised. The assessment confirmed that further investigation of the impact on the ecology of the site would be required however concluded that the scale of the development is significantly below the threshold to be considered EIA development. The Screening Assessment concludes that the proposed development does not represent EIA development.

Part of the site adjoining the entrance is a designated public right of way. This is to be unaffected by the development however in accordance with Article 13 of the Development Management Procedure Order, 2010, the application was advertised on the 20th September 2012.

## CONCLUSION:

This revised resubmission raises some interesting and challenging questions for the Council and by no means offers a clear cut decision, particularly in light of the current policy position. As stated in September, the applicant has adequately addressed the majority of the previously published reasons for refusal, they are offering to provide 53% affordable housing on site - in excess of the percentage required by policy and they have received in principle support for a revised and reconfigured road layout in order to address the issues relating to access, congestion and highway safety.

Whilst it is accepted that this application remains contrary to the relevant local plan policies as set out in this report by virtue of the fact that it proposes development outside the housing boundary, the relevant policies are afforded to have less weight as the Council is unable to demonstrate a five-year land supply. The NPPF makes it clear that in such circumstances, Local Planning Authorities should grant consent for developments except where there are adverse impacts in doing so that would significantly and demonstrably outweigh the benefits, this approach has been robustly tested through the appeals process. In respect of this site, it is not green belt land, it is not covered by any specific protections or designations and its landscape value, by reason of its topography, is considered to be localised. Overall the impact of developing this site would be limited to the immediate area and as such it would be hard to argue that the benefit of providing the additional housing - particularly in light of the Council's current shortfall - are outweighed.

Having considered all the relevant matters in respect of this case, in light of the rapidly changing policy position as highlighted by recent appeal decisions it is concluded that on balance this application should be recommended for approval. In making this recommendation this represents a departure from the development plan and therefore, in line Article 13 of the Development Management Procedure Order, 2010 and with Circular 02/09 the application was advertised on the 17th May 2012.

#### DRAFT PLANNING OBLIGATIONS:

The following are proposed to be dealt with via a Section 106 agreement:

#### HIGHWAYS:

- o A contribution of £120,000 towards the support and enhancement of the 768 bus service.
- o A contribution of £140,000 towards strategic highway works.
- o The provision of footways in the vicinity of the site.
- o A contribution towards pedestrian/safety for pedestrians to village facilities.

#### EDUCATIONS:

- o A contribution of £54,625.93 to ensure adequate provision is made for education.

#### OPEN SPACES:

- o A contribution of £86,640 for off-site provision of open space
- o A contribution of £4,445 in respect of the provision of off-site allotments

#### ECOLOGY:

Prior to development details of an Ecological Protection, Compensation and Management Scheme will be produced for land outside of the development site boundary for which a boundary must be defined, to be known as the Wildlife Area. This Scheme must demonstrate retention, enhancement and creation of ecologically valuable habitats to adequately compensate for ecological impacts of the development to at least an equivalent ecological value. The Scheme must specify long term ecological management objectives, costed management practices and methods to achieve them, and provide details of funding, resourcing, insurance and management responsibility, sufficient to achieve feasible long term management of the Wildlife Area.

#### STRATEGIC HOUSING:

- o 53% of the overall residential provision must be secured as affordable and grant free housing with a max 65 /35 per cent split between Social Rent and Intermediate Market housing. (Affordability, including service charges and size mix as set out in the Strategic Housing Development Manager's report).

- o The affordable housing obligation is secured in perpetuity through a section 106 Agreement as set out in the Strategic Housing Development Manager's report.
- o Lift the staircasing restrictions for New Build Homebuy lessees and instead ring-fence the released equity.
- o The Council has full nomination rights as set out in the section 106 Agreement.
- o The affordable housing units to be benchmarked against Housing Corporation's 'Design and Quality Standards' and that Code for Sustainability level 3, 4 or 5 be achieved depending upon the timing of each construction phase and as required by the Design and Quality Standards at the time and availability of any grant being subject to a full economic viability assessment.
- o All the affordable housing units to be benchmarked against the design requirements contained within the B&NES Planning Obligations SPD & annexes.
- o 60% of the affordable housing to reach Lifetime Homes standards & identified on plan.
- o 10% of the affordable housing to be to full Wheelchair User standards & identified on plan.
- o To transfer the units to an approved partnering Registered Social Landlord (RSL) or other Affordable Housing Provider (AHP) as approved by the Council.
- o The affordable housing land (secured via policy HG.8) is transferred to a RSL or AHP at nil
  - o cost.
- o Public subsidy (grant) will only be made available in the event that the RSL's or AHP's supportable deficit is insufficient to pay for the build costs. Grant will be subject to a comprehensive financial viability assessment. Where the assessment justifies a 35% contribution cannot be achieved, the full 35% affordable housing must still be identified on plan to ensure a later transfer of all affordable dwellings subsequent to grant aid being available.
- o A 'pepper potting' strategy is included in the Section 106 Agreement and that the development is tenure blind.
- o Phasing conditions on affordable housing triggers to be set out in the Section 106 Agreement.

## **RECOMMENDATION**

Authorise the Development Manager in consultation with the Planning and Environmental Law Manager to secure an Agreement under Section 106 of the Town and Country Planning Act 1990 as detailed in the report to Committee, with the following conditions.

1 Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.

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

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

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

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

4 Approval of the reserved matters shall ensure that no more than 36 dwellings shall be erected on the site.

Reason: In the interest of the visual amenities of the area and to ensure the site is not overdeveloped

5 Approval of the reserved matters shall ensure that no dwelling exceeds 2.5 stories high with habitable accommodation in the roof space.

Reason: in the interest of the visual amenities of the site and the character and appearance of the area.

6 No development shall be commenced 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 development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a desk based assessment and field evaluation of the site to determine date, extent, and significance of any archaeological deposits or features, and

shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of potential archaeological interest and the Council will wish to evaluate the significance and extent of any archaeological remains.

9 No development shall commence 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 the Council will wish record and protect any archaeological remains.

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

Reason: The site may produce significant archaeological findings and the Council will wish to publish or otherwise disseminate the results.

11 The proposed estate roads, footways, footpaths, verges, street lighting, sewers, drains, retaining walls, service routes, surface water outfall, vehicle overhang margins, embankments, visibility splays, accesses, carriageway gradients, drive gradients, car parking and street furniture 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.

12 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management and a road condition survey.

Reason: To ensure the safe operation of the highway.

13 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:

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

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.

14 The development shall not be commenced until a foul and surface water drainage strategy is submitted and approved in writing by the local Planning Authority and Wessex Water.

The drainage scheme shall be completed in accordance with the approved details and to a timetable agreed with the local planning authority.

Reason: To ensure that proper provision is made for sewerage of the site and that the development does not increase the risk of sewer flooding to downstream property

15 The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by Clarke Bond dated March 2012 and the following mitigation measures detailed within the FRA:

- o There will be no built development in Flood Zone 3 or over or within 3m of the ordinary watercourse or culvert.
- o Finished floor levels are set no lower than 105m above Ordnance Datum (AOD).

Reason: To reduce the risk and impact of flooding on the proposed development and future occupants.

16 Development shall not begin until a surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.



The scheme should demonstrate the following:

- o limitation of run off rates and volumes to greenfield rates for all events up to and including the 1 in 100 storm, with enough attenuation to allow for the 1 in 100 year plus climate change event
- o detailed calculations of the attenuation required
- o details of the size and location of attenuation features
- o SuDs measures
- o details of how the scheme shall be maintained and managed after completion

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

17 No development can commence until a scheme for flood resilience is submitted to and approved in writing by the Local Planning Authority. The scheme should include details to ensure properties are protected against fluvial and surface water flooding for their lifetime, considering the effects of climate change. The scheme will be designed to protect against:

- o any exceedance or overland surface water flows expected following a more detailed surface water drainage scheme
- o residual fluvial flood risk considering the impacts of climate change on the adjacent watercourse.

REASON: To ensure all properties are protected for their lifetime from the impacts of climate change.

18 Prior to the commencement of development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

- o all previous uses
- o potential contaminants associated with those uses
- o a conceptual model of the site indicating sources, pathways and receptors
- o potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express consent of the local planning authority. The scheme shall be implemented as approved.

REASON: To protect controlled waters.

19 No development shall take place until full details of a Wildlife Protection, Mitigation and Compensation Scheme, that satisfactorily demonstrates ecological measures to compensate to at least an equivalent ecological value to that recorded within the approved Preliminary Ecological Appraisal Ecology & Protected Species Survey ecological report dated November 2011 (revised 27 June 2012) for impacts on and losses to ecology arising from the proposal, have been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) Detailed method statement, trapping results and mitigation scheme for reptiles
- (ii) Detailed method statement for hedgerow translocation and long term management plans for all hedgerows including details of maintained height & width of hedgerows
- (iii) Detailed habitat creation and long term management scheme to compensate for loss of grassland area, badger foraging land, and botanical interest
- (iv) Details of lighting to ensure no harm to bat activity, including sufficient detail (eg lighting lux level contour plans) to demonstrate dark corridors along boundary hedgerows and vegetation
- (v) Implementation of all recommendations of the approved ecological reports including retention of the southern half of the field to be managed to maintain and extend the MG5 community already present, as committed to in paragraph 5.2.1 of the approved Preliminary Ecological Appraisal Ecology & Protected Species Survey ecological report dated November 2011 (revised 27 June 2012)
- (i) Details of provision of features such as nest boxes and bat boxes
- (ii) Details of wildlife measures to be incorporated into the design of the balancing pond
- (iii) Details of ecological protection, mitigation and compensation to take place in the remainder of the field being developed and its long term habitat retention and ecologically beneficial management

All works within the scheme shall be carried out in accordance with the approved details, unless otherwise approved in writing by the local planning authority. The works shall be carried out prior to the occupation of any part of the development.

Reason: In the interest of the ecology of the site

20 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 Documents:

Arboricultural Method Statement, Design & Access Statement, Drainage Strategy, Ecology And Protected Species Survey, Flood Risk Assessment, Housing Statement, Landscape & Visual Report, Phase 1 Geo environmental Assessment, Planning Statement, Preliminary Utility Study, Statement Of Community Involvement And The Transport Assessment Date Stamped 30th April 2012, The Transport Assessment

Addendum Date Stamped 30th May 2012, The Preliminary Ecological Appraisal Date Stamped 27th June 2012, The Highway Safety Audit Date Stamped 9th July 2012 And The Mining Survey Report Date Stamped 2nd August 2012

This Decision Relates To The Following Drawings:

Site Location Plan, Tree Protection Plan, Proposed Layout Sections And Indicative Street Scenes Date Stamped 30th April 2012 And Drawings 00756 Rev. A - Mining Record Survey And 00758 Rev. A - Mining Record Survey Section A - A Date Stamped 2nd August 2012

## **INFORMATIVE**

Public right of way CL6/7 crosses the corner of the plot, this public footpath must not be obstructed during or after works

Before the dwellings are first occupied, new resident's welcome packs shall be issued to purchasers which should include information of bus and train timetable information, information giving examples of fares/ticket options, information on cycle routes, a copy of the Travel Smarter publication, car share, car club information etc.,

## **CONTAMINATED LAND ADVICE:**

o 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.

o The site is underlain by coal measures and there are two areas of infilled ground/former landfill present to the north and north east of the site, it is advised that Building Control are also consulted along with the Contaminated Land Department regarding the gas investigation and protection measures. It is the developers responsibility to ensure that the proposed development complies with building regulations, in particular the developer should take any potential infilled ground into consideration with respect to contaminants and soil gas.

o A coal mining report is provided in the desk study, however it is recommended that the Coal Authority are consulted regarding these proposals.

## **Pollution Prevention During Construction**

Safeguards should be implemented during the construction phase to minimise the risks of pollution and detrimental effects to the water interests in and around the site. Such safeguards should cover:

- the use machinery
- storage of oils/chemicals and materials
- the routing of heavy vehicles
- the location of work and storage areas
- the control and removal of spoil and wastes

## **REASONS FOR GRANTING APPROVAL**

1. The decision to recommend approval has taken account of relevant policies set out in the Development Plan and adopted Supplementary Planning Documents and the National Planning Policy Framework. The decision has also taken into account other material considerations including emerging policy set out in the Draft Core Strategy and the responses from statutory consultees and other interested parties. The policies considered in this application are listed below at A.

2. Whilst the proposed development is located outside the Housing Development Boundary as defined in the adopted Bath and North East Somerset Local Plan (including minerals and waste policies) 2007 and therefore is contrary to policy HG.4 (Residential development in the urban areas and R.1 settlements) of the Local Plan and to policy RA1 of the Draft Core Strategy (Development in the villages meeting the listed criteria) this is outweighed by guidance set out in the National Planning Policy Framework in respect of promoting sustainable development and ensuring an adequate supply of land for housing.

3. This particular site is not within a designated Area of Outstanding Natural Beauty or conservation area where more emphasis maybe put on maintaining the existing character, and the site is not within the green belt. The impact of the development in terms of overall rural character is considered to be localised and would not significantly or demonstrably outweigh the benefit of providing additional housing.

4. A scheme for 36 dwellings on this site could be achieved without significantly harming the character and appearance of the surrounding area or the residential amenity of adjoining residents. Approval of a suitable layout however will need to be considered by way of a reserved matters application.

5. The development proposes access arrangements to the site that would achieve a safer junction for the existing Maynard Terrace road and the private access road, whilst also achieving an acceptable arrangement for movements between Station Road and Maynard Terrace, and Clutton Hill with Station Road/Maynard Terrace. The proposed would not adversely prejudice highway safety.

6. Contributions secured through a Section 106 Agreement towards the local bus service will improve the sustainability of the site by offering an alternative mode of transport to residents.

7. Compensatory ecological mitigation can be secured through the conditions and the Section 106 agreement to ensure local habitats are provided and there is no net reduction in biodiversity as a result of this development.

A

### **LEGAL FRAMEWORK**

Town and Country Planning Act, 1990

**JOINT REPLACEMENT STRUCTURE PLAN - ADOPTED SEPTEMBER 2002**

Policy 1

Policy 2

Policy 17

Policy 18  
Policy 33  
Policy 35  
Policy 59

#### NATIONAL PLANNING POLICY FRAMEWORK

The NPPF came into effect on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's). The NPPF is of primary consideration in the determination of this application.

In the case of the B&NES Local Plan, although adopted in 2007 this was made in accordance with 1990 Town and Country Planning Act and therefore Para 215 of the NPPF is applicable where it is stated "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

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

D.2: General design and public realm considerations

D.4: Townscape considerations

IMP.1: Planning obligations

CF.3: Contributions from new development to community facilities

ES.2: Energy conservation and protection of environmental resources

ES.5: Foul and surface water drainage

ES.14: Unstable land

ES.15: Contaminated land

HG.1: Meeting the District housing requirement

HG.4 Residential Development in R.1 Settlements

HG.7: Minimum housing density

HG.8: Affordable Housing on allocated and large windfall sites

HG.9: Affordable Housing on rural exception sites

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

SR.3: Provision of recreational facilities to meet the needs of new developments

NE.1: Landscape character

NE.4: Trees and woodland conservation

NE.9: Locally important wildlife sites

NE.10: Nationally important species and habitats

NE.11: Locally important species and their habitats

NE.12: Natural features: retention, new provision and management

NE.14: Flood risk

T.1: Overarching access policy

T.23: Airport/Aerodrome Safeguarding Areas

T.24: General development control and access policy

T.25: Transport assessments and travel plans

T.26: On-site parking and servicing provision

DRAFT CORE STRATEGY, MAY 2011

The Draft core strategy is currently suspended following an Examination in Public however remains a material consideration. At this stage the Core Strategy has limited weight but should be read in conjunction with ID28, the Inspector's Preliminary Conclusions on Strategic Matters and Way Forward, June 2012:

Chapter 3, Rural Areas of ID28 is pertinent to this application

Draft Core Strategy Policies:

DW1: District wide spatial strategy

RA2: Development in the Villages outside the Green Belt not meeting Policy RA1 criteria

CP2: Sustainable construction

CP6: Environmental quality

CP9: Affordable housing

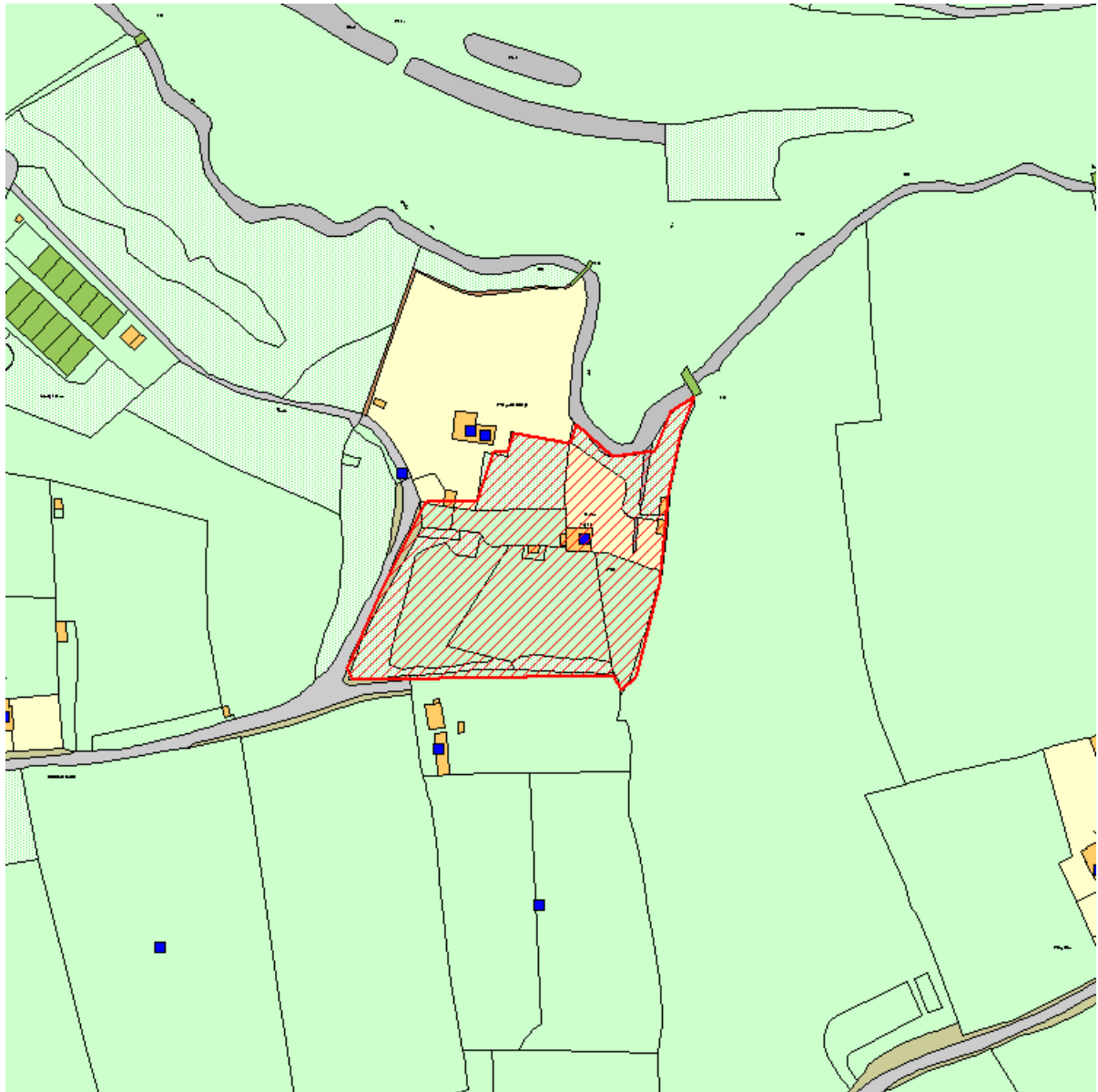
CP10: Housing mix

Policies D.2, D.4, IMP.1, CF.3, ES.2, ES.5, ES.14, ES.15, HG.1, HG.7, HG.8, SR.3, NE.1, NE.4, NE.9, NE.10, NE.11, NE.12, NE.14, T.1, T.23, T.24, T.25, T.26, of the adopted Local Plan are saved policies.

**ADVICE NOTE:**

Where a request is made to a Local Planning Authority for written confirmation of compliance with a condition or conditions attached to a planning permission or where a request to discharge conditions is submitted a fee shall be paid to that authority. Details of the fee can be found on the "what happens after permission" pages of the Council's Website. Please send your requests to the Registration Team, Planning Services, PO Box 5006, Bath, BA1 1JG. Requests can be made using the 1APP standard form which is available from the Planning Portal at [www.planningportal.gov.uk](http://www.planningportal.gov.uk).

**Item No:** 04  
**Application No:** 12/00879/FUL  
**Site Location:** Paulton Engine, Hanham Lane, Paulton, Bristol



**Ward:** Paulton                      **Parish:** Paulton                      **LB Grade:** N/A

**Ward Members:** Councillor J A Bull    Councillor Liz Hardman

**Application Type:** Full Application

**Proposal:** Extension and alteration of existing 3 bed house to provide 2 further bedrooms and dining room and demolition of 1960s single storey bathroom extension; reconstruction of roofless outbuilding to provide garage, workshop & studio over; erection of pair of semi-detached 2-bed holiday cottages; repair of derelict pigsties to provide potting sheds with bat loft; rebuilding of derelict stable; roofing & repair of 2

	walls as open woodshed; lean-to greenhouse to replace kennels; rubbish clearance within site and landscape improvements.
<b>Constraints:</b>	Agric Land Class 1,2,3a, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Coal - Referral Area, Conservation Area, Flood Zone 2, Flood Zone 3, Forest of Avon, Public Right of Way, Sites of Nature Conservation Imp (SN),
<b>Applicant:</b>	Jonathan & Shelagh Hetreed
<b>Expiry Date:</b>	22nd June 2012
<b>Case Officer:</b>	Andrew Strange

### **REASON FOR REPORTING APPLICATION TO COMMITTEE:**

This application was initially referred to the Committee on 4<sup>th</sup> July 2012 at the request of the ward councillor, because the Parish Council supported the application at that time and the proposals provide “an excellent opportunity to achieve restoration of the Paulton Engine House, a building important in the industrial history of Paulton and could form the basis of tourism potential in future.”

The application was deferred at the Development Control Committee meeting on the 4<sup>th</sup> July 2012 to enable members to attend a site visit. It was subsequently considered by the Committee at its meeting on the 1<sup>st</sup> August 2012.

The Committee resolved to delegate a decision to grant planning permission for the development to the Development Manager pending the advertisement of the application as a “departure” and subject to no new material planning issues being raised as a result of that advertisement.

Since the Committee’s resolution to grant permission for this development and the re-advertisement of the application, further comments have been submitted by Paulton Parish Council and by local residents.

The Parish Council previously expressed its support for the proposals, but has now reversed that decision and objects to the application. The application is therefore being referred back to the Committee for reconsideration and a decision on this basis.

### **THE APPLICATION SITE AND ITS SURROUNDINGS**

The application site is in the countryside outside Paulton. It is also in the Paulton Conservation Area. The site includes the ruins of Paulton Foundry, a pair of semi detached cottages lived in as a single house until about 11 years ago, several partly ruinous outbuildings and a number of small sheds and enclosures built as kennels.

Paulton Foundry was opened in 1807 and operated as a general iron and brass foundry serving the mines, the canal and the local region, supplying steam engines, bridges (including those over the canal in Sydney Gardens in Bath), gates, fences and general iron and brassware. It is understood that one of the steam engines built at the Foundry is now in a museum in Bristol.

The evidence submitted by the applicant suggests that the foundry business moved to Radstock in 1890 and that the site has decayed since that time.



The site is about 1 ha and it is at the northern end of Hanham Lane, east of the Batch and adjoining the southern bank of the Cam Brook. A spring rises within the eastern part of the site.

The southern part of the site comprises a paddock that is divided from the northern part of the site by an east-west wall, now partly derelict, but historically forming a 75m long south façade to the former foundry buildings complex.

The northern part of the site comprises the remains of the former foundry buildings and extends to the south bank of the Cam Brook.

The application includes an outline of the site's historical development and its relationship to other features in the area that were developed in the nineteenth century.

The site has a somewhat derelict air about it. Although it is evident that it has become overgrown in recent years, the owners are in the process of clearing vegetation to better reveal the site.

Access to the site is off Hanham Lane that is also a public footpath. Hanham Lane provides access to a number of other residential properties. There are also public footpaths along the site's eastern boundary and in proximity to the site's southern boundary and to the north of the property.

Withymills Cottage, a detached two storey house, is to the north west of the site (at a distance of about 25 m from the nearest part of the new part of the east Foundry building and more than 35m from the nearest part of the proposed holiday cottages) and there are sewage works further to the north west. The Cam Brook is to the north and there are some rural buildings on the site to the south.

## **THE PROPOSALS**

The current proposals principally comprise the:

- development of stables at the entrance to the site (described as “stables re-built”);
- development of 2 new two storey holiday cottages in proximity to the site entrance;
- extension of the existing dwelling with a substantial two storey wing on the west elevation and deck and pergola on the south elevation;
- development of a greenhouse within the paddock to the south of the existing house to replace existing kennels;
- rebuilding of a single storey woodshed in the site's north west corner;
- rebuilding of the pigsties on the site's eastern boundary to provide potting sheds and a bat loft; and
- development of the easternmost foundry building ruins to provide a new garage and workshop on the ground floor with “studio and training” room over.

The proposed development of the easternmost foundry building and woodshed would incorporate a blue/black powder coated corrugated aluminium roof sheet with solar PV panels to the roof of the larger building. The proposed holiday cottages would incorporate sedum green roofs. Wall materials for the proposed developments would include local

stone and self coloured render with some glazing set in colour coated aluminium frames. The foundry building would be developed by incorporating straw bale walls within the existing stone walls.

Other works around the site include:

- lowering the levels within the walls of the former foundry;
- removal and thinning of some trees and some new planting;
- the creation of a gravel surfaced driveway, parking and turning area within the site; and
- the formation of a 16m diameter, “grassy mound” up to 3m high within the paddock from “the majority of stable material from the tipped areas” within the site.

Following the initial Committee meeting, the applicant has submitted additional plans to:

- include a proposed new layby on Hanham Lane along the site’s western boundary;
- show proposals for hard surfacing within the site (predominantly Mendip limestone gravel) with an exposed aggregate concrete ramp into the east Foundry building;
- revise the details of the proposed bat loft within the former piggeries building;
- a revised ecological mitigation plan;
- illustrate the proposed ground works required within the site; and
- proposals for external lighting positions.

The applicant has also submitted details of the proposed clay pantiles to be used in the repair of the roof of the former piggeries building.

The applicant states that the foundry ruins “are in a parlous state”. The proposals therefore also include works to the foundry ruins including the clearance of vegetation, lime mortar masonry repairs and rubble capping of the walls to halt frost damage and prevent further collapse.

The development of the existing house would include its uses as a single dwelling and the use of 2 of the proposed 5 bedrooms to provide bed and breakfast accommodation. This scale of bed and breakfast use would be ancillary to the main use of the house as a single dwelling and is unlikely to be so material as to result in a mixed use of the property. The proposals are therefore being considered on the basis that the proposed bed and breakfast use of part of the house would be ancillary to its use as a single dwelling. If the scale of the bed and breakfast business use changed in the future, it would be necessary to consider whether such proposals might result in a material change in the use of the property at that time.

The applicant’s proposal is to use the easternmost foundry building that would have a combined ground and first floor area of approximately 300 square metres gross in a manner that is ancillary to the use of the extended house as a single dwelling. The east foundry building will provide a garage, workshop and storage space (or potentially a “foundry room” (which will serve to house items of industrial archaeology if they are discovered during the course of the works)) on the ground floor and an art studio upstairs (for the applicant’s own work and for friends and occasional pupils).

The applicant is proposing to develop all of the accommodation to “very high environmental standards using passivhaus design principles” that “will render conventional space heating and cooling virtually unnecessary”. The proposals include the cladding of the south elevation of the proposed foundry roof with solar PV panels “subject to cost”.

The applicant has also submitted some financial details to support of their claim that the holiday cottages are required to help make the site’s restoration more viable.

As the Committee previously resolved to grant planning permission for this development subject to a S106 agreement and appropriate conditions, a S106 agreement has now been drafted that includes restrictions on the use of the holiday cottages, the future separate sale of parts of the site and brief operational statements. Planning conditions have also been drafted in consultation with the applicant, although these do not form part of this Report, as explained below.

## **PLANNING HISTORY**

None related to this site.

Some representations refer to holiday cottages that have subsequently become longer term lets at a nearby property on Hanham Lane, but there is no record of any recent planning permissions for such holiday lets.

There is however a record of other holiday lets in the area at Withy Mills Farm that the applicant has drawn attention to. Planning permission was granted to convert existing outbuildings at that site to 3 holiday lets under the reference 04/03967/FUL. These properties are currently being let as holiday cottages. The site is less than 1km to the north east of the this application site.

## **SUMMARY OF CONSULTATION RESPONSES/REPRESENTATIONS**

Paulton Parish Council originally supported the application but noted that:

- the proposed use of blue/black aluminium sheeting for the roof of the garage/studio is not appropriate;
- right of access to the property over a private access road should be determined;
- a flood risk assessment should be carried out;
- a contaminated land report should be obtained; and
- the statement in the application that there is no change of floor space in the non-residential use area should be queried.

However, the Parish Council has more recently reconsidered their response to the application. As the development of the proposed holiday cottages is outside of the housing development boundary the Parish Council has decided to withdraw its support for the application and instead to object to the proposed scheme.

The Highways Officer objects to the proposal on the basis that:

- the proposals do not demonstrate a safe and adequate means of access to the site;

- it would result in an intensification in vehicular use of an existing public footpath, to the detriment of safety of the users of that right of way;
- it is outside the limits of the housing development boundary, remote from local services, amenities and public transport services and will result in increased reliance in the use of the private car; and
- the development is therefore contrary to development plan policies and the requirements of the NPPF.

The Highways Officer (Drainage) states that part of the site is within flood zone 2 and a flood risk assessment should therefore be provided and the Environment Agency consulted about the proposals. Infiltration testing should be carried out and a Flood Defence Consent will be required from the Environment Agency for any surface water outfalls to the existing watercourse.

The Contaminated Land Officer recommends that conditions be attached to the permission requiring detailed investigation of the site's contamination and, if necessary, subsequent remediation and monitoring. Additional information has been provided by the applicant, but the recommendation remains that any permission be the subject of conditions to address land contamination. Also expresses concern about how the proposed waste mound could be protected from disturbance by future residents.

The Environment Agency has no objections subject to conditions and has re-iterated their original comments after the receipt of further information from the applicant. In response to further information supplied by the applicant, the EA continues to recommend conditions to address the potential contamination at the site and drainage.

The Coal Authority has no objection.

The Environmental Health Officer has no objection.

The Arboricultural Officer has no objection subject to conditions to protect the existing ash tree to the north of the site access.

The Council's Ecologist has no objections to the proposals subject to conditions and has no reason to believe that all three tests of the Habitats Regulations would not be met in this case.

It is noted that the Cottage supports roosts for individuals of Lesser Horseshoe, Common Pipistrelle, and Myotis bats. An EPS Licence will be required for the proposal. The applicant provided additional information to help demonstrate that the proposal would meet the "three tests" of the Habitats regulations and the LPA must be satisfied that these tests can be met, prior to issuing any consent.

Mitigation and compensation proposals have been incorporated into the scheme, including conversion of a former pig house into a building with dedicated bat roost space, primarily for lesser horseshoe bats.

The principle of providing a bat house in the former pig-house is acceptable.

Mitigation will need to be carried out as set out in the ecological reports and implementation of this, together with agreement of all outstanding details of necessary mitigation for bats and other wildlife, must be secured by condition.

An EPS licence for Otter is not deemed necessary however measures to prevent harm to the watercourse and any potential impacts on otter will need to be secured by condition.

The Council's Archaeologist stated that the originally submitted archaeological statement did not give sufficient confidence that the impact of the proposed development had been adequately assessed or mitigated and recommended that the application be refused. However, an Archaeological Assessment and Mitigation Strategy was subsequently submitted by the applicant and the Council's Archaeologist has now recommended planning conditions to address the site's archaeological potential.

Seven letters were submitted by local residents, commenting on the proposals:

- they support the renovation of the cottage;
- the proposals to revive interest in this historic site are commendable;
- however, they object to the proposed holiday homes and the impact of the traffic associated with them;
- the holiday homes would be contrary to development plan policies and there is no market or need for them;
- previous proposals for holiday lets off Hanham Lane have not been successful and are now used as long term rental accommodation;
- the proposed holiday accommodation would set a precedent for other similar proposals in the area;
- the enabling arguments and financial case for the development of the holiday cottages is difficult to substantiate and the capital required to develop the holiday cottages could be invested in the repair and maintenance of the ruins;
- new homes would be contrary to development plan policies, the Community Plan and Village Design Statement;
- the proposals are contrary to the Core Strategy;
- increased traffic and construction traffic in the area;
- inadequate access;
- query why 12 parking spaces are required;
- the Cam Brook is identified as a Landscape Character Area and further intensification of development would harm the area's "green" character and wildlife;
- the proposals would increase traffic and have an unacceptable impact on Hanham Lane;
- Hanham Lane is not suitable for construction traffic;
- the proposals would change the tranquil, rural character of the setting and undermine the conservation area designation;
- impact of the proposals on wildlife;
- overlooking from the holiday cottages;
- oppressive feel and design of garage/studio/workshop;
- they object to the reburial of any asbestos containing material on the site.

Following the further publicity about the application being a departure from the development plan, 15 further representations have been submitted by local residents who object on the following grounds:

- the site is an important piece of local history, but few people will be able to see it;
- impact of development on the site's ecology;
- potential contamination from the site's previous use;
- harmful impact on highway safety along Hanham Lane and at the junction of Hanham Lane with the Paulton to Radford and Bath Road;
- impact of construction traffic on Hanham Lane and the footpath (details are provided of a recent incident where a large delivery lorry had problems accessing the site and reversing along the access track);
- lack of respect for the local plan development boundary;
- contrary to development plan, community plan and village design statement;
- parking for 14 vehicles and bed and breakfast use isn't mentioned;
- conditions should be imposed to protect hedges along the route of the access;
- on site provision needs to be made for construction vehicles to turn and for the fabrication of roof trusses on site, rather than their import to the site;
- holiday properties and workshop and business uses are not appropriate;
- other holiday lets in the area have failed and been let on long term basis and the same is likely to happen here;
- funds invested in the holiday cottages should be invested in the foundry;
- why are there so many parking spaces?
- proposals are for rebuilding rather than conservation of the foundry ruins;
- harm to conservation area;
- is street lighting proposed?
- risk of flooding;
- the soil to go in the proposed grassy mound will be contaminated;
- health risks from area's past industrial use;
- area's beauty will be destroyed;
- proposed extension is out of scale with existing house;
- Foundry building is unnecessarily large, complex and expensive way to conserve the foundry site and a simpler solution should be found;
- impact on the view from a nearby property.

The Chairman of Paulton History Society would welcome the opportunity to bring the Society's members to the site in future and supports restoration of house and restoration of foundry building as a studio/foundry room for family use. However, does not support holiday cottages because others in the area have failed. Also objects on the basis of:

- the unacceptable increase in traffic, there
- there is little evidence of restoration, instead the proposals include new build that will hide the heritage of the foundry; and
- the site is unlikely to attract tourism

A representation has also been submitted that has been signed by Hanham Lane residents who object on the grounds of:

- lack of notification;
- poor access;
- impact of construction traffic;
- dwellings will result if holiday lets are not viable; and
- Foundry Roof is out of keeping.

The applicant has responded to the further comments from local residents, indicating that:

- they aim to enhance and not detract from the conservation area;
- they have no intention of converting any of the buildings to dwellings and planning conditions and a s106 will restrict this;
- their proposal is to provide a hardstanding capable of accommodating up to 12 cars but this space is seldom likely to be necessary;
- they expect to provide a layby on the lane as a condition of the planning permission;
- their proposals include measures to reduce the amount of traffic;
- there is little risk of flooding and they have submitted proposals for sustainable drainage at the site;
- they will address the site's potential contamination;
- their proposals include an ecological mitigation plan;
- the premises will be visible from the surrounding area;
- they want to share these important industrial buildings with those who love history and are working with the Somerset Coal Canal Society to ensure that Paulton Engine has an assured future; and
- they have had positive comments about their proposals from walkers in the area.

The objection submitted by the Parish Council and the additional representations received from local residents all raise issues that have previously been considered by the Committee in determining this application.

### **PLANNING ISSUES:**

The key planning issues include the principle of developing the proposed holiday cottages in the countryside outside the settlement boundary defined in the Local Plan Proposals Map and the impact of the development on the:

- character and appearance of the Paulton Conservation area;
- archaeology;
- highway safety;
- protected species on and within the vicinity of the site;
- flood risk; and
- amenity (including of neighbouring occupiers).

### **POLICY CONTEXT:**

The saved Local Plan policies that are of particular relevance to the determination of this application are:

- D.2 – General design
- D.4 – Townscape

BH.6 – Conservation Areas  
BH.8 – Walls, fences and surfacing in conservation areas  
BH.12 - Archaeology  
GB.1 – Green Belt  
GB.2 - Visual amenity of the Green Belt  
ES.1 - Renewable energy  
NE.1 - Landscape conservation  
NE.4 – Trees and woodlands  
NE.10 – Protected species  
NE.12 – Natural features  
NE.14 – Flood risk  
NE.15 – Water courses  
T.5 and T.6 – Cycling  
T.24 – Transport  
T.26 - Parking

The National Planning Policy Framework (NPPF) is material consideration in the determination of this application.

Emerging planning policies in the Councils Draft Core Strategy with Proposed Changes Incorporated March 2011 are of very limited weight in the determination of this application. The Core Strategy does however note, in relation to the Somer valley, that:

*Tourism opportunities to build upon a mining and industrial heritage and rich natural environment are not yet realised.*

However, the strategy envisages that the focus of such development should be in existing local centres.

The Paulton Conservation Area Character Appraisal was adopted as an SPG in 2003 and is material to the determination of this application.

The Paulton Community Plan (2010) includes the exploitation of the area's industrial heritage, including the regeneration of the canal and railway area as a priority, but has categorised it as a "low" priority because of the likely funding requirements.

There is a legislative requirement that the local planning authority pays special attention to the desirability of preserving or enhancing the character or appearance of the Paulton Conservation Area.

English Heritage produced guidance about enabling development, but this is now under revision following the publication of the NPPF. The NPPF does however state, in connection with enabling development, that the heritage benefits of proposed development should outweigh the dis-benefits of departing from the development plan or from national planning policies.

The applicant sought pre-application advice about their proposals that stated that the site's development in the manner proposed would be contrary to development plan policies. In particular, the applicant was advised that:



- the proposed means of access was not suitable to accommodate the likely traffic that would be generated by the proposal;
- the proposed holiday accommodation would be contrary to policies that seek to limit such developments outside the Local Plan Housing Development Boundary;
- the workshop proposal would be contrary to policy ET.9;
- the extension to the house would not be subservient to the host building; and
- the rebuilding of the potting sheds and stables is acceptable in principle.

## **PLANNING OFFICER ASSESSMENT**

The application comprises a number of discrete proposals for the site's development. This assessment seeks to deal with each one in turn, although it is also important to consider the impact of the proposals as a whole in particular when considering their impact on the character and appearance of the Paulton Conservation Area.

At the outset, it is worth noting that the Paulton Conservation Area Character Appraisal states:

*Paulton has a proud coal mining and industrial heritage which is reflected in its buildings and landscape.*

*'The coming of the industrial revolution, the advent of steam driven machinery and the availability of local fuel, saw Paulton flourish along with the neighbouring towns of Midsomer Norton and Radstock. Iron founding was very important and even today the remains of the products made at the old Evans foundry in the form of stiles, bollards and railings can be seen in the local landscape.*

*Paulton was then and still is a working village which grew rapidly in the 19<sup>th</sup> and 20<sup>th</sup> centuries and is continuing to develop in the 21<sup>st</sup>.'*

*The Paulton conservation area and its character appraisal acknowledges this heritage and seeks its preservation, enhancement and enjoyment.*

The application site is therefore an important part of the Paulton Conservation Area as it comprises the ruins of a former foundry that forms part of a wider landscape that includes remnants of the industrial revolution.

The Character Appraisal notes that the site is in character area 7 and the summary of the character of that area includes its tranquillity and how that belies the former intense industrial activity of the foundry. The appraisal notes that the Paulton Engine works is derelict and becoming engulfed by vegetation colonising from the streamside. The appraisal does not note any neutral or negative elements within this part of the Conservation Area.

The foundry ruins, in their current state, are therefore identified as a positive element in the Conservation Area that contribute positively to its character and appearance. It is therefore important that their future is secured.

The applicant is seeking to repair the remaining ruins and to limit their further decay and is proposing a number of developments within the Paulton Engine site, some of which are

proposed to help fund these works. However, the applicant has not submitted details of funding arrangements for the repair and maintenance of the ruins as part of this application, or a detailed appraisal of the scheme's viability. The applicant has simply indicated that the overall cost of the project will be significantly more than its final worth, but that the holiday cottages would provide an income stream to help fund the development.

The NPPF acknowledges the possibility that enabling development may be required to secure the future of heritage assets. However, in the absence of, inter alia, any detailed proposals for the funding of the repair and maintenance of these works and an analysis of alternative approaches to securing this, little weight should be attached to the applicant's argument that some elements of the current proposals are required to fund these works.

### **Proposed Holiday Cottages**

Neither the "saved" Local Plan policies, nor the emerging Core Strategy policies deal specifically with proposals for new tourist accommodation such as this in the countryside.

The proposed new cottages have however been designed as new dwellings and are capable of independent occupation. Notwithstanding that their proposed use could be restricted to holiday accommodation by way of planning conditions and/or obligations, this aspect of the application should be considered against Local Plan policy HG.10.

The proposed new dwellings are outside the Housing Development Boundary of Paulton and in the countryside. The dwellings are not required for agricultural or forestry workers and they are therefore contrary to policy HG.10.

The NPPF confirms that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances such as where they would be appropriate enabling development to secure the future of heritage assets.

Although the applicant has indicated that the proposed holiday cottages are required to enable the site's development, evidence has not been submitted with the application to demonstrate that the proposed holiday cottages are necessary to fund the preservation of the remains of the former foundry buildings and the site's industrial archaeology.

Furthermore, no evidence has been submitted to suggest that there is a need for such accommodation in this area that could not be accommodated within the existing towns and villages, or by converting existing buildings to provide tourist accommodation in the area.

Finally, the proposed design and appearance of the cottages is appropriate for the area. However, their development on the site would introduce a substantial new built form into the landscape of this part of the countryside that is identified in the Conservation Area Character Appraisal as being derelict and engulfed in vegetation. The proposed new buildings would be at odds with and would harm this character and would therefore be contrary to Local Plan policy BH.6.

The proposals for the holiday cottages are therefore unacceptable in this location.

## **Proposed new Building within the Easternmost Foundry Building**

The proposals for the development of the new building within the easternmost foundry building will result in the development of a substantial new structure with a floor area of about 300 square metres. The applicant states that it will be occupied in a manner that is ancillary to the existing house on the site, but that the upper floor will be used as artist's studio for the occupier of the house and that it would also be used in conjunction with the proposed holiday cottages and bed and breakfast accommodation (see following section). It therefore appears that the use of the proposed building will predominantly be in a manner that is ancillary to the use of the existing dwelling on the site.

The proposal is to develop the building within the ruins of the easternmost former foundry building and to preserve the ruins of the existing foundry structure and the adjacent structure to the west. The intention is that the new building becomes a "positive symbol and feature of the Paulton Engine project that this part of the complex is reconstructed in scale."

However, the proposed scale of the new building is substantial and, although it would replicate the scale of the original building that previously existed on the site, it is not necessary to recreate a building of a similar scale to the original to ensure an understanding of the site.

Local Plan policy D.4 requires that new development responds to its local context and that extensions respect and complement their host building. Policy D.2 requires development to be of a high quality design and Policy BH.6 requires that development preserves or enhances the character or appearance of the Conservation Area.

The proposed new building would not "reinforce or complement the attractive qualities of local distinctiveness" by introducing a substantial new building within the walls of the foundry ruins. The ruins are, by themselves, locally distinctive and their development in the manner proposed would harm the character and appearance of the Conservation Area and be contrary to policy BH.6.

Although the proposals substantially comprise a new building, it is also appropriate to consider them in the context of policy D.4 that requires that extensions respect and complement their host building. The proposals would effectively "extend" the existing ruins upwards. However, their overall scale would not respect or complement the existing ruins and the proposals are therefore contrary to policy D.4.

## **Proposed Extensions to the Existing Dwelling**

The existing dwelling on the site is in a dilapidated state and it is understood that it was last in use some 11 years ago. Despite its state, it is still recognisable as a dwelling and its use does not appear to have been "abandoned".

The proposals to extend the existing dwelling need to be considered particularly in the context of policy BH.6, but also policies D.2 and D.4.

The proposed scale of the extension is substantial and will have a footprint of approximately 10.5m by 6.5m and will be taller than the existing house. The applicant has

set out the rationale for the proposed extension in their design and access statement. It is based on the footprint of the original linked two storey building that previously existed on the site and it seeks to broadly reproduce the gable of that former building that remains on the site.

However, the proposed extension is larger (taller) than the building that was previously linked to the house and that formed part of the foundry complex. The gable of the southern end of that former building remains and it is evident that the proposal will result in a slightly taller building than previously existed on the site. The proposal for a substantial glazed lean-to will add to the scale of the proposed extension to the existing dwelling.

Policy D.4 requires that the appearance of extensions respect and complement their host building. The current proposals will however dominate the existing dwelling and will not respect or complement their host building.

Although an extension to the existing dwelling based on the form of the building that previously existed on the site could be developed in a manner that would respond to the site's context, the current proposal is excessive in its scale and would neither preserve nor enhance the character or appearance of this part of the Conservation Area. It would therefore be contrary to saved Local Plan policy BH.6

Other proposals for the main dwelling include the installation of a verandah to the south elevation and balcony/verandah to the east elevation. Both proposals will complement the original dwelling, will not harm the amenity of neighbours and will preserve the character and appearance of the Conservation Area.

The applicant is intending to provide bed and breakfast accommodation from two of the rooms within the development. However, it is possible that this scale of use, by itself, may be ancillary to the use of the existing house. The applicant has not sought permission to change the use of the property to a guest house specifically to provide bed and breakfast accommodation. This application is therefore considered on the basis that it is for an extension to an existing dwelling, rather than to extend the building and to change its use to a guest house.

### **Proposed Wood Store, Piggeries Greenhouse and Stable**

The application also includes the rebuilding/repair of a number of single storey outbuildings on the site and the development of a new lean-to greenhouse adjacent to the wall that forms part of the foundry ruins and that runs through the central part of the site.

The proposals for the repair/replacement of these outbuildings with development of a high quality design that does not significantly harm the amenity of neighbouring properties and that preserves the character and appearance of the Paulton Conservation Area are acceptable.

### **Other matters**

#### **Transport**

The Council's Highways Officer has recommended that the application be refused for a number of reasons.

The site is currently accessible by vehicles via Hanham Lane and the public footpath that leads to the site and Withymills Cottage. This route is included within the planning application site. The increase in the use of this route that would arise from the development of the holiday cottages would not be substantial and the applicant's proposals now include the provision of a lay-by to allow vehicles to pass each other. The potential for conflict with pedestrians using the route is unlikely to be substantial given the nature of the proposals. It is not therefore recommended that the application be refused on highway safety grounds.

Local residents have raised the number of parking spaces being provided as an indication of the traffic likely to be generated by the proposals. However, although the number of parking spaces is indicated on the planning application form, this is an indication of the capacity of the parking area, rather than an indication of the traffic likely to be generated by the proposals. The plans accompanying the application do not include marked out parking spaces within the proposed hardstanding.

The site's location away from local services is noted, but that is one of the reasons why the development of new houses is restricted in this location. The highways officer's concern about this matter is therefore covered by the requirement in respect of the holiday cottages that they are restricted in the countryside and a separate reason for refusal is not recommended in respect of this matter.

Recent representations from local residents

## **Contamination**

The applicant has submitted a desk top review of the site's potential contamination and has included a summary of a report about Land Contamination at Foundry Sites. The applicant maintains that the report suggests that early foundries such as this site "have been found to be relatively uncontaminated" (although the report notes that: The data collected from 15 foundry sites suggested that land contamination may be less significant than at other types of heavy industrial sites. ... However, a considerable variability was found between and within sites and site-specific risk assessments will always be required to evaluate potential pollutant linkages and suitability for proposed uses).

The Council's Contaminated Land Officer has recommended that planning conditions be attached to the permission to address the site's potential contamination and this would be an appropriate way forward in the context of Local Plan policy ES.15 and guidance in the NPPF.

However, in the context of the submitted review, a phased approach to the investigation and, if necessary, remediation of the site's contamination is acceptable in this instance. The Contaminated Land Officer's suggested conditions could, if permission were to be granted, be amended to allow for a phased approach to site investigations.

The application also includes proposals for a "grassy mound" in the paddock to the south of the holiday cottages for the disposal of inert waste from the site. This aspect of the

proposals is acceptable subject to its use being limited to inert materials (or those agreed as part of any remediation strategy) arising only from within the site itself and appropriate planning conditions.

### **Future Management of the Industrial Archaeology**

The applicant has now submitted an Archaeological Assessment and Mitigation Strategy and the proposals are, subject to planning conditions, in accord with Local Plan policy BH.12.

### **Flood Risk**

The applicant has not submitted a stand alone flood risk assessment with their application, but has included a section within the report that accompanies the application "Restarting the Engine". It suggests that there is no significant flood risk within the Paulton Engine site because only the north western part of the site is within an area at risk of flooding. This is evident from the Environment Agency's records.

The site does however incorporate a spring and associated stream that flows to the Cam Brook.

The applicant is proposing to use permeable gravel surfacing throughout most of the site where "hard" surfaces are required and is intending to harvest rainwater from the hard surfaced roofs of the proposed new holiday cottages and building within the existing foundry building.

The proposals are unlikely to be susceptible to flooding or increase the risk of flooding elsewhere and the proposed use of permeable hard surfaced areas and a sustainable urban drainage system is appropriate in this location. The proposals would therefore accord with Local Plan policy NE.14.

### **Ecology**

The applicant has submitted a phase one habitat survey and species surveys in support of the application. The studies note that "with the exception of the Cam Brook and its immediate surrounds the habitats recorded on the site were of low ecological value."

The bat surveys suggest that "the vast majority of the buildings and associated structures were assessed as having high potential to support roosting bats". The cottage and attached outhouse afford summer roost and winter hibernation opportunities for bats and at least 8 bat species use the site. Proposed measures to mitigate the impact of the development on bats include a "bat house" encompassing the former pigsty outbuildings along the site's eastern boundary and measures within other individual buildings and structures. The proposals include mitigation measures to address the impact of the proposals on protected species in accordance with Local Plan policy NE.10. The proposals for mitigation could be the subject of planning conditions.

A licence for the works will be required from Natural England and the demolition of affected buildings and structures will need to be scheduled to avoid maternity and hibernation periods.

The Council's Ecologist now has no objections to the proposals subject to conditions and has no reason to believe that all three tests of the Habitats Regulations would not be met in this case.

Local Plan policy NE.10 states that development that would adversely affect, directly or indirectly, species which are internationally or nationally protected or the habitat of such species will not be permitted. In the context of the Council's Ecologist's comments, the proposals address the Habitat Regulations and would be unlikely to adversely affect, directly or indirectly, the bats that use the site or other protected species.

### **Arboriculture**

The proposals could have an impact on one significant existing tree within the site – an Ash tree adjacent to the driveway into the site. The application is accompanied by an impact assessment for this tree and includes suitable proposals for mitigation. The development would not therefore harm any significant trees within the site and the proposals would therefore accord with Local Plan policies NE.4 and NE.12.

### **Conclusions**

The proposals seek to conserve the foundry ruins, ensure that their further decay is arrested and to enable a better understanding of the site and the wider area's history. However, the site is currently appreciated for its ruinous state and although proposals to arrest the further decay of the ruins are welcome, the applicant has not demonstrated that the scale and nature of the proposals in this application are necessary to enable this.

In the absence of any evidence that the works are necessary to enable the conservation of the foundry ruins, the current proposals are contrary to development plan policies that seek to restrict the development of new buildings in the countryside and to preserve or enhance the character or appearance of the Paulton Conservation Area.

Accordingly, the Officer recommendation remains that the application should be refused, and the reasons are set out below.

The planning recommendation therefore remains that planning permission should be refused. However, the Committee has previously resolved to grant permission for the proposals that have not materially changed since their previous decision in August 2012. Although further comments have been made in response to the further publicity about the application, and the Parish Council now objects to the proposals, circumstances have not changed in any other respect.

Although the recommendation remains as per the previous report and update, in the event that members resolve to grant permission for the development in accordance with their previous decision, the draft s106 agreement would need to be engrossed by the applicant and the Council and the permission issued with appropriate conditions. The Committee will also need to confirm the reasons for granting planning permission. Officers will advise Members further in this regard at the meeting.

### **Recommendation:**

REFUSAL for the following reasons:

1. The site's current derelict state is identified as an important part of the character and appearance of this part of the Paulton Conservation Area in the Paulton Conservation Area Character Appraisal. The applicant has not demonstrated that the proposals for the holiday cottages and new garage/workshop/studio building (that are contrary to the development plan policies set out in the reasons below) are necessary to enable the future of the foundry remains to be secured on the site. These developments and the extension to the existing dwelling would, for the reasons set out in 2. 3. and 4. below, harm the character and appearance of the Paulton Conservation Area and be contrary to saved policy BH.6 of the Bath and North East Somerset Local Plan (including minerals and waste policies).
2. The proposed development of the holiday cottages in this location would result in 2 new dwellings outside the defined Housing Development Boundary of Paulton, away from existing services. The development of the holiday cottages would also harm the character and appearance of this part of the Paulton Conservation Area by introducing new built development into the landscape of this derelict site. The proposals would therefore be contrary to saved policies HG.10, BH.6 and D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies).
3. The proposed new garage, workshop and studio building would, by reason of its scale and design and appearance, harm the character and appearance of this part of the Paulton Conservation Area and would therefore be contrary to saved policy BH.6 of the Bath and North East Somerset Local Plan (including minerals and waste policies). The proposals would also, by reason of their scale and appearance, fail to complement and respect their host building (the foundry ruins) and would therefore also be contrary to Local Plan policy D.4.
4. The proposed extension to the western end of the existing dwelling would, by reason of its height and the inclusion of a substantial glazed lean-to, fail to respect and complement the host building and would harm the character and appearance of this part of the Paulton Conservation Area. The proposal would therefore be contrary to saved policies D.4 and BH.6 of the Bath and North East Somerset Local Plan (including minerals and waste policies).



**Item No:** 05  
**Application No:** 12/02315/FUL  
**Site Location:** Saltford Golf Club, Golf Club Lane, Saltford, Bristol



**Ward:** Saltford                      **Parish:** Saltford                      **LB Grade:** N/A  
**Ward Members:** Councillor F Haeberling      Councillor Mathew Blankley

**Application Type:** Full Application

**Proposal:** Change of use of land and extension of existing golf course to create new golf academy, including contouring and landscaping, erection of a driving range building, provision of a car park and installation of ground level flood lighting to driving range.

**Constraints:** Agric Land Class 1,2,3a, Forest of Avon, Greenbelt,

**Applicant:** Saltford Golf Club

**Expiry Date:** 1st October 2012

## **REPORT**

### **REASON FOR REPORTING APPLICATION TO COMMITTEE**

Councillor Bryan Organ has stated that this is a controversial application attracting both objections and support, which should be considered by Committee. The Parish Council has objected to the proposal but Cllr Mathew Blankley has supported it. The Chair of the Committee has agreed that this application should be considered by Committee.

### **DESCRIPTION OF SITE AND APPLICATION**

The application site consists of the Saltford Golf Course, located on an elevated position on the southern edge of the Saltford and within the Green Belt. The land slopes noticeably from north to south, and from the site of the proposed driving range, there are wide, open views of Kelston and Lansdown Hill and the Area of Outstanding Natural Beauty on the opposite side of the valley.

To the north and east of the site the area is predominantly residential, and the closest properties on Haselbury Grove to the north back directly onto the existing driving range.

At the north-western corner of the site is a field of rough grassland. Beyond this to the west is a strip of woodland separating the golf club from Longwood Lane and the agricultural land beyond. A permissive footpath runs along the western edge of the grassland and then through the wood, parallel to Longwood Road. The path is well-used and appears popular with dog walkers walking out from Saltford.

Consent is sought for the change of use of the vacant grassed field to a 3 - 4 hole Golf course towards the west of the site. This would include fairways, bunkers and the normal hazards.

A covered driving range building is proposed to be erected to the west of the drive to the clubhouse, with the driving range to be fitted with berm lighting (floodlights set into landscaped berms in the ground across the driving range) to illuminate balls in flight. The club has an existing driving range roughly in this position, though it is not equipped with lighting and the Tees are not covered.

The new facilities would be primarily designed to be used by junior members, but they would also be available for use by a limited number of "non-golfers" wishing to try the game and for existing golf club members. The use of the facilities by the general public will be limited, with approximately 10 sets of golf clubs being held for non-members to rent. The driving range would have an additional parking area for 12 cars which would be accessed via a spur road off Golf Club Lane.

In response to officer feedback, the following amendments have been submitted during the application process:

- o Proposals revised to re-site covered driving range building 3 metres to the south to lessen the impact of lighting on the adjoining residents
- o Incorporation of planting belt to north of driving bay building, to screen driving bay (and lights) from residents in Haselbury Grove.
- o Light level contours superimposed on revised site layout

- o Additional tree and hedgerow planting to compensate for habitat loss.
- o Construction access revised - two new temporary construction accesses to be formed onto Longwood Lane through the wood, the first into the field of rough grassland in the north-west corner of the site and the second further south through the existing established golf course.

The following additional reports and documentation have also been submitted:

- o Reptile / Amphibian survey
- o Arboricultural Assessment
- o Archaeological desk based assessment
- o Technical report - proposed golf range lighting
- o Submission of traffic count, measuring traffic flows on Longwood Lane.

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

Consultation letters were sent out to 94 properties, a notice was placed in the local press and additionally 4 site notices were displayed. Residents were re-consulted on the amended plans and details received.

To date 17 letters of objection have been received, 32 letters of support, and 10 general comments which can be summarised as follows:

#### Objection

#### Amenity Impacts

- Concerned about increased noise levels, from the new driving range, which would have 8 bays and would be in use seven days a week into the evening. The driving range will be used more intensively and will be used later into the evening than the existing, and with the added sound of conversation, will result in unacceptable disturbance for residents backing onto the site.
- Concerned about increased light levels filtering into the rooms facing the course, and about glare from the lights being visible from residential properties.
- I'm not aware of any other floodlit driving ranges in the area so close to residents homes.
- At present we (17 Haselbury Grove) get a number of golf balls in the garden and have had an upstairs window broken, as had a neighbour.
- The new project should be well away from houses with a separate road entrance being created for use of the 4 hole course and golf range.
- Concerned about noise and disturbance arising from construction process and construction traffic.
- Concerned about noise and disruption from the new car park affecting the closest residents on Golf Club Lane.
- The objective to bring more children into the area including out of school hours is not suited to the residential area,.
- Golf Club Lane has suffered from anti-social behaviour following a wedding function at the clubhouse.
- The outlook for the residents of Haselbury Grove and Golf Club Lane will be spoilt, from looking out onto countryside to looking out onto metal buildings.

- If the driving range is open to non-club members, the impact of the development (noise, traffic) will be greater.
- Why couldn't the existing car park be enlarged rather than building a new car park to serve the driving range.

### Landscape Impacts

- The development would fundamentally change the landscape and affect the Green Belt through additional buildings, roads and car parks.
- the proposed floodlighting will block out views of the night sky - the development appears to contradict the Governments policy document, 'Lighting in the Countryside - Towards Good Practice'.

### Traffic and Highway Safety

- The existing driving range is barely used at present. To be viable, there must be a significant increase in evening traffic on the approaches to the golf course
- The visibility on the junction of Golf Club Lane and Manor Road is not good and there have already been several accidents. The increase in traffic will make this situation even worse.
- Longwood Lane is not suitable for use by HGV's and other large vehicles. Constuction vehicles will default to using Golf Club Lane, endangering road users and pedestrians and damaging the road surfaces.
- The only access to the driving range will be through Golf Club lane which is too narrow for the volume of traffic - there has been damage to walls on Golf Club Lane from cars or lorries.
- The traffic barrier at the site entrance is not used, but is essential to control traffic speeds.
- A new golf club access should be formed from Manor Road to the west, reducing traffic flows on Golf Club Lane.

### Ecology and Wildlife

- The development will remove habitat and would potentially result in the badgers sett being vacated if the course is extended as proposed. The hedgerow must be left as it is to keep connectivity with the woodland.

### Impact on Permissive Path and Loss of Undeveloped field

- The development of the field next to Longwood Lane will impinge upon the use and enjoyment of an amenity area used by local people for at least 24 years

### Other

- There is no need for the new facilities
- The lighting will be a waste of energy at times when the facilities were under-used.
- The development will de-value my house (this is not a material planning consideration)
- Object to the lack of early consultation with residents by the club.

- All but 1 of the letters of support are from members of the club who don't live locally.
- Supporters also claim that this will be widely used by local schoolchildren, but how many schools include golf on their list of options for PE and games lessons. It is certainly not viable for large classes to be transported to the club for a one hour lesson.

## Support

### Sports Facilities and Public Health

- The range would help us attract new members (both adult and junior) and enable us to offer tuition all year round in a custom built video teaching studio and would help raise the profile of the club, offering state of the art facilities.
- The new driving range is essential to safeguard and secure SGC's future. We regularly have to consider the trade-off between complimenting a diminishing membership income with the offers we have from various developers to sell off the land in question for development.
- For younger junior golfers, it is essential for them to have an academy course with shorter holes as they are unable to hit the ball very far due to their size. Our present, very basic, academy course has doubled (in two years) the number of children under 11 who have become members of the club and if we are able to create this new academy course it will make the club even more attractive to this age group.
- Having been involved in education for many years and seen the reduction in playing fields acreage and the demise of team games, I support the efforts of Saltford Golf Club (SGC) to give something back to young people.

### Social Benefits

- The development can only serve to encourage more girls and boys to take up golf. When young people are involved in organised sport it brings an enormous benefit to the local community and anti-social behaviour levels drop.

### Highway Safety

- Lorries will be required to deliver DOWN Longwood Lane, but at about 8 a day will occupy the lane for an insignificant amount of time.
- As a cyclist who regularly uses Longwood Lane in both directions I do not consider the relatively few lorries anticipated each day to be a major concern.

### Green Belt considerations

- The proposed development is completely in line with Green Belt requirements and objectives.

### Amenity Impacts

- The Driving Range enclosure will play away from our property (18a Haselbury Grove). This should avoid balls going in to ours or any properties at the head of Haselbury Grove, therefore eliminating the need for any netting.
- The club confirmed that there will be no Tannoy system.
- The field is currently used all hours as a commercial driving range, this proposal will provide a safer range with limited hours and open only to club members, which is not the case at the next nearest driving range (Stockwood Vale), which is open to the public for casual use.
- I believe the low level lighting will have very little impact on any light pollution.

#### Ecological Impacts

- On the existing courses with cut grass all types of wild life, rabbits, hares, deer and badgers are visible and are not affected by golfing activities

#### Impact on Permissive Path and Loss of Open Field

- The provision of a permissive path will reduce the need to trespass on private land.
- The plans allow for continued access to Long Wood for dog walkers

#### HEADTEACHER - WELLSWAY SCHOOL - SUPPORT

Wellsway school has a proven track record of developing new ideas to engage students more effectively in physical education and sport. One important aspect of this is to build meaningful and productive links with our local sports clubs to increase participation levels within these community settings. Wellsway school is therefore very keen to build upon our current collaboration to maximise the potential of the project.

#### ENGLISH GOLF UNION - SUPPORT

The ability to coach players regarding their golf skill requires that both the coach and player are able to judge precisely the impact of coaching techniques on ball flight, shot distances, ball spin and control. The planned changes to the practice ground will greatly improve the efficiency of any coaching given.

#### CHAIRMAN GOLF RANGE NEWS - SUPPORT

If the centre was to have floodlighting throughout the night then I would agree that this would be a detrimental effect on the location and the application should be declined, but this is not the case. Lights would be out at 9PM on week nights and 7:30 PM on weekends. This is hardly distorting the natural course of the evening sky, but does allow this membership based golf club, to bring a wonderful game to members of the public during the dark winter evenings.

The Campaign for Dark Sky's states aims are 'To preserve and restore the beauty of the night sky by campaigning against excessive, inefficient and irresponsible lighting that shines where it is not wanted nor needed.'

No Local Authority would be against that, but our society still need to use leisure facilities in the evening. Turning the lights off at 9 PM during the week and 7:30 Pm at weekends is a practical solution which harms nobody. Abacus Lighting are proven experts at low impact lighting - their Berm lighting system is not intrusive and would barely be noticed.

## CAMPAIGN FOR DARK SKIES

The task of illuminating a small ball in flight over a considerable distance is by its very nature incompatible with objectives of the Campaign for Dark Skies.

The Abacus Berm Lighting scheme may possibly be the least damaging of the arrangements on offer by the lighting industry. However it cannot be compliant with the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting and there is no doubt that it will have a very considerable and detrimental impact on the night time environment.

The situation is exacerbated by the fact that the site is on high, relatively level ground and light aimed from the horizontal up to + 10 degrees elevation is by far the most damaging. This light will contribute towards sky-glow over a distance of many tens of kilometres. Were it possible to locate the facility in the nearby steep sided valley the worst effect on sky-glow would be greatly mitigated, but there might be an adverse effect on the wildlife there compared to the open high ground .

If the Council is minded to consent to the application, I would urge the strict application of a curfew no later than 21:00 hours.

For the benefit of the players, I would also strongly recommend that the ambient lighting in the range building should be amber in colour and the minimum for safe operation. By ensuring that the eye is somewhat dark adapted this will enhance the visibility of the ball.

SALTFORD PARISH COUNCIL - OBJECT as would be contrary to policies GB.1, GB.2 and SR.7.

## COUNCILLOR MATHEW BLANKLEY - SUPPORT

The development would include the creation of a 4-hole course adjacent to Longwood which will be a fantastic addition to help younger members practice for the main course and older members to improve their short swing. The field is currently used by the public as somewhere to walk their dogs and I'm delighted to see that the Golf Club has been accommodating by including a separate footpath to allow dog-walkers access to Longwood and the fields to the south-west of the village. The inclusion of a new driving range will be an invaluable asset to the club, and it's a rarity for a club not to have one these days.

The application cannot be refused on the grounds of the following policies:

- GB.1 - The application is for an essential facility for outdoor sport, preserves the openness of the Green Belt and does not conflict with the purposes of including land within it

- GB.2 - The application does not include any development within or adjacent to the Green Belt which would be visually detrimental to the Green Belt.

- SR.7. - Given that there would be no competition with other clubs in Bath, Midsomer Norton, Radstock or Keynsham, the application will not prejudice the vitality or viability of these centres.

There is one concern, that the driving range shed will be too close to the houses and gardens in Haselbury Grove and the noise from shots and voices will disturb residents. If the driving range hut is moved further south, I will support the application.

#### SCHOOL SPORT DEVELOPMENT MANAGER - BATH AND NORTH EAST SOMERSET COUNCIL -Support

The proposed faculty would be an invaluable addition to the local sporting infrastructure to engage young people in positive activities outside of school. We already enjoy an excellent working relationship with the club and the local schools appreciate their input both within the curriculum and out of hours.

#### HIGHWAYS DEVELOPMENT CONTROL

There are no objections to the proposals for the golf club extension, academy course and access. Further information is needed to assess the impact and acceptability of heavy construction traffic and earth moving equipment accessing the site via Longwood Lane.

#### UPDATED HIGHWAY COMMENTS

No objection subject to conditions requiring the submission of a final Construction Management Plan, and retaining the proposed parking area for the use of parking only.

I am in receipt of the amended plan submitted of the construction access, as well as the survey of existing traffic flows on Longwood Lane.

The survey showed peak traffic levels between 8.30 and 9.30 AM, and around 3.30 PM, with an average total AM peak hour flow (in both directions) of 34 vehicles - on average one vehicle (car lorry, cycle, horse etc.) every two minutes. The daily hourly average was in the region of 20 two-way vehicle movements. The proportion of vulnerable road users (pedestrians, cyclists and horse-riders) within this number was relatively high.

The draft Construction Management Plan states that there could be 8-10 lorry movements per day to and from the site, so in consideration of the potential worst-case situation, that might equate to 3 lorries per hour (if restricted outside of the peak hours identified above).

The level of conflict and obstruction resulting construction traffic and background traffic flows would be minimal and would be for a limited period only during the construction of the development. The improvement and formalisation of passing bays is welcome, and could be finalised through means of a planning condition.



I note secondary construction access onto Longwood Lane included on the revised plan. This would result in lorries travelling less distance, reducing any potential conflict further, and would reduce the work required to passing places.

Therefore I do not feel there are grounds to object on the basis of construction process, as any impact could not be considered to be significant or severe (as dictated by policy).

I am aware of concerns raised in respect of traffic generated by the final development, which will use adjacent residential streets. My view is that these streets are generally of an appropriate design and standard (widths, junctions, footways etc.) to accommodate the level of traffic generated, which is minimal compared to the existing traffic generated by a large housing estate.

## ENVIRONMENTAL HEALTH

I am now satisfied that the construction of the new golf range above is not likely to have a significant adverse effect on the residential amenity of people living in Hazelbury Grove.

I would therefore advice that the application could be permitted subject to the following conditions:

- Upon completion, carrying out a technical review of the lighting (by a competent person) to demonstrate compliance with the guidance published by the Institute of Lighting Engineers.
- Use of the installation shall not be permitted outside of the hours 08:00hrs and 21:00hrs.

## ARBORICULTURAL OFFICER

I have noted that the additional information submitted includes an Arboricultural Assessment with method statement and planting recommendations. Some of the planting proposals, such as those to infill the haul roads will need more detail in terms of species, sizes and numbers.

I have no objection to the proposals subject to conditions being imposed requiring:

- The implementation of the tree protective measures contained within the Arboricultural Assessment report, with two weeks notice to be given to the Council prior to development commencing that the tree protection measures are in place and available for inspection.
- Submission of a soft Landscape scheme providing full planting specifications to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation.

## ECOLOGY

Additional information has been submitted, which includes a reptile survey, a commitment to provide replacement hedgerow planting to an equivalent width and length to that being removed, and provision of rough grassland to compensate for existing areas that will be removed. The reptile survey did not find any reptiles and any necessary further precautionary measures can be secured by condition.

Revised and further details have also been submitted in relation to lighting, which includes an appraisal on potential impacts on bats. It is accepted that bats are largely inactive during late autumn and winter but there is an overlap between the period of time when lighting will begin to be used and the period of bat activity, which does extend into autumn and may well be impacted by use of floodlights as dusk becomes earlier.

There is also a conflict between the preference to avoid lighting hedgerows and trees to enable their use by wildlife (as made clear in the submitted document about bats and lighting), and the reliance on trees and hedgerow planting to screen the effects of lighting from neighbouring properties.

On balance there are no objections subject to the following conditions:

- Limitations on the timing and duration of lighting use and the use of appropriate lighting controls,
- The provision of additional shrub and tree planting over and above that currently proposed, to compensate for the ecological impacts of lit hedgerows and trees, and ensure sufficient connecting dark tree and hedgerow habitat across the site.
- Landscaping and planting scheme, specifying the inclusion of sufficient native planting and habitat provision to compensate for ecological impacts and impacts of lighting.
- Implementation of a wildlife protection plan detailing all other necessary wildlife protection measures (including exclusion zone around badger setts) during construction, implementation of the recommendations of the ecological reports, and details of proposed ecological enhancements and wildlife-friendly habitat management practices, to be implemented thereafter.

#### ARCHAEOLOGY -

The above proposed new golf academy lies within a significant historic landscape, as demonstrated by the some of the known sites and monuments within the vicinity:

- Microlith, south of Manor Farm - MBN1243
- Folly Wood ancient woodland - MBN11107
- Iron Age Silver Coin, North Breach, Aston - MBN1254
- Roman coffin, south-west of Folly Wood - MBN1244
- Iron Age pottery, south of Manor Farm - MBN1242
- Roman material (burial and finds), south of Manor - MBN1241

I would therefore recommend that a pre-determination desk-based archaeological assessment is carried out to assess all previous observations/finds in the vicinity and the likely impact of the propose development. This work may then need to be followed up by field evaluation (geophysical survey and trial trenching) to fully assess any archaeological impacts. However, in the absence of such an assessment/evaluation I would recommend that this planning application is refused.

#### ADDITIONAL ARCHAEOLOGICAL COMMENTS

The desk-based archaeological assessment of the site submitted by the applicants on 15th October 2012 concluded that:

- (a) The area covered by this desk based assessment is of high archaeological potential, particularly for prehistoric and Roman activity.
- (b) The site has been agricultural land since probably the medieval period, which provides for good preservation of any archaeological features or deposits.
- (c) Given the potential of the archaeological resource, it is recommended that any intrusive development that is likely to impact below the ploughsoil horizon should require further archaeological evaluation.

Whilst the applicants archaeological consultant has highlighted the need for a further field evaluation of the site (usually by geophysical survey and trial trenching), the applicants have contended that it this is unnecessary because they suggest that all the required landscaping and ground works can be constructed above the ploughsoil horizon.

The archaeological office has questioned whether this is possible given the large scale ground works and earth moving required:

My experience with similar works using heavy earth moving equipment is that they would inevitably impact on any below ground archaeological deposits. However, if the applicants wish to submit a method statement that clearly demonstrated how the golf course could be constructed without causing any significant ground disturbance, I would be more than willing to look at this.

In the absence of either a method statement (as described above) or an archaeological evaluation of the site, the archaeological officer recommends that the application be refused as it is contrary to local planning policy (BH.11 and BH.12) and national guidance (NPPF para. 128), or that the decision is deferred until this work has taken place.

## ENVIRONMENT AGENCY

No objections subject to a condition being imposed requiring details of drainage to be submitted prior to the commencement of development, utilising S.U.D.s principles and achieving greenfield run-off rates.

## **POLICIES/LEGISLATION**

### **POLICIES**

#### **ADOPTED LOCAL PLAN:**

- o GB.1 Control of development in the Green Belt
- o GB.2 - Visual Amenities of the Green Belt
- o D.2 - General design & public realm considerations
- o D.4 - Townscape considerations
- o ES.9 - Pollution and nuisance
- o ES.12 - Noise and vibration
- o ES.15 - Contaminated land
- o BH.11 Scheduled Ancient Monuments and other sites of national importance
- o BH.12 Important archaeological remains

- o BH.22 - External lighting
- o T.1 - Overarching access policy
- o T.24 - General Development control and access policy
- o NE.1 Landscape character
- o NE.4 Trees & woodland conservation
- o NE.11 Locally important species and habitats 167
- o NE.12 Natural features: retention, new provision and management
- o NE.14 Flood risk

#### CORE STRATEGY

- o CP5 - Flood Risk Management
- o CP6 - Environment Quality
- o CP7 - Green infrastructure
- o CP8 - Green Belt

#### NATIONAL PLANNING POLICY

- o National Planning Policy Framework

#### OTHER GUIDANCE

- o Guidance Notes for the Reduction of Obtrusive Light - The Institute of Lighting Engineers

#### **OFFICER ASSESSMENT**

Officer Assessment:

#### KEY ISSUES:

#### A. IS THE DEVELOPMENT ACCEPTABLE IN TERMS OF ITS VISUAL IMPACT AND COMPLIANCE WITH GREEN BELT POLICY?

Local Plan policy GB.1 advises that in the Green Belt, permission will only be given for new buildings for a limited range of uses, including "essential" facilities for outdoor sport and recreation and for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. The National Planning Policy Framework, which is more recent, allows the provision of "appropriate" facilities for outdoor sport and outdoor recreation, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.

In principle the use of land for in the Green Belt for sport and recreational purposes is defined as being appropriate. In terms of its impact on openness the effect would be limited in that the proposed driving range building, spur road and car park would be sandwiched between the existing golf course and the existing residential area to the north. Additionally the proposed driving range building and associated car park is limited in size in relation to the area of open space within the golf Course. The earthworks proposed for the driving range and 3-4 hole course would have no material impact on the openness of the Green Belt.

The proposed floodlighting would have an environmental and landscape impact, and from a distance could be seen as having an urbanising effect on the site through increasing light levels in this currently dark, rural location. However outdoor sports and leisure facilities are defined as appropriate uses in the Green Belt, and exterior lighting is a common aspect of such uses. Therefore whilst the location of the site within the Green Belt increases its environmental sensitivity (due to the Green Belt objective to safeguard the countryside from encroachment), the floodlights are not seen as being unacceptable in principle due to this designation.

The supporting statement submitted with the application explains that the club is a not-for-profit operation, run by members, and the improved facilities are needed to combat declining adult membership, and to cater for the needs of increased junior membership. The club is seeking to enhance the golfing facilities available and to lower the age profile of its membership so as to provide a basis for continued recruitment to the club. A letter of support has been received from Wellsway School in Keynsham commenting on the benefits the development would deliver to its pupils, allowing more school age children to participate at the golf club during evenings, weekends and holidays.

Addressing policy GB.1, officers consider that the proposed facilities are essential to secure the long-term future of the club, and the objectives of the development are fully consistent with the Green Belt objectives of providing improved opportunities for outdoor sport and outdoor recreation. The proposals would widen the opportunities to participate in sport, in particular for school age children and improve and significantly improve the facilities available for club members.

## **B. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF HIGHWAY SAFETY**

There are remaining concerns about the lack of detail submitted in terms of the proposed construction of passing places on Longwood Lane, however taking into account the relatively low traffic levels on Longwood lane, this is not considered to be a reason for the refusal of the application.

There are no concerns about the impact of the proposed development on traffic levels on Golf Club Lane, which has adequate capacity to accept the resultant traffic levels. The Council's Highways team has advised that the impact of traffic generated by the development is likely to be minimal, being at a level which is relatively small compared to the use of the golf club generally, and almost immaterial in consideration of the overall levels of traffic on the adjacent housing estate as a whole.

The roads leading to/from the golf club are of a relatively current design and meet the relevant standards - they are more than adequate to accommodate the level of traffic which might be generated and there is no record of accidents giving rise to casualties on the adjacent streets.

## **C. IS THE PROPOSED EXTERNAL LIGHTING FOR THE DRIVING RANGE CONSIDERED TO BE ACCEPTABLE?**

Introduction

The options generally available for lighting driving ranges are "End Range" lighting, "side lights" and "berm lights". "End range" and "side lights" consist of high powered flood lights positioned on lighting columns at the side and end of the range respectively. Berm lights are more numerous but less powerful floodlights located behind small, grass covered earth mounds. The use of Berm lights is considered best practice, in that the floodlights are hidden from golfers direct view, and providing adequate boundary screening is provided they cannot be seen from the surrounding locality, minimising or designing out glare impacts. The system cannot eliminate Sky Glow, but due to the even spread of less intense upward light the effect is greatly reduced compared to conventional range floodlighting.

## Policy Context

Policy BH.22 of the Local Plan advises that proposals for external lighting will only be permitted where:

- i) they would not give rise to an unacceptable level of illumination into the sky, open countryside or in villages where present levels of illumination are low; or
- ii) in urban areas and villages where present levels of illumination are already significant, the proposal would have no detrimental impact on residential or visual amenity.

There is no local guidance to advise what level of illumination will be unacceptable, and likewise no statutory standards in terms of the strength of lighting before it becomes a nuisance, and therefore in general such applications are assessed against guidance produced by the "Institute of Lighting Engineers" (ILE), which is seen as best practice. Overall the ILE guidance advises that a lighting installation will be appropriate (or problematic) according to the context of the site and existing light levels, and the guidance categorises 4 different zones as follows:

E1: Intrinsically dark landscapes - Beauty, etc	National Parks, Areas of Outstanding Natural Beauty, etc
E2: Low district brightness areas - locations	Rural, small village, or relatively dark urban locations
E3: Medium district brightness areas -	Small town centres or urban locations
E4: High district brightness areas - activity	Town/city centres with high levels of night-time activity

Consequently a lighting installation that could be perfectly appropriate in a town or city centre location might be unacceptable in a darker location. The document defines several different adverse impacts that can arise from external lighting as follows: light trespass into windows, Sky Glow and glare, and sets out guidelines to define unacceptable impacts in each zone, for each affect. These terms are defined below.

## Assessment

Against the ILE guidance, the application site would be described as a dark urban location within environmental zone E2. The table below is an extract of the ILE guideline limits for sky glow, glare and light trespass impacts within this environmental zone. The relevant

ILE measure is set out in row 2 and the performance of the proposed development against this measure is set out in row 3.

	Sky Glow Upward Light Ratio (Max %)	Light Trespass (into Windows) Ev [Lux] Pre_curfew	Glare Source Intensity I [kcd] (3) Pre_curfew	Building Luminance Pre_curfew Average
Institute of Lighting Engineer Standard	2.5%	5	7.5	5
Proposed Development	40%	Approx 6-7	2.4	Approx 6 - 7 (closest properties)
Compliant with Guidelines?	No	No	Yes	No

In objective terms, the proposals would substantially exceed the maximum recommended guidelines for the proportion of light directed into the sky (Skyglow) and would marginally exceed the recommended guidelines for light trespass. The following qualitative comments can also be made.

#### Glare

Glare is the uncomfortable brightness of a light source when viewed against a dark background. This can often be an effect experienced by nearby residents, but where there are unobstructed views of the lighting element, can also have an effect for many kilometres from a lighting installation.

Due to the elevated location of the site and open views across the valley, a poorly designed lighting installation (for example unshielded floodlights) could give rise to light pollution over a wide area, potentially having a significantly detrimental impact on views out from the AONB.

In this case Berm Lighting is proposed with seven 400 Watt berm lights set across the range and four 400 Watt lights erected on the eaves of the building. All of the lights would face roughly west, up the range. The lights are designed so as to light the face of the golf ball facing the golfer and so as to minimise glare for golfers, but this would also have the beneficial effect of avoiding glare impacts for residents and glare effects in the open views from Kelston and Lansdown Hills on the opposite side of the valley, in that all lighting elements would face away from the viewer.

The lights would face towards the new boundary hedge proposed on the eastern boundary of the academy course and towards the wood on Longwood Lane, and it is anticipated that there would have no glare effects beyond the Longwood Lane boundary.

The Case Officer attended a night-time visit to an almost identical floodlit driving range in Long Ashton on the edge of Bristol, designed by the same contractors and using the same technology. The site visit was also attended by a representative from the Campaign for Dark Skies. The context of this site is different, in that there are no open views as there are at Saltford, but it is in a fully rural context away from settlements and therefore background light levels were lower than in Saltford. The main impression from this visit was that the floodlights were less intrusive than expected, and in terms of glare had a localised impact which was effectively screened by a mature belt of trees, with the effect that from the road next to the site the lights were not intrusive.

Taking these considerations into account, the proposed floodlighting is acceptable in terms of glare impacts.

### Sky Glow

Sky Glow is the halo of light above many towns and cities - a landscape impact, blocking out the view of the night sky. This generally results from poor light fittings, where too much light is directed up into the sky, rather than at the object being lit.

The accepted best practice to minimise sky glow effects is to direct as much light towards the ground as possible, and therefore in sensitive locations floodlights are generally heavily shielded to minimise the proportion of light sent into the sky. However, as discussed in the comments from the Campaign for Dark Skies, the objective of the proposed driving range lighting scheme is to light golf balls in flight. Therefore even using berm lighting, which is considered to be the least harmful option, Sky Glow effects are inevitable and as borne out in the figures, the proposed lighting scheme would substantially exceed the recommended maximum measure for "upwards Light Ratio".

It was not possible on the visit to the comparable golf course in Long Ashton to gain an appreciation of the impact of this development in terms of sky glow, as it was not possible to differentiate between skyglow arising from the driving range and that arising from a floodlit hockey field located nearby.

Given the sensitive location of the site on an open, elevated site in the Green Belt, visible from the AONB, and the substantial exceedance of the maximum figure set out in the Institute of Lighting Engineers for Skyglow (16 times the ILE recommended maximum guideline), officers consider that the external lighting would give rise to excessive levels of skyglow, and would be contrary to policy BH.22 of the Adopted Local Plan. Additionally the Campaign for Dark Skies have objected to the proposed development, advising that the lighting scheme would not be dark skies compliant and that the development will have a very considerable detrimental impact on the night-sky, contributing to sky-glow over a distance of many tens of kilometres.

### Light Trespass / Amenity Impacts

Light Trespass is the spilling of light beyond the boundary of the property or area being lit. In the context of the application site this would be an amenity impact for surrounding residents.

On the whole the proposed lights are aimed away from residential properties to minimise impacts on the residential amenity, however the amended plans show that the nearest dwellings would experience light levels exceeding the maximum level of 5 Lux advised as



being appropriate in the ILE guidance. Whilst the lights would only be used until 9:00 PM, in the wintertime, such light levels would be likely to be perceived as being intrusive by these residents.

If Members were minded to approve the application, officers would recommend that a condition be applied prescribing a maximum light level of 5 lux when measured at the windows of adjoining properties, and requiring modifications to the lighting or landscaping if this light level is contravened. If the development gave rise to complaints, the light levels resulting from the development could easily be verified by use of a hand-held light monitor.

The applicants have also suggested the use of an additional condition, whereupon following the completion of the development, the lighting installation would be checked against the consented details in terms of the aiming of individual lights and lighting angles, with a report being provided by the contractor detailing compliance or any areas where modifications are needed. If members were minded to approve the application, officers would support the use of such a condition.

Subject to such conditions, the lighting proposals would not give rise to unacceptable amenity impacts for adjoining residents.

#### D. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF NOISE GENERATION?

Environmental Health have confirmed that they would have no objection to the proposed development in terms of noise impacts, following a site visit to a very similar driving range in Long Ashton and an examination of the distance of the driving range building from adjoining dwellings and a consideration of the likely noise levels generated by golf balls being struck. Other factors taken into consideration are the noise attenuation likely to be provided by the driving range structure itself and the fact that there are existing tees close to the site of the driving range already used for driving practice, albeit only used during daylight hours.

Residents have raised concerns about stray golf balls landing in their gardens. Whilst the development would considerably intensify the use of the driving range, the covered Stalls and lit target area would tend to have the effect of directing Golfers strikes down the range (and away from residential properties) more than the current configuration. Therefore officers do not consider that the proposals would worsen this impact.

Concerns have additionally been raised regarding the amenity impacts of the proposed driving range car park. The proposed car park would be located approximately 50 metres from the nearest property on Golf Club Lane and would only be in use until 9:00 PM, with the driving range being for the use of club members rather than the general public. Therefore officers do not consider that the car park would give rise to unacceptable amenity impacts for nearby residents.

#### E. IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN TERMS OF TREE AND ECOLOGY IMPACTS?

Policies NE.4 and NE.12 allow development provided there are no adverse impacts on trees of wildlife or landscape value and provided that landscape features of the landscape such as trees, walls, grasslands etcetera are retained if they are of amenity, wildlife, or

landscape value, or if they contribute to a wider network of habitats. Where trees or habitats are unavoidably lost or harmed any harm is to be minimised, and compensatory provision of at least equal value will be required.

The proposed academy course would involve the removal of a substantial existing hedgerow located at the western end of the driving range field, to be replaced by a new hedge to be positioned further to the east to separate the driving range from the academy course. The academy course would also involve the loss of the grassland in the field adjoining Longwood Lane.

As noted in the comments from ecology, the proposals are considered to be acceptable in terms of ecological impacts, subject to conditions being applied requiring additional compensatory shrub and tree planting, the implementation of wildlife protection measures and controlling when the lights can be used.

Regarding tree loss, the arboricultural report details the extent of tree loss resulting from the construction of the temporary access routes through the wood adjacent to Longwood Lane and the approach to replacement tree planting. The report, which is supported by our Tree Officer as being a sound piece of work and subject to the inclusion of conditions, the proposals are considered to be acceptable in terms of tree impacts.

**F. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THE IMPACT ON THE PERMISSIVE FOOTPATH AND THE DEVELOPMENT OF THE VACANT FIELD?**

The path running through the pasture into which the golf course would be extended is a permissive path, provided at the discretion of the landowners, and consequently the public do not have a "right" to use it. However the proposed site layout plan shows that the path would be re-provided in the proposed development adjacent to Longwood.

Likewise the field into which the golf course would be extended is privately owned and there is currently no public right of access.

As the path is permissive it is not considered that a condition should be applied requiring the path to be re-provided, however if the application were to be approved, it would be sensible to revise the Construction Management Plan to address how the permissive path will be managed during the construction period, to ensure public safety.

**G. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF ARCHAEOLOGICAL IMPACTS?**

The National Planning Policy Framework advises that historic assets, including archaeological sites should be recognised as irreplaceable resources. At paragraph 128, the NPPF advises that local planning authorities should require applicants to describe the significance of any heritage assets affected, with the level of detail being proportionate to the assets' importance. Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.

Policies BH.11 and BH.12 of the Adopted Local Plan advise that development which would harm important archaeological remains or their settings will not be permitted unless the adverse impact of the proposal on the remains can be mitigated. Development which

would adversely affect Scheduled Ancient Monuments, or any other sites of national importance, and their settings and does not preserve such sites in situ will not be permitted.

An Archaeological Desk Based Assessment has been submitted in support of the application, looking at the archaeological potential of the site and the history of finds in the vicinity. In brief the assessment found the site to be of high archaeological potential with multiple finds from a 500-metre radius around the site from pre-historic, roman, medieval and post-medieval periods. It is thought that there has been a crossing of the Avon at Saltford since pre-historic times and that this crossing was used by the romans, and there is compelling evidence to suggest roman occupation somewhere within the vicinity of the site. The long-standing agricultural use of the site and lack of wider development is likely to support good preservation in situ of any archaeological features or deposits below plough level.

Whilst the proposed earthworks would be above existing ground level, the use of heavy earth moving equipment would still be likely to result in substantial disturbance to any below ground deposits. Given the high archaeological potential of the site, the Council's archaeologist has advised that further intrusive investigations should be carried out prior to the determination of the application, to enable any decision to be taken on the basis of an informed knowledge of the extent and significance of any archaeological resources within the site.

No such works have been undertaken and therefore the proposals are considered to be contrary to policies BH.11 and BH.12 of the Adopted Local Plan as insufficient evidence is available as to the significance and existence of below ground archaeology, and the consequent impact of the development on this resource. Therefore this is put forward as a further reason for the refusal of the application.

## CONCLUSION

The proposed use is acceptable in terms of Green Belt policy and would deliver substantial benefits in terms of the sporting facilities available at the club. Whilst the site of the proposed driving range is close to adjoining residents, it would not give rise to unacceptable amenity impacts in terms of noise or disturbance, but on the basis of the plans submitted would give rise to amenity impacts for the closest residents due to excessive light levels at their properties. These impacts could however be overcome by a condition on the consent, and therefore this is not put forward as a reason for refusal.

The proposals have been assessed as being acceptable in terms of highway safety and with appropriate conditions could be made acceptable in terms of ecological and tree impacts.

Notwithstanding the support given in principle for the proposed development, the proposed external lighting would substantially exceed the maximum standards for skyglow set out in the guidance from the Institute of Lighting Engineers. Taking into account the elevated exposed position of the site, its location within the Green Belt and the open views available towards the Cotswolds AONB across the valley, the development would be contrary to policy BH.22 of the Local Plan, and therefore, on balance, a recommendation that the application be refused is put forward.

As set out above, the site has high archaeological potential, with the vicinity being occupied since pre-historic times and compelling evidence of roman occupation somewhere in the vicinity of the site. Given the likely significance of any finds, the lack of an on-site archaeological investigation prior to the determination of the application means that inadequate information is available to informed view as to the impact of the development on the archaeological resource, and the development is therefore contrary to policies BH.11 and BH.12 of the adopted Local Plan.

## **RECOMMENDATION**

Refuse

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

1 The external lighting to the proposed driving range would result in unacceptably high levels of stray light and "sky glow" which would detract unacceptably from the character of the night sky, in an elevated position with open views across the Avon Valley to the Cotswolds Area of Outstanding Natural Beauty. The proposed development would conflict with Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Lighting and be contrary to policy BH.22 of the Bath and North East Somerset Local Plan, including minerals and waste policies, adopted October 2007.

2 Insufficient evidence is available to determine the impact of the development on potential below ground archaeology, due to the lack of an intrusive archaeological investigation prior to the determination of the application. As such the proposed development would be contrary to policies BH.11 and BH.12 of the Bath and North East Somerset Local Plan, including minerals and waste policies, adopted October 2007 and the guidance within the National Planning Policy Framework.

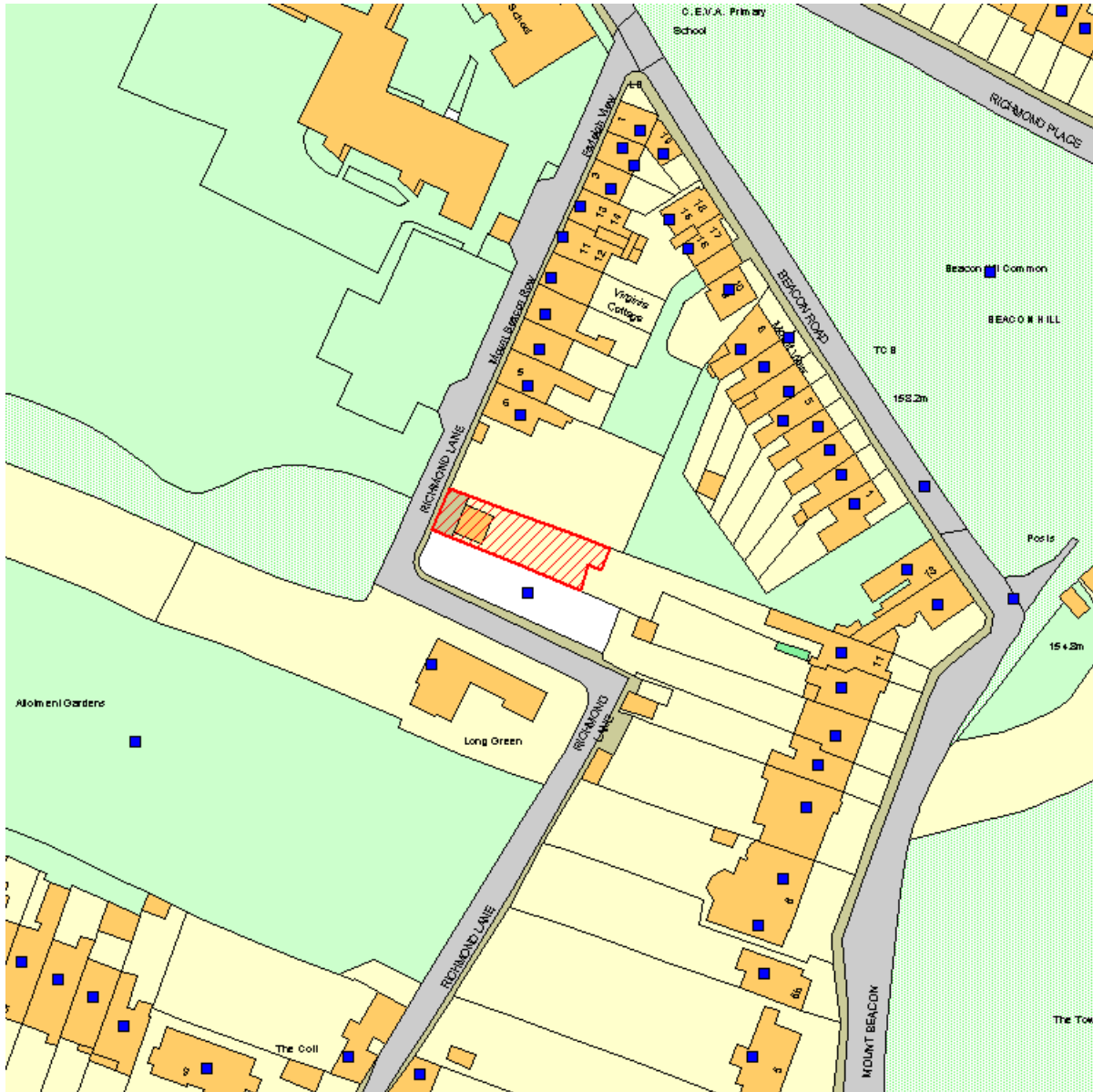
## **PLANS LIST:**

This decision relates to drawings:

- Proposed Site Local Plan
- Proposed Landform Levels - Drawing SGC-DRAC-D1-Rev H
- Proposed Access - Drawing SGC - PA-Rev H
- Lighting proposals - Golf Range Lighting - design ref UKS7628/6
- Proposed Driving Range Building - Drawing 001
- Proposed Sections - in front of residential house
- Proposed Section B-B
- Proposed Sections C-C
- Proposed Sections D-D
- Archaeological Desk Based Assessment - Eaton Archaeological Services
- Abacus Technical Report Ref: UKS7628/4 - Proposed Golf Club Lighting
- Protected Species Survey - Country Contracts
- Reptile / Amphibian survey - Country Contracts
- Flood Risk Assessment - DJP Consulting Engineers
- Photograph of example driving range building
- Arboricultural Assessment - Tim Pursey
- Schedule of photographs
- Design and Access Statement

- Construction Management Plan
- Survey of Existing site - drawing SGC-DRAC-OGL

**Item No:** 06  
**Application No:** 12/02906/FUL  
**Site Location:** 11 Mount Beacon, Beacon Hill, Bath, Bath And North East Somerset



**Ward:** Lansdown      **Parish:** N/A      **LB Grade:**  
**Ward Members:** Councillor Patrick Anketell-Jones Councillor Anthony Clarke  
**Application Type:** Full Application  
**Proposal:** Erection of a single dwelling and associated works.  
**Constraints:** Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, World Heritage Site,  
**Applicant:** Mr Max Woodward  
**Expiry Date:** 26th September 2012  
**Case Officer:** Jonathan Fletcher

## **REPORT**

**REASON FOR REPORTING THE APPLICATION TO COMMITTEE:** Two requests have been received for the application to be referred to the Development Control Committee. Councillor Patrick Anketell-Jones has requested that the application is referred if officers are minded to approve. Councillor Anthony Clarke has requested that the application is referred if officers are minded to refuse. The application was therefore referred to the Chairman of the Development Control Committee. The application is recommended for approval by officers.

**DESCRIPTION OF SITE AND APPLICATION:** The application relates to the curtilage of a grade II listed building located within the Bath Conservation Area and the Bath World Heritage Site. The application seeks planning permission for the erection of a detached dwelling and associated works. The existing dwelling forms an end of terrace which faces onto Mount Beacon. The property has a large rear garden which is proposed to be subdivided to form a separate curtilage for a new dwelling which would have a frontage onto Richmond Lane.

### **RELEVANT PLANNING HISTORY:**

10/03154/FUL - Refused - 1 October 2010 - Erection of a detached dwelling following demolition of existing garage block.

10/03155/LBA - Refused - 1 October 2010 - External alterations for the erection of a detached dwelling following demolition of existing garage block.

12/02907/LBA - Withdrawn - Erection of a single dwelling and associated works

NB - The application for listed building consent 12/02907/LBA has now been withdrawn as the proposed development would not be connected to a listed structure and therefore consent is not required.

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

**Arboricultural Officer:** No objection is raised to the proposal subject to two conditions to secure a landscape scheme.

**Conservation Officer:** The revised proposal is considered to be acceptable subject to three conditions to confirm materials and joinery details.

**Highway Development Officer:** No objection is raised to the proposal subject to two conditions to retain the off-street parking area and to confirm details of the operation of the gates.

**Local Councillors:** Councillor Patrick Anketell-Jones has requested that the application is referred to the Development Control Committee if officers are minded to approve. Councillor Anthony Clarke has requested that the application is referred to the Development Control Committee if officers are minded to refuse.

**Representations:** Seven letters have been received which raise concern in relation to the visual impact of the development, highway safety and residential amenity. The concerns

relating to the visual impact are raised due to the need to remove cherry trees in order to construct the new dwelling, the design of the development and the loss of the garden. The highway safety concerns relate to off-street parking provision, the intensification of vehicular movements and emergency vehicle access on Richmond Lane. The residential amenity concerns relate to increased levels of overlooking, loss of light and the loss of a view.

NB - The consultation period for this application extends until 07 November 2012 and therefore any further responses will be reported to the Committee as an update.

## **POLICIES/LEGISLATION**

### **POLICIES:**

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

The following policies are relevant in this case:

HG.4: Residential development in the urban areas and R.1 settlements

D.2: General design and public realm considerations

D.4: Townscape considerations

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

BH.2: Listed buildings and their settings

BH.6: Development within or affecting Conservation Areas

T.24: General development control and access policy

T.26: On-site parking provision

Consideration has also been given to the Bath & North East Somerset Draft Core Strategy however only limited weight can be attached to this document until it is formally adopted.

National Planning Policy Framework - March 2012

The NPPF guidance in respect of the issues which this particular application raises is in accordance with the Local Plan policies set out above.

## **OFFICER ASSESSMENT**

### **INTRODUCTION**

The primary issues to consider when determining this application relate to the principle of new residential development in this location, the visual impact of the development in relation to the conservation status of the site, residential amenity and highway safety. A previous scheme was refused on the basis of the impact on the setting of the adjacent listed buildings, the character and appearance of the conservation area, residential amenity and highway safety.

Two applications were refused in 2010 for planning permission and listed building consent for a new dwelling on the site. The reasons for refusal related to the setting of the listed building, the character and appearance of the conservation area, residential amenity and highway safety. The current applications seeks to address these reasons for refusal



through a revised design, changes to the fenestration details and additional justification relating to highway safety.

**PRINCIPLE OF RESIDENTIAL DEVELOPMENT:** The application relates to a site located within the built up area of Bath where policy HG.4 confirms that new residential development is acceptable in principle in this location. It should be noted that the guidance within the NPPF states that local planning authorities should consider formulating policies to assess the impact of development within residential gardens however this does not imply that such applications should be resisted in each instance. There are no policies within the Development Plan with this specific focus however consideration of the impact of the development on the local area is set out below in relation to the relevant saved policies of the Local Plan.

**VISUAL IMPACT:** The dwelling is proposed to be sited within the rear garden of a grade II listed building facing onto Richmond Lane to the west. The application site is bounded by the curtilage of a new dwelling which has been formed within the rear garden of the adjoining property to the south. There is a row of grade II listed buildings facing onto Richmond Lane located to the north of the site.

The Council's Conservation Officer has recommended that the visual impact of the revised proposal would be acceptable in this context. Through negotiations with the agent, revisions to the design of the proposed dwelling have been secured which improve its impact and relationship with the setting of the nearby listed terrace and the wider character of this part of the conservation area and the streetscape. In particular the width of the building has been reduced slightly and redesigned as a simpler single fronted house. The roof pitch has been increased to a more traditional 30 degrees. This will increase the ridge height by 0.2 metres. The proposal to severely demarcate the boundary between the garden of 11 Mount Beacon and the garden of the new house has been replaced with a visually softer landscape solution.

The revised proposal is therefore considered to preserve the setting of the adjacent listed buildings and the character and appearance of the conservation area.

**RESIDENTIAL AMENITY:** A number of concerns have been raised within the consultation period relating to the impact of the development on residential amenity. The property which would be most directly affected by the development is St Stephen's House which is located to the south boundary of the site. The new dwelling is considered to be sufficiently separated from the other adjacent properties to prevent any adverse impact on these occupiers. There are no windows to the side elevations of the dwelling and the structure would be located a minimum of 45 metres from the rear elevations of the properties on Mount Beacon and Beacon Road. There is no provision to resist a planning application on the basis of a loss of a view.

In relation to St Stephen's House, no objection is raised to the outlook from the proposed dwelling however the occupier of this property has requested that a 2 metre high wall is erected to the south boundary in order to prevent a loss of privacy within the garden area. The agent has revised the application in response to this objection to include an area of 1.5 metre screen planting along this boundary. Whilst the comments submitted are noted, there is not considered to be sufficient justification to recommend a refusal of the application based on this issue. The application relates to an existing residential garden

which is used by the occupiers of 11 Mount Beacon. The topography of the land slopes up towards the north and consequently the ground level within the application site is set above the curtilage of St Stephen's House. The outlook when standing away from the south boundary of the application site is therefore directed across the adjoining curtilage rather than facing the ground area. It is therefore considered to appropriate to secure an area of landscaping adjacent to the south boundary however a high level wall is not deemed to be necessary to safeguard residential amenity. It is also considered that the scale and siting of the dwelling would not unduly impact on the level of light to St Stephen's House. The new dwelling would project approximately 2.5 metres beyond the rear elevation of St Stephen's House however a sufficient separation between the side elevations of 1.6 metres would be maintained. Moreover, the level of overlooking from the new dwelling to the rear garden would be reduced as result of its position.

**HIGHWAY SAFETY:** The Council's Highway Development Officer has recommended that the proposal would not have an adverse impact on highway safety. The previous application was resisted on the basis that it would result in the loss of the off-street parking for the existing dwelling. The current application is supported by a Transport Note which demonstrates that there is capacity on the highway to accommodate on-street parking for the existing dwelling. The Transport Note also draws attention to location of the site with good access to public transport and pedestrian links. The distance between the existing garaging and the dwelling has also been considered and it is recognised that occupiers of the existing dwelling are likely to park in front of the property on the highway. The previous reason for refusal is therefore deemed to have been overcome. The off-street parking is considered to be sufficient to serve the new dwelling however a condition is recommended to secure the provision of remote operated gates to prevent an obstruction on Richmond Lane.

**CONCLUSION:** In light of the points set out above the proposal is considered to be acceptable and 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 No development shall commence until a sample panel of all external walling and roofing materials has been erected for inspection on site and approved in writing by the Local Planning Authority. Thereafter the sample panel shall be kept on site until the development is completed and the development shall be carried out in accordance with the approved details.

Reason: To safeguard the setting of the adjacent listed buildings and the character and appearance of the conservation area.

3 No development shall commence until joinery details at a scale of 1:2 have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: To safeguard the setting of the adjacent listed buildings and the character and appearance of the conservation area

4 No development shall be commenced on site until a soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation. This landscape scheme shall include details of a boundary treatment to the south side of the application site and a new boundary treatment to the east to subdivide the residential curtilage.

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

5 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.

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

Reason: In the interests of amenity and highway safety.

7 The gates to the vehicular access shall be of a remotely operated type, the details of which shall have been submitted to and approved in writing by the Local Planning Authority, and the gates shall be in operation prior to the dwelling being occupied.

Reason: In the interests of highway safety.

8 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:**

J024448\_1, existing site plan and 103 received 02 July 2012.

101e received 05 October 2012.

102f, 104f and 105g received 05 November 2012.

### **REASONS FOR GRANTING APPROVAL**

1. New residential development is acceptable in principle in this location. The proposal would preserve the setting of the adjacent listed buildings and the character and appearance of the conservation area. The proposal would not have an adverse impact on highway safety. The proposal would maintain the residential amenity of adjacent occupiers.

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

BH.1, BH.2, BH.6, HG.4, T.24, T.26, D.2 and D.4 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

**Item No:** 07  
**Application No:** 12/03325/FUL  
**Site Location:** 489B Bath Road, Saltford, Bristol, Bath And North East Somerset



**Ward:** Saltford                      **Parish:** Saltford                      **LB Grade:** N/A  
**Ward Members:** Councillor F Haeberling      Councillor Mathew Blankley  
**Application Type:** Full Application  
**Proposal:** Change of use to restaurant and takeaway (Use Class A3/A5) to include extension in rear courtyard and new shopfront (resubmission).  
**Constraints:** Agric Land Class 1,2,3a, Forest of Avon, Housing Development Boundary, Local Shops,  
**Applicant:** Mrs Rachael Ashbee  
**Expiry Date:** 24th September 2012  
**Case Officer:** Jonathan Fletcher

## **REPORT**

**REASON FOR REPORTING THE APPLICATION TO COMMITTEE:** Saltford Parish Council have raised an objection to the application. The application was referred to the Chairman of the Development Control Committee as officers are minded to approve.

**DESCRIPTION OF SITE AND APPLICATION:** The application relates to a commercial unit located within the Saltford local shopping centre. The application seeks planning permission for the change of use of the building from retail (Use Class A1) to a restaurant and takeaway (Use Class A3/A5). The building was previously tenanted by a kitchen designers showroom and the proposal is for a change of use to a restaurant with a takeaway counter. This is indicated to be a fish and chip shop however this would not be restricted. A new entrance is proposed to the front elevation of the host building to serve the restaurant with the existing access being used for the takeaway area. A small single storey extension is also proposed to the rear elevation which would be formed with a flat roof in the courtyard area.

### **RELEVANT HISTORY:**

12/00247/FUL - Withdrawn - 23 May 2012 - Change of use to restaurant and takeaway (Use Class A3/A5) to include extension in rear courtyard

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

Environmental Health Officer: No objection is raised to the proposal subject to two conditions to secure sound attenuation measures and odour control.

Highway Development Officer: No objection is raised to the proposal subject to a condition to secure the submission of a car park management plan.

Saltford Parish Council: An objection has been raised to the application due to concerns relating to economic vitality and highway safety.

Representations: Five letters have been received which raise concern in relation to the impact on economic vitality, highway safety and residential amenity.

### **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

D.4: Townscape considerations

T.24: General development control and access policy

T.26: On-site parking provision

S.8: Retention of shops in district, local and village centres

Consideration has also been given to the Bath & North East Somerset Draft Core Strategy however only limited weight can be attached to this document until it is formally adopted.

## National Planning Policy Framework - March 2012

The NPPF guidance in respect of the issues which this particular application raises is in accordance with the Local Plan policies set out above.

### **OFFICER ASSESSMENT**

**INTRODUCTION:** The primary issues to consider when determining this application relate to the principle of the change of use, the visual impact of the external alterations to the host building, highway safety and residential amenity.

**CHANGE OF USE:** Policy S.8 seeks to protect retail uses within the defined centres where the vitality of that centre would be adversely affected by a change of use. In this instance 56% of the units within the Saltford shopping centre are currently operated for retail uses. There are two convenience stores which perform the primary retail function of the centre in addition to a mixture of other complimentary retail uses. It is considered therefore that a sufficient level of retail uses would be retained if the proposed change of use is implemented. Moreover, the proposed restaurant and takeaway use would maintain customer footfall to the centre which would be beneficial to economic vitality. The building could be reverted back to a retail use under permitted development rights if the restaurant ceases to trade at the site.

**VISUAL IMPACT:** The proposed change of use would require minimal changes to the external appearance of the building including a shopfront and single storey rear extension. The proportions of the shopfront would be in keeping with the frontages along this row of commercial units. The single storey extension would be formed by enclosing the courtyard between the rear elevation of the host building and the storeroom with a flat roof. This area of the site is not visible from the surrounding area.

**HIGHWAY SAFETY:** The commercial units within the Saltford local centre are separated into three groups which all benefit from areas of off-street parking. The host building is located within a row of 3 commercial units and which are served by 11 parking spaces. The Council's Highway Development Officer has reviewed a photograph survey of the on-street parking demand in the area which has been submitted by the applicant and has concluded that sufficient parking would be available. A car park management plan is recommended however by the Highway Development Officer to ensure that the parking area adjacent to the host building is only used for customers of these businesses.

The responses received through the consultation process have raised concern in relation to the existing demand for parking in the area. Whilst these comments are noted there is not considered to be sufficient justification to recommend a refusal of the application based on this issue. The building could be reoccupied for a variety of retail uses without the need for planning permission which would generate demands for parking. There is deemed to be sufficient parking available to serve the proposed use and the other commercial uses within the local centre. The requirement for a car park management plan is derived from concerns that the parking areas are used by the Vauxhall Dealership on the opposite of Beech Road. Given that a survey has been provided however to demonstrate that there is sufficient capacity for off-street parking, it is not deemed to be necessary to require a car park management plan in this instance.

**RESIDENTIAL AMENITY:** The application site is located adjacent to residential properties to the north and west. The application has been submitted with an assessment to identify the level of noise which would be generated by the proposed use. The Council's Environmental Health Officer has reviewed this document and has recommended that the sound attenuation measures are secured by condition. No details have been submitted at this stage in relation to the odour controls however a condition is recommended to confirm these details prior to the commencement of development. The refuse bins are proposed to be located within the store to the rear of the site. The hours of operation could also be controlled by condition to ensure that local residents are not unduly affected by the development. With these control in the place, the proposal is considered to maintain the residential amenity of adjacent occupiers.

## **CONCLUSION**

In light of the points set out above the proposal is considered to be acceptable and 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 No development shall commence until details of the odour controls to be implemented have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details.

Reason: In the interests of highway safety and amenity.

3 The development hereby permitted shall not be occupied until the sound attenuation measures set out in section 6.6 of the Ventilation and Extraction Assessment received 30 July 2012 have been implemented. Thereafter these sound attenuation measures shall be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason: To safeguard the residential amenity of adjacent occupiers.

4 The use hereby approved shall not be carried on and no customer shall be served or remain on the premises outside the hours of 09:00 to 22:00

Reason: To safeguard the amenities of nearby occupiers.

5 No development shall commence until an operational statement has been submitted to and approved in writing by the Local Planning Authority including details of refuse storage and litter prevention. Thereafter the development shall be operated in accordance with the approved details.



Reason: To safeguard the residential amenity of adjacent occupiers.

6 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:**

Site location plan and 01 received 30 July 2012.

**REASONS FOR GRANTING APPROVAL**

1. The proposed change of use would preserve the economic vitality of the Saltford shopping centre. The external alterations and extension would preserve the character and appearance of the host building and the street scene. The proposal would not have an adverse impact on highway safety. The proposal would maintain the residential amenity of adjacent occupiers.

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

S.8, T.24, T.26, D.2 and D.4 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

**Item No:** 08  
**Application No:** 12/03741/FUL  
**Site Location:** Hope House, Shaftesbury Road, Oldfield Park, Bath



<b>Ward:</b> Oldfield	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Ward Members:</b> Councillor David Dixon	Councillor W Sandry	
<b>Application Type:</b> Full Application		
<b>Proposal:</b>	Erection of a two storey side extension and single storey rear extension following demolition of existing car port	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, World Heritage Site,	
<b>Applicant:</b>	Mr Samuel Ashburner	
<b>Expiry Date:</b>	1st November 2012	
<b>Case Officer:</b>	Tessa Hampden	

## **REPORT**

Reasons for application being heard at committee

This application is being heard at Committee at the request of Cllr Sandry and Cllr Player.

Site description and proposal

The application relates to an end of terrace 1930s property located on Shattesbury Road, in the Oldfield Park area of Bath. The site is set outside of the City of Bath Conservation Area but within the wider World Heritage Site. The site can also be accessed via a private track to the rear of the property, where one parking space is provided. A further parking space is currently provided to the front of the site, as well as within the existing car port.

The application seeks planning permission for the erection of a two storey side extension and single storey rear extension following the demolition of the existing car port. Although the application form states that the extension will be built in reconstructed Bath stone, the applicant has agreed that Bath stone will be used in the construction of the extension, which will match the materials of the host building. The development will allow for additional living accommodation, and also includes a new room in the roof which is facilitated by additional velux windows.

Relevant planning history

There is no planning history directly relevant to this planning application

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Cllr Sandry - By size, scale and bulk the application is not in context with adjoining properties, the external wall materials do not match the original building, there is the loss of a parking space and also loss of light amenity to the adjoining neighbour

Cllr June Player - it will be introducing an inappropriate level of off-site parking due to the potential increase of car users occupiers, including those of visitors. This in turn will cause off-site parking issues to surrounding streets.

2 objections and 1 general comment have been received. The comments can be summarised as follows:

- Issues with regards to HMOs and perceived issues relating to students
- Scale and bulk of development
- Materials not matching existing building
- Inaccurate info submitted
- Water easement order

## **POLICIES/LEGISLATION**

D.2: General design and public realm considerations

D.4: Townscape considerations

NE5 Forest of Avon

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

T.24: General development control and access policy

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 National Planning Policy Framework was published in March 2012, but is not considered to conflict directly with the above policies.

## **OFFICER ASSESSMENT**

### Character and appearance

The front elevation of the side extension is set back from that of the host dwelling, with the ridge of the roof of the extension set down from that of the main ridge of the existing roof. This ensures that the side extensions appears as a subservient addition to the main dwelling respecting the traditional proportions of this property and that of the terrace. The applicant has agreed to use matching materials which will aid in ensuring that the development integrates successfully with the main dwelling.

The rear extension is considered to be of an acceptable scale and design, also appearing as a subservient addition to the main dwelling, and due to its siting at the rear, will have limited impact upon the main street scene. The amount of development is considered proportionate to the size of the plot, and is not considered to represent the overdevelopment of the site.

Overall therefore, the proposed development is considered to be of an acceptable scale, siting and design, that respects the character and appearance of the dwelling, this terrace and the visual amenities of the area. Further there is not considered to be any harm to the setting of the wider World Heritage Site.

### Residential amenity

A number of concerns have been raised by third parties with regards to the impact of future occupiers on the existing residential amenity of the neighbouring occupiers. However, although there is a concern that the dwelling will be occupied as a House of Multiple Occupance (HMO), this is not being considered at this stage and the Local Planning Authority can not pre-empt the future use of this dwelling or determine the application on the basis that it has the potential to be occupied by students, as suggested by third parties. Any use of this application as an HMO would require a change of use application and would be determined on its own merits. It is therefore not considered that the development as proposed would result in an unacceptable level of noise and disturbance to the neighbouring occupiers as to warrant a refusal.

The side extension is considered to be set a sufficient distance from the neighbouring occupiers as to ensure that it will not have an overbearing impact or result in the loss of light to the neighbouring occupiers. A window is proposed in the side elevation of the extension at first floor level, and this has the potential to result in a level of overlooking. However, this is to serve a landing area, and as such could be conditioned to be obscurely glazed.

The single storey extension is to be built in close proximity to the adjoining property, although it is set marginally away from this boundary. It is accepted that there will be a degree of loss of light to the neighbouring property. However, the single storey extension which abuts this part of the property is only very marginally greater than that which could be built under the property's permitted development rights. It would not therefore be a pragmatic approach to refuse the application on these grounds as the fall back position is not dissimilar to that applied for under this application.

Overall therefore the proposed development is not considered to result in significant harm to the residential amenity of the neighbouring occupiers.

#### Highway safety

Although there will be the loss of an on-site parking space in the form of the car port, 2 spaces are to be retained; one to the front of the site and one to the back. This is considered to be adequate provision for this dwelling which is in a sustainable location, close to local facilities and public transport provisions. Although it is noted that third parties are concerned that the use of this property as an HMO would generate the need for additional parking, the application is not seeking planning permission for the change of use of this property, and the Local Planning Authority must consider the application as submitted. Although it is noted that the additional rooms within the property may alter the parking requirements, as stated above 2 parking spaces is considered to be appropriate.

Overall therefore the proposed development is not considered to have a detrimental impact upon highway safety.

#### Other issues

A third party has raised the issue of a water easement order. However this would be dealt with at the building regulations stage and is not strictly a planning matter.

No other issues have arisen as a result of this application and for the reasons as 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 All external walling and roofing materials to be used shall match those of the existing building in respect of type, size, colour, pointing, coursing, jointing, profile and texture.

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

3 The proposed first floor window in the east elevation shall be glazed with obscure glass and permanently retained as such.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy.

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:**

Plans: HH001 - 006 date stamped 28th August 2012 and HH012 EDITION 01 date stamped 6th Septmeber 2012

**REASONS FOR GRANTING APPROVAL**

1 The development is considered to be of an acceptable scale, design and siting , which would preserve the character and appearance of this building, terrace and the setting of the wider World Heritage Site. There will be no harm to highway safety or residential amenity as a result of this development.

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: General design and public realm considerations

D.4: Townscape considerations

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

T.24: General development control and access policy

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 National Planning Policy Framework was published in March 2012, but is not considered to conflict directly with the above policies.

**Item No:** 09  
**Application No:** 12/04102/FUL  
**Site Location:** Maylou, 118A Rush Hill, Southdown, Bath



<b>Ward:</b> Odd Down	<b>Parish:</b> N/A	<b>LB Grade:</b> N/A
<b>Ward Members:</b> Councillor S P Hedges	Councillor N J Roberts	
<b>Application Type:</b> Full Application		
<b>Proposal:</b>	Erection of a two storey extension and a single storey garage extension (revised resubmission).	
<b>Constraints:</b>	Agric Land Class 1,2,3a, Forest of Avon, Hotspring Protection, World Heritage Site,	
<b>Applicant:</b>	Mrs Rae	
<b>Expiry Date:</b>	22nd November 2012	
<b>Case Officer:</b>	Sasha Coombs	

## REPORT

Cllr Nigel Roberts requested for this application to come to committee if the officer is minded to recommend approval.

Maylou is a detached property built in early 2000s on the plot to the rear of the redundant Rose & Laurel Public House on the south-western edge of Bath World Heritage Site. The site is located off a busy Rush Hill road in a residential area, which is characterised by a mixture of buildings cascading down the hill. This part of Southdown is located on the fringe of the city's urban envelope, and has a semi-rural character with a single narrow lane (also called Rush Hill, but in previous planning reports referred to as Rush Hill Lane or The Lane). The Lane provides access to the houses to the west of the main road. The application site has a dedicated driveway defined by a low stone boundary wall which runs parallel to the Lane. As part of the application process, an Ownership Certificate B was signed in relation to this access drive.

There is a more or less consistent building line along the southern edge of the Lane with a number of detached and semi-detached two-storey stone cottages. Maylou occupies the plot to the north where the land slopes away from the Lane, and is set on lower level cut into the hill slope. Beyond the low southern boundary wall some further screening is provided by a mature beech hedge. To the north of the site the land slopes down to a currently unoccupied plot of land and a line of terraced houses fronting onto the main road of Rush Hill. Beyond the western boundary lies the detached property of 120 Rush Hill. To the east there is a currently empty former car park to the Rose and Laurel Public House which has an extant permission (ref. 11/04016/FUL) for 3no dwellings comprising 2no x 3 bed houses and 1no 2 bed house.

The property is built on a slight angle against the western edge of the curtilage with a gravelled area outside, currently used for parking, and has an elevated open lawn to the north-east. The house itself is a two-storey detached dwelling with a small front porch and two single-storey side projections (kitchen and garage). The kitchen extension is slightly staggered in relation to the south-west gable end of the house, and the garage is adjacent to the northern gable. At the rear there is a small patio area enclosed by the kitchen extension, the retaining walls and the boundary fence with the neighbour at 120 Rush Hill.

This application is a resubmission of an earlier application to extend the property. The initial application 12/02635/FUL was refused on visual amenity and design grounds due to the substantial bulk and height of the front extension. It was considered that it would dominate, rather than complement, the host dwelling, and would have an undue prominence in the street scene.

The size of the proposed extension/garage has now been reduced and the current application consists of two main elements:

1. Additional floor level over the existing kitchen extension - the proposed extension would have a double-pitched roof repeating the contours of the existing projection. The total height increase would constitute some 2m.
2. Two storey extension to the north with a single storey element at its easternmost end. The two-storey part would be 1.3m lower than the main pitch (4.7m under eaves) and



would occupy the footprint of the current garage. The single storey double garage would project at an angle forward of the principle elevation along the northern boundary of the site.

It is also proposed to increase the size of the entrance porch, and to install solar panels on the south facing pitch of the new garage.

#### RELEVANT HISTORY:

In 1964 an application for residential development on this site was refused, and in 1975 an application for the erection of three detached houses was also refused.

98/00460/OUT - Erection of 2 houses (outline application) Refused 26.02.1999

99/00903/OUT - Erection of a single bungalow.

Appeal was made against the non-determination of the application. The Council resolved that it would have refused the application on the grounds of highways safety, amenity and character. The appeal was dismissed in May 2000 but in his report, the Inspector did not rule out the 'possibility of a limited amount of built development' providing that the scheme 'could demonstrate a design that respected the character of the nearby properties'.

01/01712/FUL- Erection of a two storey dwelling house, garage and access and alteration of public house car park. Approved 30/07/2001.

According to the Officer's report of 07/11/2001 it was considered that in this case the aforementioned appeal decision (99/00903/OUT) was a significant material consideration. The consent had a number of conditions attached removing permitted development rights usually associated with enlargement of a dwelling, erection of freestanding buildings in its curtilage and erection of any means of enclosure. The reasons for the conditions were 'to protect the open semi-rural character and setting of the site'; 'to safeguard the amenities of the surrounding area; and 'to protect the integrity of the design of the dwellinghouse'.

12/02635/FUL - Erection of a two storey side extension and a first floor extension above existing kitchen. Refused 14/08/12

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

Highways Development Control - wishes to make no comment on the above planning application

Building Control - no comments received

Local Member - Cllr Nigel Roberts (Odd Down Ward) asked for this application to be referred to committee if the officers are minded to recommend approval.

#### Reasons:

1. That the size of the development is out of proportion to the existing dwelling.
2. As noted in previous planning decisions this is a semi rural area and this size of dwelling is out of proportion to the existing dwellings and the setting of the area.

3. That the position of the dwelling will over look the houses on the Rush Hill meaning their loss of amenity, and possible light to their gardens, they are south facing.
4. The lane has a difficult junction to a busy road, Rush Hill, the current permission for the conversion of the public house into three cottages means that any addition could lead to health and safety problems as this lane is used by pedestrian to access the footpath to Barrow castle.

Third Party Representations - 12 letters of objections and 2 letters of general comments were received. The main points of objections raised were as follows:

- The resubmission failed to address previous objections;
- Impact on the character and visual amenity of the area;
- Further obstruction of views and loss of light;
- Increase in traffic movement associated with extra accommodation provided by the extensions, and the subsequent highways issues;
- Overdevelopment of the site;
- Disproportionate addition to the 'host' dwelling;
- Several letters referred to the original Inspector's report (May 2000) and the further development restrictions secured by the conditions of planning consent 01/01712/FUL
- Cumulative effect of the recently approved development at Rose and Laurel pub, and other recent developments in the area on the highways safety.
- High hedge along the southern boundary of the site interrupts the open character of the hill slope and blocks the views.

### **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

T.24 - Highways Safety

T.26 - Parking Standards

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:

B4 - World Heritage Site

CP6 - Environmental Quality

### **OFFICER ASSESSMENT**

The main material planning issues in this case are:

- o Impact on visual amenity and character of the area
- o Effect on residential amenity and views across the site
- o Impact on special qualities of World Heritage Site
- o Highways Safety

IMPACT ON VISUAL AMENITY AND CHARACTER OF THE AREA

The assessment of the visual impact is particularly relevant here with regard to the proposed two storey side extension and the garage (north and east elevation) because they would be plainly visible from the public domain and can affect the overall appearance of the street scene.

As described above, despite the existence of a busy transport link and the substantial high-density urban area nearby, Rush Hill Lane managed to retain a quiet and unspoiled semi-rural character. The Inspector's appeal decision (99/00903/OUT) noted that this derived from the cottage style houses on the southern edge of the Lane, the narrowness and length of the lane along with the low stone boundary wall. This quality was recognised during the original consideration of the proposal to build Maylou (01/01712/FUL), and had a great bearing on the design and positioning of the house within the plot and in wider street scene.

Bearing in mind the degree of significance that was placed on the way this development responded to the landscape and character of the area within it was placed, it would be logical to attach similar weight to the way any further substantial extensions to this house would physically and visually respond to their immediate and wider context. Local Plan Policy D.4 would be particularly pertinent in this case stating that "development would only be permitted where a) it responds to the local context in terms of appearance, materials, siting, spacing and layout reinforces or complements attractive qualities of local distinctiveness; or improves areas of poor design and layout; ... and d) the appearance of extensions respect and complement their host building".

The previous application to extend this property (12/02635/FUL) was refused on design policies D.2 and D.4 due to the considerable bulk of the north and east projections. The size of the north-east extension has now been noticeably reduced: it has been cut back to a much smaller two-storey side extension which would occupy the footprint of the existing garage, and a single storey DBL garage to the front. No two storey part of the extension now projects forward of the existing building. The height of the new garage has been reduced to lessen the visual impact when viewed from the lane.

Whilst this would be a change to the existing, it is considered that the proposed two storey extension and the garage would be appropriate in their appearance, and their mass/scale/bulk would not be of such significance as to merit resisting the application as being unacceptably out of character in this case. The design of the extension takes cue from the host property, and is considered to be overall a proportionate addition, commensurate with this house and its plot.

It is therefore considered that the design of the current proposal is acceptable and would not detrimentally affect the character and appearance of the property or the area.

#### EFFECT ON RESIDENTIAL AMENITY AND VIEWS ACROSS THE SITE

Due to the orientation, the topography of the site and the degree of separation with the neighbouring houses it is considered that the occupiers of the neighbouring properties would not suffer a significant loss of daylight. In terms of overlooking, the gardens of 120 Rush Hill and the properties to the north contain some mature vegetation (which provides reasonable screening of the site); furthermore the fenestration of the proposed extensions

would mainly repeat the already existing. It is therefore considered that there would not be a significant loss of privacy arising from the proposal.

A comment was received with regard to the impact and shadow that may be cast by the north eastern two storey extension and single storey garage on the empty site to the north-east of the plot. It was noted that the current mature trees could be removed in future thus exposing the elevation. The new extension would bring the gable wall closer to the boundary by approximately 6m, however the potential increase in overshadowing would be marginal. Furthermore, the site is currently unused and therefore it cannot be argued that any serious residential amenity harm would be caused.

Many of the Third Party objections received raised concerns over further blocking of the long distance views. A number of letters pointed out that the original intention of keeping the site open was to allow public views over the City. Planning practice tends to take the line that there is no private 'right to a view', but that maintenance of public views is a proper planning consideration. This issue was a material consideration in the original scheme because the Lane, often used by pedestrians, offered panoramic views of the City (including Royal Crescent) looking north and north-east across the site from Rush Hill Lane. However, since the house was built, a mature beech hedge along the southern boundary of the site has provided some screening. It was also noted during the site visit that a number of mature trees to the north of the curtilage further block the views from the Lane. The beech hedge was planted in line with the approved landscape scheme to develop the site. Whilst the dissatisfaction with these view obstacles is understandable, it is not part of this application to control the height of the hedge or, indeed, the trees to the north of the site. Consequently, the public views are now considerably reduced, as is the weight given to this material consideration.

Furthermore, the proposed garage on the northern boundary of the site would be at its pitch under 4m high and set well below the level of the public lane. Thus, even without the hedge and the trees to the north, it is unlikely that the views would be detrimentally affected.

## IMPACT ON SPECIAL QUALITIES OF WORLD HERITAGE SITE

The proposal is of a relatively minor nature and its effects would be fairly localised, thus it is considered that it would not adversely affect special qualities of Bath Heritage Site.

## HIGHWAYS

Council's Highways department offered no comments on the proposal. Clearly, the highways conditions in the area are far from ideal. However, the property does have its own wide driveway and a generous courtyard which would, even with a presence of a front extension, still allow for a reasonable parking and turning arrangements. It is also proposed to retain the two garages. The application entails an extension to an existing dwelling, and it is considered unreasonable to argue that it would lead to any significant increase in traffic.

## 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 All external walling and roofing materials to be used shall match those of the existing building in respect of type, size, colour, pointing, coursing, jointing, profile and texture.

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

3 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:**

Site Location Plan 1:1250 received 27 September 2012

Existing Site and Block Plan rhill5/A, Existing Elevations rhill2/A, Existing Plans rhill1/A, Proposed Elevations rhill4pb/C, Proposed Elevations rhill7p/C, Proposed Site and Block Plan rhill6p/C, Proposed Plans rhill3p/C, Proposed Plans rhill8p/c received 18 September 2012.

## **REASONS FOR GRANTING APPROVAL:**

The development is considered to be acceptable in scale and design, commensurate with the host dwelling and its plot. It will not be detrimental to the character and appearance of the locality or the World Heritage Site. The proposal will not result in unacceptable overlooking of neighbouring property considering the orientation of fenestration, and would have a limited impact in terms of overshadowing, and as such is not detrimental to residential amenity. Therefore the proposal is consistent with the requirements of Policies BH.1, D.2 and D.4 of the Bath and North East Somerset Local Plan (including minerals and waste policies) Adopted October 2007.