

# Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **12th December 2012**

AGENDA  
ITEM  
NUMBER

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

TITLE: **APPLICATIONS FOR PLANNING PERMISSION**

WARDS: ALL

BACKGROUND PAPERS:

## AN OPEN PUBLIC ITEM

### BACKGROUND PAPERS

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

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

### **The following notes are for information only:-**

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

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

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

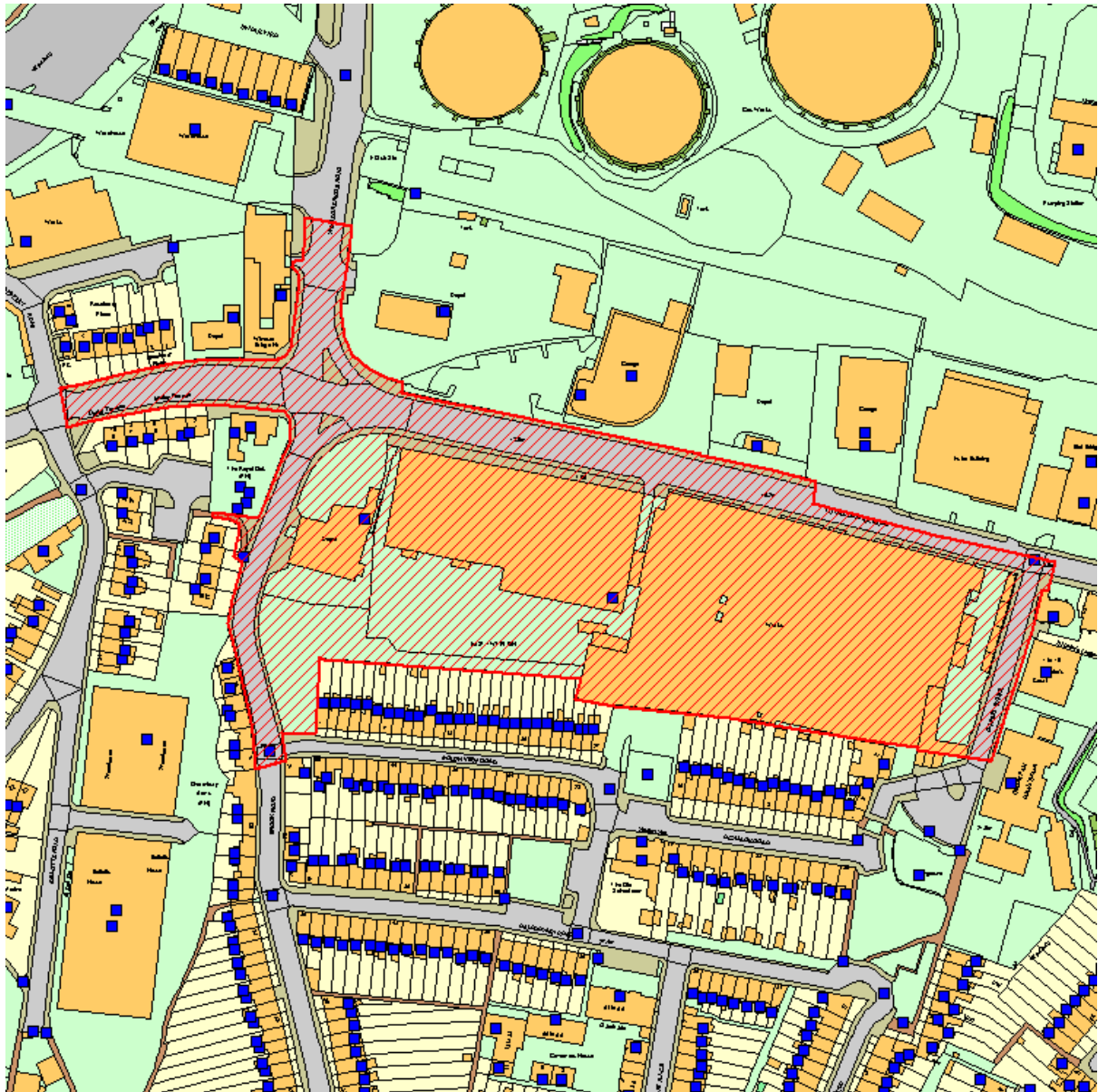
## INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	12/01999/EFUL 3 September 2012	Tesco Stores Limited Former Bath Press Premises, Lower Bristol Road, Westmoreland, Bath, BA2 3BL Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,610sqm of offices (Class B1), 220sqm of community space (class D1/D2), 10 residential houses, basement car park, landscape and access (including realignment of Brook Road)	Westmoreland	Sarah James	REFUSE
02	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
03	12/04063/OUT 9 January 2013	Kenwright Developments Ltd Crescent Office Park, Clarks Way, Odd Down, Bath, Erection of a residential care home (Use Class C2) with associated car parking and servicing	Odd Down	Sarah James	PERMIT
04	11/04249/FUL 28 November 2011	Henrietta Matthews House Ltd Automobile Services, 37 Coombend, Radstock, Bath And North East Somerset, BA3 3AN Erection of 7no. two bed dwellings with parking, altered site access, landscaping and ancillary works and allotments following demolition of garage workshop (Resubmission)	Radstock	Tessa Hampden	PERMIT

05	11/04250/CA 28 November 2011	Henrietta Matthews House Ltd Automobile Services, 37 Coombend, Radstock, Bath And North East Somerset, BA3 3AN Demolition of garage workshop.	Radstock	Tessa Hampden	CONSENT
06	12/04286/OUT 26 November 2012	Mr & Mrs N Jory 5 Bath Road, Peasedown St. John, Bath, Bath And North East Somerset, BA2 8DX Erection of one pair of semi detached dwellings on land at rear of 5 Bath Road	Peasedown St John	Daniel Stone	REFUSE
07	12/02966/FUL 7 September 2012	Wessex Water Services Ltd Parcel 5975, St Clement's Road, Keynsham, , Erection of a new sewage pumping station.	Keynsham South	Daniel Stone	PERMIT
08	12/03006/FUL 13 November 2012	Mr Colin Archer Hartley Barn Farm, Barn Lane, Chelwood, Bristol, Bath And North East Somerset Refurbish existing barn into self contained holiday accommodation with associated parking	Clutton	Rebecca Roberts	REFUSE

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

**Item No:** 01  
**Application No:** 12/01999/EFUL  
**Site Location:** Former Bath Press Premises, Lower Bristol Road, Westmoreland, Bath



**Ward:** Westmoreland      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor S Ball      Councillor June Player  
**Application Type:** Full Application with an EIA attached  
**Proposal:** Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,610sqm of offices (Class B1), 220sqm of community space (class D1/D2), 10 residential

	houses, basement car park, landscape and access (including realignment of Brook Road)
<b>Constraints:</b>	Agric Land Class 3b,4,5, , Flood Zone 2, Forest of Avon, General Development Site, Hazards & Pipelines, Hotspring Protection, Tree Preservation Order, World Heritage Site,
<b>Applicant:</b>	Tesco Stores Limited
<b>Expiry Date:</b>	3rd September 2012
<b>Case Officer:</b>	Sarah James

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application is a major development which is contrary to the Council's adopted Policies and has complex planning considerations. The Development Manager therefore has requested that the application be determined by the Development Control Committee in line with the provisions of the Council's scheme of delegation. The Ward Councillor has also requested that the application be determined by the committee.

### DESCRIPTION OF SITE AND APPLICATION:

The site is located approximately 1 km to the west of Bath City Centre within the area of East Twerton. It covers an area of approx 3 hectares. The site is bounded to the north by Lower Bristol Road (A36), by residential properties to the south and the residential streets of Brook Road and Dorset Close to the west and east respectively. The site is within the City of Bath World Heritage Site.

Opposite the site, on the northern side of Lower Bristol Road, is a series of garages, beyond which is the former gas works site and the River Avon. The former gas works and adjacent developed and undeveloped land north of Lower Bristol Road form the area of the proposed Bath Western Riverside development. There are existing residential properties to the south of the site which have frontages onto South View Road and Denmark Road. Oldfield Park Infant School is located along Dorset Close to the east of the site. The site is bounded on its west side by Brook Road. Residential properties and the Royal Oak public house front onto Brook Road.

The last use of the majority of the site was as a print works (Bath Press), which ceased operations in 2007. On the western half of the site there are two warehouse buildings associated with the former printing activities, and a tyre depot on the corner of Lower Bristol Road and Brook Road. Located on the eastern half of the site is the main former Bath Press building.

It is proposed to demolish the existing buildings on-site whilst retaining the historic print works facade fronting Lower Bristol Road. The facade would be retained by a steel frame, and would in part be tied back to the new buildings. The existing fenestration would be partially removed and replaced with new infills. The existing factory chimney would also be retained. The building would be developed with a mix of uses comprising of retail floor space, creative work units, Offices (B1) 10 houses and community space. There would be a public square/circulation space behind the retained façade which would be enclosed by the facade, retail store, office building and residential dwellings.

The Proposed Retail Store

The proposed retail store would be located within the central part of the site facing the Lower Bristol Road. It would have 6,300 m<sup>2</sup> (gross internal area) floorspace. The application states that there would be a net sales floorspace of 3,383 m<sup>2</sup> (excluding checkouts, lobby areas, customer toilets and other space not accessible to the customer) . A café would be located in the north east corner of the store and staff rooms canteens offices and general storage would be located in the southern end of the building. Warehouse and refrigeration areas would be located to the west and to the west of this would be an external enclosed loading bay. This would receive all store deliveries with access from Brook Road. Pedestrian access would be from the Lower Bristol Road to the north and a pedestrianised space to the east. A travelator adjacent to these entrances would provide access to a lower level car park located below the store. The car park is not a conventional basement, since the store floor level is approx. 3m above the pavement level on Lower Bristol Road. This creates the need for a series of ramps, steps and raised walkways to provide pedestrian access. A separate staff entrance would be located in the south western corner of the building leading out onto Brook Road.

It is proposed that the store would be open from 06:00 to midnight Monday to Saturday and 10:00 to 16:00 on Sundays (outside of these hours there would be staff working within the building). It is estimated by the applicant that the retail store would create 350 full time (equivalent) posts.

The building would be single storey, (although is elevated from pavement level to make it appear as if at first floor), and have a low pitch roof. It would be approx 7.5 metres high with ventilation additions to the roof that would reach a maximum approximate height of 11 metres. The building would be located behind the existing Bath Press façade which would be retained. There would be a pedestrian walkway between the retained facade and the new building. The new building would be clad in Bath stone, with glazing around the main entrance onto Lower Bristol Road.

#### Creative work units

An L-shaped building containing work units within B1 of the Use Classes Order is proposed to wrap around the north west corner of the store so as to address the A36 Lower Bristol Road and Brook Road and the prominent junction. The building would be three storey facing onto the north western corner of the site. A further two storey terrace would be located to the east of the store. The total proposed B1 work unit floorspace would be 4,580 m<sup>2</sup>.

The three storey unit is designed as a series of vertical Bath stone columns which span two storeys. Above the columns a horizontal Bath stone beam would align with the retained façade. At second floor level the building would be set back and made up of lightweight glass and steel reducing the dominance of this upper storey. The two storey terraced building is designed with gable fronted units to accord with the design of the dwelling terrace and the building would overlook an area of public space. The facades comprise of a combination of brick and glass.

#### Offices

2610m<sup>2</sup> of office space is proposed in a part 2 and part 3 storey block at the eastern end of the site. The office building facing the Lower Bristol Road would comprise Bath stone and vertical glazing in keeping with the treatment of the retained façade. Along its eastern

and western edge a more industrial treatment has been adopted comprising primarily red brick with a saw tooth roof. It would have a maximum building height of 11 metres.

#### Community Space

A two storey community hall is proposed in the east of the site integral to the office block.

#### Residential

Ten two-storey houses are proposed in the south east of the site along the south boundary. The residential dwellings would be traditional in appearance similar to dwellings in Denmark Road to the south. They would be faced in Bath stone with red brick to the rear façade. The dwellings would have pitched roofs and be approximately 9 metres from ground to ridge. They would have small south facing gardens and front courtyards. The houses would have solar panels on the roofs.

#### Museum and Community Space

A one storey museum and two storey community hall are proposed in the east of the site integral to the office block.

#### Highways and access

The main direct pedestrian access onto the site is proposed from the A36 Lower Bristol Road utilising steps to reach a walkway provided behind the retained façade at an elevated level above the street. A further pedestrian route is proposed from Dorset Close also utilising steps and ramp. There is also a less direct ramped route on the site frontage to the west of the main entrance.

A new principal vehicular access is proposed off a realigned Brook Road in the west of the site. This would provide the main service access into the retail store service yard. Deliveries for other uses would be via a lay by in Dorset Close or via the car park situated beneath the proposed store.

Alterations would be made to the A36 Lower Bristol Rd/A3604 Windsor bridge junction, including road widening and additional lanes.

#### Parking

The car park would be excavated to a depth of approximately 4 m below ground level at the southern half of the site but much shallower compared to the levels of Lower Bristol Road, due to the falls across the site. It is possible that deeper piles may be required up to 15 metres below ground level. The proposed car park would be 13,330 m<sup>2</sup> and would accommodate 395 car parking spaces including 26 spaces for the offices and work units. The car park would be protected by a flood gate at the entrance. Cycle parking would comprise of 55 stands located across 4 separate cycle parking areas including 10 stands located in the car park.

Some existing residential parking use of the former Bath Press Yard would be re-provided and this would be accessed from Brook Road. 29 spaces would be provided for existing local residents in the south west of the site. 9 spaces for the new residential units and one car club space would be provided at street level adjacent to Dorset Close.

#### Landscape works

A new square of public open space would be created between the office building and the supermarket. Stone paving is proposed to reflect the materials within the retained facade and new buildings with some block paving. Street tree planting would be introduced around the square with planters along some site boundaries such as the edge of the front gardens of the proposed dwellings. An existing red brick retaining wall along the south east of the site, bordering the rear gardens of properties on Denmark Road, would be retained. A landscaped boundary fence would be provided in the south west of the site, to the north of the existing residents' parking area, to provide an acoustic and visual barrier to the proposed car park ramp and service yard.

### Sustainability

A range of technologies have been employed within the scheme including sustainable ventilation, roof lights, SUDS, rainwater harvesting, solar panels, air source heat pump, and a combined heat and power unit. The office buildings are specified to reach beyond the requirements of Building Regulations Part L and the residential units have been designed to achieve code level 3 for Sustainable Homes.

The application is accompanied by an Environmental Impact Assessment with the following Technical Appendices submitted - Scoping, Air Quality, Site Description, Cultural Heritage, Landscape and Townscape Visual Assessment, Traffic and Transport, Ground Conditions, Natural Heritage, Noise and Vibration, Water Environment, Environmental Assessment (non technical summary). The following additional documents accompanied the application - Environmental Sustainability Review, Planning and Regeneration Statement, Design and Access Statement Retail Assessment (including Household Survey Results, Historic Appraisal, Statement of Community Engagement, Building Condition and repair Survey, Arboricultural Survey, Site Statutory and Utility Services Report, Flood Risk Assessment, Supplementary Transport Assessment 1 and 2.

### RELEVANT PLANNING HISTORY:

11/02674/EFUL - Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,830sqm of offices (Class B1), 10 residential houses, car park, landscape and access (including realignment of Brook Road). Appeal lodged against non-determination and subsequently withdrawn.

10/03380/EFUL -Mixed-use redevelopment comprising 6,300sqm of retail (Class A1), 4,580sqm of creative work space (Class B1), 2,610sqm of offices (Class B1), 220sqm of community space (Class D1/D2), 10 residential houses, car park, landscape and access (including realignment of Brook Road). This application was withdrawn.

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

PLANNING POLICY - Comments made 28th June. The development would be harmful to the Council's retail strategy and an objection has been raised. Consideration has been given to the employment element of the proposal. The NPPF states that significant weight should be placed on the need to support economic growth through the planning system. However, the current evidence casts doubt on the demand for new employment space in Bath in the short to medium term. There is consequently doubt that the employment elements would either be implemented or occupied in the short to medium term. The current evidence supports the conclusion of the Committee Report for the previous Bath



Press application (10/03380/FUL) that the benefits of job creation as part of this scheme are 'not so great so as to warrant significant positive weight being given to this aspect of the proposals so as to override other harmful impacts that would arise'.

Further comments made 30th July 2012. I have read through the new information submitted by Terence O'Rourke (applicants' agent) (regeneration statement 13th July) and note that they reiterate previous comments regarding job creation. I also note however that they have not addressed concerns raised by Planning Policy (dated 28th June) regarding the current demand for employment space in Bath in the short/medium term and the likelihood of the employment space being occupied. Until Terence O'Rourke address this issue, there has to be an element of doubt over the implementation of this part of the proposal, and the subsequent weight attached to the perceived economic benefits that this would bring.

HEALTH AND SAFETY EXECUTIVE - Comments generated through PADHI +, HSE's planning advice software tool - The assessment indicates that the risk of harm to people at the proposed development is such that the Health and Safety Executive's advice is that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission.

The HSE commented informally on the 12th July 2012 that to date the HSE are not satisfied that suitable mechanisms can be agreed to address the HSE objection and therefore that objection still stands.

The HSE commented further on the 12th September that it was their understanding that Tesco/St James Investments would accept certain planning conditions that would permit the construction of the development, which could be phased with the process of revocation of the Hazardous Substances Consent. The conditions would not allow occupation of the completed development until the gasholders have been decommissioned, there is a clear process to prevent planning permission of facilities posing a major accident hazard to the general public, and there is a process underway to revoke the Hazardous Substances Consent. On the understanding that Wales and West Utilities are the current landowner of the Windsor House gasholder site, they must be a co-signatory to the S106 Agreement. It therefore follows that they can be reasonably expected to be prepared to give an undertaking that once the gasholder station site has been decommissioned in accordance with the terms of the agreement, then neither they nor their successors in title will seek to re-establish the gas storage use on that site unless a further planning permission is granted to that effect. A S106 Agreement is registered as a Land Charge and its provisions will remain in force in the event that the land is sold on.

HIGHWAY DEVELOPMENT OFFICER - Comments made 8th June 2012. In summary, Highway officers are not satisfied regarding the submitted Transport Assessment, the acceptability of the impact of the proposed development on the operation of the public highway and, in particular, the A36 Lower Bristol Road/ A3604 Windsor Bridge Road junction. Furthermore, we remain to be satisfied regarding the adequacy of car and cycle parking provision, taxi drop-off/pick-up provision, service access for all end users, ability to service/access The Royal Oak PH and with regards to highway safety. Bearing this in mind, the highway response is one of Objection

Further comments made 11th July 2012 - Having considered the 1st Supplementary TA (13/05/12), Letter dated 15 June 2012, and 2nd Supplementary TA, the highway objection remains. Many of the queries/issues remain to be properly addressed and numerous assertions made, together with methodologies, have not been supported by evidence. Bearing this in mind, we are not in a position to agree that the submitted information accurately demonstrates the transport effects of the proposed development.

Further comments made 12th September 2012 respond to a note by WSP dated 6th August 2012 and confirm that highway objections remain.

AIR QUALITY MONITORING OFFICER - comments made 3rd July 2012 - Although the results from the submitted air quality assessment show that there is a substantial adverse impact at 2 locations and a moderate adverse impact at further locations, little or no mitigation has been offered for these effects of the development. The National Planning Policy Framework (as stated in the assessment) says "Planning decisions should ensure that any new development in an Air Quality Management Area (AQMA) is consistent with the local Air Quality Action Plan." The Bath AQMA includes the façade of the building and therefore the building would be deemed to be included within the area. The Bath Air Quality Action Plan aims at reducing air pollution within the AQMA. Therefore this application is not consistent with the action plan and an Objection is raised. Mitigation is suggested and before any development proceeds a Construction Environmental Management Plan should be agreed.

HIGHWAYS DRAINAGE OFFICER comments dated 21st May 2012 refer to the need to consult with the Environment Agency and agree discharge rates with Wessex Water. It is considered that the drainage strategy on the site makes limited use of Sustainable Drainage systems and this should be reviewed.

ENVIRONMENT AGENCY - Comments made 20th June 2012 raise no objections subject to conditions.

WESSEX WATER - Comments made 14th June 2012 - Advise that public apparatus may be affected by the development and diversion or protection works may be required and are to be agreed and implemented before building works are started. A contribution to the cost of upgrading the sewerage system may be required (if flows are increased). The developer will need to agree drainage matters further with Wessex Water. On site drainage will not be offered for adoption and therefore will need approval of the Local authority. The Hot Springs Act may be relevant to consider in respect of this proposed development.

ECOLOGY - Comments made 2nd July 2012 - Findings from an updated ecological survey have been included in the Environmental Statement and conclude there are no significant changes to ecological issues at the site since the previous application at the site was considered. The updated surveys included an inspection of the buildings for bats and it was concluded from these, together with the results of previous bat emergence surveys (September 2010) that no further bat surveys are required at present. If works do not begin on site this year before next spring then emergence surveys should be included in any necessary future ecological survey updates. Although the buildings, in part due to lighting and noise issues at this location, may not be ideally suited to use by bats, the

potential for their use is still there and potentially increases over time. Conditions are recommended.

NATURAL ENGLAND - Comments made 7th June 2012 -No Objection

ENGLISH HERITAGE - comments made 2nd June 2012 confirm it is not necessary to consult English Heritage on the application.

COMMISSION FOR ARCHITECTURE AND THE BUILT ENVIRONMENT (CABE) - Comments made 1st June 2012 advise that due to resources CABE are unable to review the scheme.

ARBORICULTURAL OFFICER - Comments made 13th June 2012 - The proposal results in the loss of all existing trees within the site which currently contribute towards the public domain in this prominent location. The indicative tree planting sites and a number of suggested species shown on the Landscape Masterplan appear too optimistic in view of the limited space made available. Space should be provided for large, long lived, landmark trees which have the space to develop without requiring regular pruning to limit their size.

CRIME PREVENTION OFFICER - Comments made 25th May 2012 An objection is raised. A range of issues are identified including the design of the underground parking and access ramp, parking for disabled, cyclists and the proposed housing and some design features of the terrace housing and street furniture as they consider they could be used for purposes other than those for which they were designed.

CONTAMINATED LAND OFFICER - Comments made 24th May 2012. No Objection but conditions are recommended to carry out a site investigation and risk assessment.

BRITISH WATERWAYS - 22nd May 2012 confirm no comments are made

ARCHEOLOGICAL OFFICER - Comments made 1st June 2012. A desk based archaeological assessment of the site, has been submitted and approved and no objections are raised subject to conditions.

EDUCATION OFFICER - Comments made 25th May 2012- Seek a total contribution of £29,438.63 towards early years, youth provision and school places.

ECONOMIC DEVELOPMENT OFFICER - comments made 8th June 2012. Support the application on the basis that it would provide modern office and creative workspace which could generate employment and it would assist in the removal of the Windsor Bridge Gas Holders facilitating the Bath Western Riverside regeneration.

STRATEGIC HOUSING SERVICES - Comments made 9th July 2012. Advise that they cannot support this application as it fails to address B&NES adopted Planning Policy HG.8 in terms of the lack of provision of affordable housing.

#### OTHER REPRESENTATIONS / THIRD PARTIES

The following Objections have been received:

Co-Operative Group: Object on the basis of the unacceptable and harmful impact on the vitality and viability of the Moorland Road District Centre. They also consider the BWR East area to be sequentially preferable. They point out that the household survey commissioned by the applicant carried out by NLP incorrectly assessed the trade of the Co-op. They state that the trade of the Co-op is closer to the level predicted by the 2011 WYG Household survey for Sainsbury's. Therefore any trade diversion shown from the Co-op will have a greater impact on its turnover and will result in a lower resultant turnover. It is further noted that NLP forecast that the opening of the proposed Tesco store will result in Co-op having a turnover at 75% of its benchmark. Given the NLP study have incorrectly assessed the Co-op turnover we see this resultant turnover figure being much lower, to a point at which the store becomes unviable. Further comments are made on the applicants' household survey challenging the methodology and results.

Sainsburys Supermarkets: Retail comments are that the proposal fails the Sequential Test, and would impact harmfully on the Moorland Road shopping area. It points out that the NPPF tests are not met and the proposed development is inherently unsustainable. Transport comments are that the applicant has not provided sufficient data to assess the submission made and errors or omissions in the data provided present an overly optimistic assessment. There are concerns that the impact on the Lower Bristol Road/Windsor Bridge junction will be severe. Further comments made disagree with the applicants' response to the concerns raised in particular raising the lack of information relating to traffic modelling.

Royal United Hospital: The RUH appointed consultants to assess the impact on the hospital. The consultants concluded that the applicants' transport assessment is unduly optimistic and the traffic created would have an unacceptable impact on hospital traffic particularly emergency vehicles. The congestion caused would also adversely affect staff and patients travelling to the hospital.

Bath Heritage Watchdog: There are a number of concerns raised with regard to the detailed design and the proposals for the retention and integration of the façade which do not go far enough.

Bath Preservation Trust: The form and design of several of the new building elements had insufficient detail in terms of materials, lighting and landscaping, and there were inconsistencies between the drawings and supporting documents. The development should do more to reduce dependency on the private car.

Vineyard Residents Association: Object to this application due to the impact the development would have on traffic on the Lower Bristol Road (A36) (congestion and poor air quality raised as a concern) , Windsor Bridge and the Upper Bristol Road on the other side of that bridge, on traffic in the city more generally, and so on residential amenity.

Federation of Bath Residents Associations (FoBRA) comments made raise serious concerns about the volume of traffic, its management at the crossroads with Windsor Bridge, and severe congestion along the Lower Bristol Road (A36), Windsor Bridge Road and the Upper Bristol Road on the other side of the bridge. Congestion and pollution would be unacceptable.

Councillor June Player has objected on the basis that due to the location of the site and the size of the proposed development it is contrary to a number of Policies of the Bath & North East Somerset Local Plan including minerals and waste policies, Adopted October 2007. Particular concerns are raised regarding the highway impact and the impact on Moorland Road.

Councillor Sharon Ball has objected on the basis that:- The over domination of traffic on a junction on Brook Rd is overbearing and will not be able to cope with the release of cars from the underground car park. The effects on pollution and increased amount of traffic on the Lower Bristol Road and at Brook Road have not been resolved. The over dominance of the supermarket on this site is against council policies and exceeds the available shopping needs requirements. No work has been carried out to accurately assess the effects that the store would have on the neighbouring Moorland Road. The Health & Safety Executive have ruled out development on this site whilst the gas tower remains. There seems to be little work carried out to mitigate the pigeon population that would nest on the roofs.

52 Residents have objected on the following grounds :

Impact on Moorland Road shopping area (business and social)

The location of the refuse will create vermin and smell nuisances to the detriment of residents nearby.

Road widening and roundabout

Proximity to other supermarkets

Seagull nuisance

There are existing empty offices available new ones aren't needed.

Noise and disturbance locally (during and after construction)

Wrong location

Traffic impact

Loss of existing industrial fabric

Poor design approach

Inadequate parking

Impact on the structural integrity of bridges

Impact on local school children

Not sustainable

Inadequate detail of waste proposals

Opening hours will create traffic later in the evening when the area would usually become quieter

Consultation exercise carried out was inadequate

A further supermarket is not needed.

Poor provision for pedestrians and cyclists

Impact on air quality and the Air Quality Management Plan

5 Residents have written to support the application on the following grounds

Regeneration benefits

Job creation

Re use of derelict site

1 letter raising general comments has been received

## **POLICIES/LEGISLATION**

### **POLICY CONTEXT:**

REGIONAL PLANNING GUIDANCE 10  
Policy EC6 Town Centres and Retailing

JOINT RELACEMENT STRUCTURE PLAN 2002 - saved policies

- 1 - Sustainable Development
- 2 - Locational Strategy
- 4 - Transport strategy
- 6 - Bath
- 30 - Employment sites
- 33 - Level and distribution of housing
- 38 - Town centres and shopping
- 40 - New Retail
- 41 - Local shopping
- 54 - Car parking
- 58 - Transport

### **ADOPTED LOCAL PLAN**

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

- IMP.1 Planning obligations
- SC.1 Settlement classification
- NE1 Landscape Character
- NE.11 Species and Habitats
- NE13A Bath Hot Springs Protection Area
- NE.14 Flooding
- HG. 1 Meeting the District's housing need;
- HG.4 Housing Development
- HG7 Housing Density
- HG.8 Affordable housing
- D.2 General Design and public realm considerations
- D.4 Townscape considerations
- ES.1 Renewable energy Generation
- ES.2 Energy Use Reduction
- ES.4 Water Supply
- ES.5 Foul and surface water drainage
- ES.9 Pollution and Nuisance
- ES.10 Air Pollution
- ES.12 Amenity
- ES.13 Hazardous Substances
- ES.15 Contaminated land
- T.1 Travel and transport
- T.3 Pedestrians
- T.5 Cyclists
- T.6 Cycle Parking
- T.16 Transport infrastructure

T.24 General Development control and access policy  
T.25 Transport assessments  
T.26 On-site parking and servicing provision  
ET.1 Employment Land Overview  
ET.2 Office Development B1a and B)  
ET.3 Non Office Business Development  
BH.1 World Heritage Site  
BH.5 Local List of Buildings  
BH.12 Archaeology  
BH.22 External lighting  
CF.2 Community facilities  
SR.3 Provision of recreational facilities to meet the needs of new development  
S.1 Retail Hierarchy  
S.4 Retail Development outside Shopping Centres

Supplementary Planning Document 'Planning Obligations'

The Bath and North East Somerset Submission Core Strategy (May 2011) is currently subject to Examination and there is some uncertainty over parts of it therefore it can only be given limited weight for development management purposes. The following policies should be considered

CP2: Sustainable construction  
CP3: Renewable Energy  
CP5: Flood Risk Management  
CP6: Environmental Quality  
CP7: Green Infrastructure  
CP10: Housing Mix  
CP12: Centres and Retailing  
CP13: Infrastructure provision  
DW1: District-wide spatial Strategy  
B1: Bath Spatial strategy  
B3: Twerton and Newbridge Riverside Strategic Policy  
B4: The World Heritage Site and its setting

NATIONAL PLANNING POLICY FRAMEWORK has been published and its policies are relevant to the case.

## **OFFICER ASSESSMENT**

### **PLANNING CONSIDERATIONS:**

**PLANNING HISTORY:** Applications 11/02674/EFUL and 10/03380/EFUL were for a similar form of development to the current application. Application 10/03380/EFUL was withdrawn. However application 11/02674/EFUL was appealed for non determination. In January 2012 the Development Control Committee resolved that had it had an opportunity to determine the application, it would have refused the development on 5 grounds relating to gas risk, retail impact, sequential approach to development and highway impact. That recent resolution is a material consideration.

**DEPARTURE:** The proposal includes retail development in a location that is `out of

centre' and is not in accordance with the Development Plan for the area and exceeds the 5,000 square metres floorspace referred to in relevant guidelines. Consequently if Members were minded to approve the application it would be necessary, in accordance with the Town and Country Planning (Consultation) (England) Direction 2009, to refer the decision to the Secretary of State.

**LOSS OF EXISTING USE:** The Local Plan forecasts the need for a managed reduction of industrial-type floorspace (B1c/B2/B8), which is incorporated into Policy ET.1 as indicative guidance on the scale of change appropriate. Policy ET.1 indicates a net reduction in Bath of 17,500sqm from 2001 to 2011.

Broadly speaking, during the Local Plan period there has been a net reduction in industrial floorspace within Bath of about 15,000 sq.m against the indicative managed reduction limit of 17,500 sq.m. Policy ET.3 states that the loss of land and floorspace for non-office development will be judged against the extent of positive or negative progress being made in achieving the managed net reduction set out above, and also against the following criteria; 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.

Policy B1 (2e) of the Core Strategy continues the theme of a managed reduction of industrial floorspace. Broadly speaking the loss of 40,000 sq.ft. of industrial floor space will be required in order to deliver the regeneration objectives for the River Avon Corridor. Policy B3(4aiii) requires that proposals for the loss of industrial land and floorspace at Twerton Riverside be assessed against evidence of current and future demand, the availability of suitable alternative provision within Bath for displaced occupiers and the benefits of the alternative uses being proposed. Policy B3(4aiii) serves as a check/balance to ensure proper consideration of industrial losses at any point in relation to actual evidence on the ground and/or unforeseen or changing circumstances.

The loss of industrial floorspace on this site would mean that the total managed loss referred to in policy ET.1 is exceeded but this is considered to be acceptable due to the proposed new employment uses (B1 and offices) that form part of the proposal and the current evidence in relation to demand. After considering the Local Plan and the Employment land and site specific policies of the Submission Core Strategy policy for the Twerton Riverside it is considered that the loss of the existing employment use is acceptable in principle.

**HOUSING:** Housing is in principle acceptable within the City limits subject to other policies of the development plan. The application proposes a small amount of housing (10 units) and this is acceptable in principle. This would be located near the school and other residential housing, is set back from the road and is in keeping with the locality in respect of its appearance. The design and location of the housing is considered therefore to be acceptable. The applicant confirms that affordable housing would be provided in accordance with the requirements of the emerging core strategy. The appropriate level of affordable housing could be secured by a Section 106 if the application were to be found acceptable.



OFFICE: The site is located so as to be associated with the central area of Bath and it is also located on a key transport route into and out of the city. The principle of new office uses is therefore acceptable under the terms of Policy ET.2. The B1 use is acceptable to be located alongside residential uses as has been proposed and the office proposals are also acceptable in principle.

RETAIL: The Local Planning Authority commissioned a firm of retail consultants, GVA Grimley ("GVA"), to update its Retail Floorspace Quantitative Need Assessment in 2011. That update is publicised on the Council's website and is used in the consideration of The Bath & North East Somerset Local Development Framework incorporating the Core Strategy and relevant documents of the Regeneration Delivery Plans.

The applicant has submitted a Town Centre and Retail Statement ('TCRS'), prepared by Nathaniel Lichfield partners (NLP), in support of the proposal. GVA have been appointed by the Council to assess that submission. The advice provided by GVA to the Council also refers to their previous retail advice provided in respect of the very similar scheme previously considered by the Council and recently withdrawn by the applicant. As part of the assessment the supermarket element of the proposed development has been considered against relevant policies within the development plan for the area and material planning policy considerations including the policies contained within the National Planning Policy Framework ('NPPF'). Given the location and planning policy status of the application site, the supermarket element of the proposed development has to be assessed against the sequential approach to site selection as well as in terms of its impact on nearby defined retail centres.

The independent retail advice prepared on behalf of the Council does not reach the same conclusions as the applicant's submission. The analysis carried out for the Council concludes as follows:-

#### Sequential Approach and Site Location

The NPPF advises that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. They should require applications for main town centre uses to be located in town centres, then in edge of centre locations, and only if suitable sites are not available should out of centre sites be considered. When considering edge of centre and out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. It further advises that when assessing large retail proposals the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal and the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made must be assessed. It then advises that where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors, it should be refused.

In considering the sequential approach in this case a number of factors have been looked at including site availability and suitability. Within the Local Plan, the Tesco application site is not allocated for any specific land uses and lies in an out-of-centre location. The

nearest centres are located along Lower Bristol Road (to the east) and Moorland Road district centre (to the south). In relation to the sequential approach to site selection it is considered that Western Riverside East is a suitable, available and viable alternative to the application site and which lies in a location which should be given preference due to its location and relationship with the city centre, plus its planning policy context. This assessment is made on the basis of the location of BWR East on the western edge of the existing Bath city centre, where it is able to benefit from the inherent sustainability in access terms of a central location with public transport links available to and from all parts of the city, and with the opportunity for linked trips with other central facilities using park and ride bus services and city centre car parks.

In addition, the Council's Supplementary Planning Document for Bath Western Riverside (adopted in March 2008) and the Draft Core Strategy jointly set out the Council's intention that the city centre should be encouraged to extend westwards along James Street West, and through Green Park Station into BWR East, where a wide range of new city centre facilities are proposed within what the SPD refers to as "The City Extension". The potential retail and commercial development of BWR East is thus in full alignment with the Council's adopted and emerging Strategic Planning Policies, the implementation of which would be undermined and prejudiced by the proposed development on the former Bath Press site. Consequently the proposed development does not meet with the sequential test.

#### Convenience Goods

Following the grant of planning permission for a new Sainsbury's store at Odd Down (and its recent opening), along with the recent significant expansion of the Waitrose store in the city centre and a resolution to grant planning permission for a Lidl foodstore on Lower Bristol Road (this is delegated to permit and awaiting completion of a s106 planning obligation), there is limited current quantitative capacity to support new convenience goods floorspace in Bath. A recent decision to permit an extension to the existing Sainsbury's store at Green Park (within BWR East) is for a modest sized extension but would take some of that capacity.

The Tesco proposal would far exceed the identified retail capacity available. Larger levels of capacity only arise from 2021 onwards but, even then, a large new foodstore would be likely to have some adverse impacts on existing facilities, and the impact of any proposed development would need to be assessed carefully. These impacts would be greater if a large new store was opened at an earlier date. Based upon the available data there is insufficient quantitative capacity to accommodate the proposed Tesco store in addition to those for which planning permission has been granted or resolved to be granted.

#### Convenience Goods Impact

The District Centre of Moorland Road is located approximately 400 metres south of the current application site. If permitted the Tesco store would have a significant adverse impact upon the vitality and viability of the Moorland Road District Centre principally as a result of the lack of quantitative capacity to sustain the additional retail store in this location. On the basis of GVA's updated Retail Need Assessment, the Council has been advised the proposed Tesco store would significantly reduce the turnover of the Co-Op store in Moorland Road, and thereby would have a significant financial impact upon the store. Faced with that impact, and a residual turnover level which would as a result be well below the average Co-Op store turnover, the future of the Co-Op would become

uncertain. Indeed, closure of this store, given the scale of the likely reduction in its turnover and competition from the new Tesco store nearby, would be a very real possibility. The closure of the Co-Op would lead to a significant adverse impact upon the health of Moorland Road district centre. As the centre's anchor store, it attracts a large number of shopping trips to the centre, and many if not all of these would be lost. In addition to the impact on the Co-Op, other parts of Moorland Road's convenience goods retail sector would see a reduction in their turnover levels. Whilst the scale of financial impact upon these other stores is lower than on the Co-op, store closures cannot be ruled out due to the proximity and trading strength of the proposed Tesco store, which stores in Moorland Road would find hard to compete with. The consequential effect of the impact of the Tesco store on Moorland Road would be to reduce choice and competition in the district centre and the range of goods which it is able to offer to visitors, whereas the Council's specialist retail advice indicates that a retail development at BWR East would be sufficiently distant from Moorland Road for this adverse effect to be avoided to a significant extent.

It has also been considered whether there could be any positive benefits associated with the Tesco proposal in terms of linked trips with Moorland Road district centre which could mitigate the direct financial impact suffered by existing stores. Taking into account the distance between the Tesco site and Moorland Road (approximately 750m from the proposed Tesco pedestrian entrance to the centre of the Moorland Rd shopping area), the lack of intervisibility between the two locations, the barriers to movement and the relative unattractiveness of the route it is unlikely that there would be a significant number of linked trips between these two locations. In short, the length and character of the route which shoppers would have to negotiate would not be attractive and it is very likely that shoppers visiting the Tesco store would simply use it as a stand-alone shopping destination.

The proposal would result in a substantial negative financial impact upon Moorland Road District Centre, with the effect that the overall vitality and viability of the centre could be damaged. This is contrary to policy S4 of the Adopted Local Plan. It would also be detrimental to the retail strategy/hierarchy of centres serving Bath as this vibrant District centre plays an important role in that hierarchy.

#### Comparison Goods

The evidence confirms that the Southgate development has soaked up previously identified capacity for additional comparison goods floorspace in Bath and part of the expenditure growth between 2011 and 2016. Given the scale of the Southgate development, the new retailers which it has attracted to the City, and churn effect (i.e. this is the natural and on-going in and out migration of occupiers of existing sites which release those sites for new occupiers to enter) it will cause on existing property across the City there is no need to plan for any significant new comparison goods floorspace in Bath until after 2016. Additional capacity could be required in the future and this potential is being appropriately planned for within the Core Strategy via small to medium sized retail development (as referred to in policy B1). This retail development would need to be accommodated in accordance with the sequential approach, where first priority is given to sites within the city centre, followed by edge-of-centre sites. The current Tesco application is in an out-of-centre location. It is anticipated that sites will be considered and allocated for further comparison retail development through the Placemaking Plan.

## City Centre Impact

The proposals are not considered to have a significant impact upon the City centre.

**COMMUNITY USE:** The provision of community space is regarded as an overall benefit within the scheme subject to it being appropriately managed and controlled. Policy CF.1 of the Local Plan allows for new community facilities to be located within or well related to settlements. In this case the application site is located within Bath. The proposal to introduce community facilities would accord with a saved Development Plan policy. If the overall development were to be acceptable further details of that management and control might be appropriately sought.

## WASTE

Further details on waste storage could be subject to a condition if the development were to be approved.

**HIGHWAYS:** The applicant submitted a Transport Assessment with the application and subsequently a 1st and 2nd Supplementary assessment. However, as explained in the highway officer's consultation response, the figures within the assessment submitted are strongly contested. Deficiencies have been identified in the methodologies used and the lack of evidence to support the assessments. It is to be noted that the proposed trip generation estimates are up to 30% lower than the previous TA produced to support the same development. However there is no robust evidence to support the claims made. It is also to be noted that at Saturday peaks there is insufficient parking provided to accommodate the number of visitors unless shopper visits are less than an hour, which is unlikely given the size of the store. This would lead to queues on the highway. During peak weekdays the applicant has claimed nil detriment during the morning and afternoon peak periods. However, this is using the drastically reduced predicted flows that are not backed by evidence and are not agreed as suitable. It is considered, in the absence of robust justification, that the store would give rise to congestion on the highway as well as problems with achieving access for service vehicles although it has been previously accepted that servicing could take place via vans in the car park and larger vehicles using the service yard subject to a Section 106 to secure this arrangement.

It is material that, in recognition of the current congestion difficulties that will worsen once the Bath Western Riverside development is complete, the Council has sought funding from the Department for Transport for junction improvements to be made. That funding was secured as part of the Bath Transportation Package (BTP) in December 2011. It is anticipated that the works will take place during 2013. The BTP junction improvement work includes providing 3 full-width lanes on the A36 Lower Bristol Road western approach to the junction (providing additional capacity) plus a signalised pedestrian crossing on the A3604 Windsor Bridge Rd, which is currently uncontrolled.

The development proposes a similar improvement scheme on this arm of the junction, but with greater emphasis on improving right turning capacity into Brook Road. The benefit to existing users (including buses) is therefore negated by development-related traffic, such that the objectives of the BTP scheme (including reducing west-east delays) are not realised.

Transport consultants representing third party interests (Sainsburys) have raised queries with the proposed scheme which officers considered relevant. This included how development trips have been distributed across the network, which has implications for

turning movements at the junction. However, despite a request from officers, the applicants consultants refused to respond to this issue.

The proposed development is therefore unacceptable on highway grounds and would give rise to a significant adverse impact upon the highway, exacerbating capacity and queuing problems at an already congested junction.

**AIR QUALITY:** There is an air quality concern due to the significant increases in nitrogen dioxide that would arise in the vicinity of the development. Whilst it is not considered appropriate to refuse the application on this basis it is considered that the issue is symptomatic of development that would not provide for efficient and sustainable transport. As already discussed within the report the development is out of centre, has limited opportunity for linked trips, is likely to be used as a stand alone destination and the levels of parking provision demonstrate that many of these trips will be by car rather than more sustainable travel modes. This issue is exacerbated by the difficulties associated with the congestion of the junction which would worsen if the development were permitted. If the development were to be approved, appropriate mitigation would need to be discussed with the applicant and controlled as part of any decision.

**DRAINAGE:** A satisfactory flood risk assessment has been submitted and there are considered to be no flood risk or drainage issues arising from the development that cannot be appropriately and acceptably addressed through planning conditions in accordance with the advice of the Environment Agency and Highways Drainage Officer.

**ECOLOGY:** The proposals are agreed not to harm any ecological interests, subject to the imposition of suitable planning conditions. Based upon the current evidence of ecology known to be on the site a licence from Natural England would not be required and there would be no significant effect on any European Site or local site of nature conservation importance.

**DESIGN AND LANDSCAPE:** The application has taken the approach of retaining and integrating the existing façade and chimney whilst demolishing the rest of the building. There are competing views on whether the design approach is appropriate particularly with regard to how much, if any, of the building should be retained. Design is a subjective matter and in this case the applicant has made a satisfactory case for the approach taken. However it would be appropriate, if the application were to be approved, that the repair and retention of the façade is secured within a section 106 planning obligation. The applicant has amended the design in response to concerns from Officers and on balance it is considered that in design terms the scheme is acceptable in terms of the design approach. Landscape opportunities within the site are limited. It is acknowledged that all trees within the site would be lost and that there are limited planting opportunities. However, this is an urban location and it is considered that, on balance, the development is acceptable and where opportunities for planting within the site exist this new planting can be conditioned and a scheme agreed to respond appropriately to the site and its context. It is considered that carriageway widening works outside of the site to the public highway would be visually detrimental in townscape terms as the highway would become more visually dominant, and this is to be regretted. However, it is considered that taking account of the limited extent of the changes and the fact that highway works and improvements could take place regardless of this planning application and may be

required in connection with other development proposals in the area these impacts do not provide the basis for a reason for refusal.

**CRIME PREVENTION:** The applicant has in response to concerns raised by the crime prevention officer pointed out that a number of security measures are proposed within the scheme. These include as follows. Closed circuit television (CCTV), covering both internal and external areas, as well the public and private spaces. Security guarding, both in the store and across the site. Hard and soft landscape treatments to discourage crime and acts of anti-social behaviour. A range of car park management measures both for the street level spaces and basement car park. These will include specific lighting, access control, safety points and physical obstacles to improve the safety and security of these areas. Full electronic article surveillance (EAS), which is a technological method for preventing shoplifting from stores by attaching security tags to unsold items. The applicant has in addition proposed a number of conditions specifically to further address this issue. On the basis that conditions are proposed as suggested it is considered that the development is acceptable in respect of crime and security.

**EDUCATION:** If the application were to be found acceptable a sum by way of an education contribution would need to be agreed with the applicant in accordance with the Council's adopted Supplementary Planning Document. The absence of such a contribution would justify refusal however the applicant has indicated a willingness to address this.

**ARCHEALOGY:** There are no archaeological objections to the scheme, however, conditions to monitor development would be required.

**LAND CONTAMINATION:** There are no land contamination objections to the scheme, however, conditions would be required to investigate and assess risk.

**NOISE:** The applicants have not submitted a noise assessment that predicts the noise level categories that the development would fall within. The applicant has advised that whilst the residential element of the scheme did not receive specific consideration within the Environmental Statement, the baseline noise survey does contain a measurement at a location near to their proposed location, off Dorset Close. This places the location on the boundary of NEC A and NEC B. Taking account of the fact that no new residential properties are proposed in the vicinity of Brook Road but only in the area off Dorset Close, and the fact that the new residential dwellings are set back into the site and partially screened from major roads by other buildings, the residential element of the scheme would not be subject to noise levels so significant so as to warrant refusal of permission.

**ADJOINING RESIDENTS:** The site in its current condition makes no contribution to the locality and its redevelopment would improve overall residential amenities. The proposed mix of uses is appropriate to the locality and overall it is considered that the proposal would improve the amenity of local residents. It would remove unsightly vacant buildings and bring forward uses onto the site that would generate less noise than the extant use might generate and be more compatible with the local residential area and the adjacent school.

**ASSESSMENT OF BENEFITS ASSOCIATED WITH THE DEVELOPMENT**

**JOB CREATION:** Based upon the figure stated on the application form the proposed development would create 666 full time equivalent jobs. It is suggested in the application that these would broadly comprise of in the region of up to 60 jobs during construction, 350 full time equivalent retail jobs, 218 in offices, 97 in creative work space and one in the museum/community hall. Whilst it is acknowledged that the proposal would have the potential to create new jobs for the local population (in retail and office development as well as during construction) it is also to be noted that job opportunities could be lost from other stores in Bath as a result of the diversion of trade to the new Tesco store, in particular as discussed in the report from stores within the local area including independent stores in Moorland Road, and the Co-Op.

Given the current economic climate and the oversupply of existing offices in the City for which there is little current demand (as explained by the policy officer) there is also doubt as to whether some of the jobs would be delivered even if the accommodation were to be available. The applicant has not supplied any evidence that there is any interest in the creative work units and in particular no evidence that the office use is sought after. If the creative work units are meeting a demand, in the context of the overall development they would be a relatively small part of an otherwise harmful development.

Whilst some weight should therefore be given to job creation, it is considered that the benefits arising from this specific development are not so significant as to outweigh the harmful impacts that would arise.

**RETAIL CHOICE:** The applicants suggest that the proposed development would provide an improved choice of food retailers in the area. It is considered that there is no evidence that is the case. This report highlights that there may be various retailers both from multiple and local shops that may be adversely affected to the point they may close. In addition the taking-up of retail capacity on this out-of-centre site may stifle the development of other sequentially preferable sites.

**HIGHWAYS and PUBLIC REALM :** The applicant suggests that the development would provide substantial highway and public realm improvements that will help address existing congestion problems as well as cater for new development in the Bath Riverside Corridor. With regard to this claim it is the Highway officers' advice that the development would have a very significant adverse impact upon the highway to the detriment of both existing and planned development. Public realm improvements are largely contained within the site (i.e. the public square), and these are not considered to be of such outstanding quality or value to the area as to outweigh the harm which the development would cause.

#### **SITE REGENERATION**

It is considered that the site's regeneration in the broadest sense would be of benefit and should be afforded weight. In its current vacant condition the site makes no positive contribution to the visual amenities of the area it is inaccessible and it does not provide any economic or social benefits which it is accepted could arise through the proposals. However the benefits must be balanced against the harmful impacts discussed within other Sections of the report. Furthermore, it has not been demonstrated that other high value land uses that could have less harmful impact such as a different mix of uses with a smaller level of retail and therefore potentially a lower traffic generating use could not achieve the same (or even an improved) level of regeneration benefit.

It has also not been demonstrated that regeneration of this site would act as a catalyst to the development of other sites along the river corridor. Development along this route is being brought forward although it is of note that some of that development constructed for office uses did not attract occupants and alternative uses have in some cases been agreed. For example the erection of two B1 Offices at the former Drainage Castings site were permitted in 2003 and they were fully constructed for B1 Use. These were granted permission for a change of use to residential use in 2011 after the building had been unsuccessfully marketed as offices. That accommodation was purpose built and is in the vicinity of the application site.

**PUBLIC SAFETY:** The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the Consultation Zones around Major Hazard Sites and pipelines. The application site falls within the HSE Consultation Zones around the Windsor Bridge Gasholder Station, and the application has consequently been considered using the PADHI+ planning advice software tool provided by the HSE for assessing gas generated risk.

The PADHI+ online consultation system produced an "Advise Against" response. It is the current position of the HSE that there are sufficient reasons, on safety grounds, for advising against the granting of planning permission in this case. Whilst it is recognised that the likelihood of a major accident occurring is small, the possibility remains that a major accident could occur at the installation and that this could have serious consequences for people in the vicinity. In particular with regard to the proposals there would be significant numbers of visitors and workers present within the development that could be at risk. In the event that this application is proposed to be permitted contrary to the advice of the HSE, they must be provided with 21 days notice to consider whether to request that the application is called in for determination by the Secretary of State.

The applicant has offered to assist in the decommissioning of the gas holders in order to attempt to remove the objection to the application that has been made by the HSE. The applicant has submitted supporting documentation and has proposed Heads of Terms for a legal agreement and a Grampian condition with a view to ensuring that the risks associated with the existing Windsor Gas Holder Station a short distance to the north of the appeal site are appropriately managed. A Grampian condition is a negatively worded condition which prevents the development (or its occupation) from taking place until a specified action has been taken.

The HSE themselves have considered the potential to remove the HSE objection through agreement to enter into a Section 106 legal agreement and Grampian conditions. The HSE have in this regard most recently advised that in this case, public safety remains a concern for the HSE due to the Hazardous Substances Consent for the storage of natural gas in the Windsor House gasholders and the proximity of the proposed development.

The HSE have considered the conditions and legal agreements proposed by the applicant to address this issue and have advised that these have some potential to overcome their objection, but that to have substance and to be enforceable Wales and West Utilities must be a co-signatory with Tesco to the S106 Agreement.

The requirements of the HSE to overcome the objection were put to the applicant and a response has been provided which falls short of the HSE's requirements. The applicant



has advised that they will enter into the required legal agreement but only that 'terms' have been agreed (by the applicant) with Wales and West Utilities and Crest to obligate them to decommission the tanks. This does not tie Wales and West Utilities into the planning consent as per the HSE's advice. The HSE objection therefore stands. The applicant suggests that the Local Planning Authority could simply address this by a resolution to grant planning permission subject to the completion of an appropriate S106 to which Wales and West would be a party. They state that Wales and West have previously indicated a willingness to enter into an appropriate agreement. In response officers consider it would be unreasonable, and would create significant uncertainty about the future of the site, to do this unless written confirmation is provided by the Wales and West to the effect that they are prepared to enter into an appropriate s106 agreement within a specific timescale. The applicant has said that a letter will be sought from Wales and West, but at the present time no such written confirmation has been received.

## DECOMMISSIONING and REGENERATION

Also of significance is the broader question of what weight should be given to the applicants' offer in part to fund the decommissioning through an agreement between themselves, Wales and West Utilities (the gas supply company) and Crest Nicholson (the developers of BWR).

In essence, the applicants are arguing that by entering into a contractual relationship with Wales and West Utilities and with (BWR Developer) Crest Nicholson, to contribute a significant sum towards the overall cost of decommissioning the Gas Holder Station, they are bringing forward the implementation of a substantial western portion of the BWR regeneration scheme. This, it is argued, is a significant community benefit, in that it would enable the Council's flagship housing allocation to proceed without (or with a smaller) delay, thereby meeting the delivery trajectory set out in the Strategic Housing Land Availability assessment (SHLAA), and reducing the potential for other less acceptable sites to be brought forward by developers in order to attempt to take advantage of any perceived failure to meet the SHLAA's aims.

Of relevance to this is the formal position taken by the Council on this point in presenting its Draft Core Strategy for consideration by the Inspector in the recent EIP. Various parties had challenged the Council's proposals on the basis that they were over-optimistic in respect of the SHLAA delivery trajectory, and BWR came under particular scrutiny, not only because its comprehensive implementation is undeniably dependent upon the decommissioning of the Windsor Gas Holder Station, but also because it represents a very large proportion of the SHLAA provision for Bath (and for the District as a whole).

In the EIP, the Council sought to reassure the Inspector that he could be confident that BWR can indeed be delivered. This was done in verbal submissions and in an associated Issues Statement, and the Council indicated that the delivery of BWR is not directly dependent upon the implementation of particular off-site development proposals (such as the current application) but that the gas holder site is on land that is currently outside the BWR project developer's control (albeit within the site of the Outline planning permission for BWR). The Council said that the technical solution to decommission in order to enable the removal of the hazardous storage consent constraint is known, but the funding to achieve this has not yet all been secured. The Council is exploring a range of funding sources, and these are backed up by public sector initiatives aimed at underwriting any

financial shortfall. Since the Inquiry the Council has made positive steps to obtain loan funding and is in the process of applying for (repayable) financial support from the West of England LEP: Revolving Infrastructure Fund (RIF). However, the level of certainty in terms of the delivery of decommissioning is increased by the existence of a formal agreement between Crest Nicholson and the Council that was completed in December 2010. which was designed to facilitate the staged implementation of the entire BWR development through a joint-working approach between the Council and Crest Nicholson, that will maximise the availability of public-sector funding in order to assist in the project's cash flow, which is heavily front-loaded because of the infrastructure, decontamination, decommissioning costs which have to be met in order that the development can proceed beyond the initial phase that is currently under construction.

In this context, the Council has based its SHLAA strategy upon BWR delivery within the Core Strategy period without the need for funding from Tesco / St James Investments specifically, and indeed it would have been wholly inappropriate for any part of the Core Strategy proposals to have been in any way dependent upon the approval of a scheme that was at the time, and remains, contrary to both national and local planning policies. Accordingly, whilst the regeneration case to fund the decommissioning of the gas holder station is a material consideration, it can only be afforded limited weight unless the applicant is able to substantiate their claims that it would in the long term materially improve the likelihood of BWR being completed and / or significantly bring forward the timetable for that implementation. Any such claimed benefit would also need to be balanced against an assessment of harm that the current development would cause through the prejudicing of the Council's adopted policy to extend the city centre westwards into BWR East, as the planned investment in BWR East is a key component of the strategy for Bath Western Riverside as a whole.

In conclusion, your officers advise that the applicant has not put forward a sufficiently compelling argument to justify attaching significant planning weight to the claimed community benefits that would be associated with the current proposal financing the decommissioning of the Gas Holder Station. The Council has already planned for the delivery of BWR without the applicant's contribution. Furthermore, to attach significant planning weight to the argument put forward by the applicants would undermine the credibility of the Council's arguments in the Core Strategy EIP, which could have a negative impact upon the Council's strategies and policies.

#### Summary of position in respect of gas risk

Members are advised that, whilst an option has been identified by which it would be possible to overcome the HSE's objection through the use of appropriate conditions and a s106 Agreement, this option relies upon the involvement of a third party. The current position is that the third party has not committed to the signing of a legal agreement in connection with the application; so the HSE objection still stands.

Furthermore, on the basis of the current information, the resultant decommissioning of the Gas Holder Station (if it were to be secured) cannot be given significant weight in balancing the planning merits of the current proposals because the gas holders are likely to be decommissioned in any event as part of the BWR project. It is therefore considered that the potential for the decommissioning of the Gas Holder Site through funding provided by the applicant is not a consideration that can appropriately be used as an argument to overcome or outweigh the serious retail and highway objections to the development that are set out in this report.

## **OTHER MATTERS**

If the application is permitted it may require an application under the Avon Act due to the depth of the boreholes for the piling and the potential for this to impact upon the hot springs and the applicant should be made aware of this by an informative on the decision.

## **Conclusion**

Officers, having carefully weighted up all of the information provided, are of the view that whilst there may be benefits associated with the development as identified within the report it is the weight to be given to those benefits compared to what Officers consider to be the other very substantial adverse impact that is a key consideration. Officers are of the view that in this case the benefits would not outweigh the very significant level of harm caused in terms of the retail impact, highway impact and gas risk, that would arise if the development were to be permitted.

## **RECOMMENDATION**

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

1 The proposed development would give rise to a potential danger to human lives by virtue of its proximity to the nearby operational gasholder site contrary to planning policies ES9 and ES13 of the adopted Bath and North East Somerset Local Plan and contrary to the advice of the Health and Safety Executive.

2 The applicant has failed to justify trip generation, parking demand and trip distribution assumptions made in their Transport Assessment and analysis. Insufficient information has been submitted in respect of these issues and all other modelling in out data to enable the soundness of the analysis to be verified. Therefore, the applicant has failed to demonstrate that the proposed development includes satisfactory provision for access from the public highway, car parking and servicing. The site is located at a critical point on the strategic highway network where the existing junction is frequently operating at capacity. The development would therefore be prejudicial to highway capacity and safety. The proposed development is, therefore, contrary to Policies T1, T3, T5, T16, T24 and T26 of the adopted Bath and North East Somerset Local Plan, including minerals and waste policies and paragraph 32 of the NPPF and having regard to additional developments already committed in this part of Bath

3 The proposed development is not in accordance with the requirements of the sequential approach to development contrary to the Bath and North East Somerset adopted Local Plan Policy S4, Joint Replacement Structure Plan Policy 40, Regional Planning Guidance Policy EC6 and paragraphs 24 and 27 of the NPPF. The development would as a result generate unsustainable travel patterns contrary to paragraph 30 and 32 of the NPPF and be harmful to the Council's retail strategy.

4 The proposed development would give rise to an unacceptable and significant adverse impact on the vitality and viability of the Moorland Road District Shopping Centre contrary to Policies S1 and S4, of the adopted Bath and North East Somerset Local Plan, Joint

Replacement Structure Plan Policies 40 and 41 and Regional Planning Guidance Policy EC6 and paragraph 27 of the NPPF.

**PLANS LIST:**

1 Plans list - 011 GD04398 ISSUE 02 (sheets 1-4), 030 GD04398 ISSUE 02 040, GD04398 ISSUE 01, 4664/001 REVISION NUMBER P, 4664/002 REVISION K, 4664/003 REVISION I, 4664/004 REVISION H, 4664/005 REVISION I, PN0500 REV NO. 00, PN0501 REV NO. 00, PN0502 REV NO.00, PN0503 REV NO.00, PN0504 REV NO.00, PN0505 REV NO.00, PN2009 REV NO.00, PN2010 REV NO.00, PN2011 REV NO.00, PN2012 REV NO.00, PN2013 REV NO.00, PN2110 REV NO.00, PN2121 REV NO.00, PN2122 REV NO.00, PN2123 REV NO.00, PN2124 REV NO.00, PN2200 REV NO.00, PN2201 REV NO.00, PN2202 REV NO.00, PN2610 REV NO.00, PN2620 REV NO.00, PN2621 REV NO.00, PN2630 REV NO.00, PN2640 REV NO.00

**Item No:** 02  
**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

**Expiry Date:** 30th July 2012

<b>Case Officer:</b> Richard Stott
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## **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.

This application was considered at Committee on the 21st November 2012. Members resolved to overturn the Officer recommendation and moved to refuse the application for the same reasons cited at the September Committee. The Development Manager invoked paragraph 6 ("Decisions Contrary to Policy or Officer Advice") of the Member and Officer Conduct/Roles Protocol, (Development Control Committee) which renders the decision of no effect until it is reconsidered by the Committee. The following report is the same as that published with the November 2012 agenda however incorporates the published update report.

### **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 Homesearch 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 a 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 Officers 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 dwelling 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 the 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:

- A contribution of £120,000 towards the support and enhancement of bus services to Bath, Midsomer Norton, Radstock with the aim of improving frequency and usability for residents wishing to work, study or make visits to these settlements.
- A contribution of £140,000 for and towards pedestrian/safety for pedestrians works in the village of Clutton, and strategic highway works in the B&NES Administrative area.
- Highway alterations to Maynard Terrace, Station Road and Clutton Hill, including the re-configuration of the junction and the provision of new footways.

#### EDUCATION:

- A contribution to ensure that adequate provision is made for education will be required however the final figure will be dependent upon the final number and mix of housing that is brought forward at the reserved matters stage. Details of the education contribution will therefore be determined with the reserved matters application.

#### OPEN SPACES:

The total contribution to open space provision will be dependent upon the final layout and number of dwellings brought forward which will be determined at the reserved matters stage. The figures below are therefore maximum values and are subject to change.

- A contribution of up to £86,640 for off-site provision of open space
- 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 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:

- 53% of the overall residential provision must be secured as affordable and grant free housing with a 53/47 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).
- The affordable housing obligation is secured in perpetuity through a section 106 Agreement as set out in the Strategic Housing Development Manager's report.
- Lift the stair casing restrictions for New Build Homebuy lessees and instead ring-fence the released equity.
- The Council has full nomination rights as set out in the section 106 Agreement.
- 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.
- All the affordable housing units to be benchmarked against the design requirements contained within the B&NES Planning Obligations SPD & annexes.
- 60% of the affordable housing to reach Lifetime Homes standards & identified on plan.
- To transfer the units to an approved partnering Registered Social Landlord (RSL) or other Affordable Housing Provider (AHP) as approved by the Council.
- The affordable housing land (secured via policy HG.8) is transferred to a RSL or AHP at nil cost.
- 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.
- A 'pepper potting' strategy is included in the Section 106 Agreement and that the development is tenure blind.
- Phasing conditions on affordable housing triggers to be set out in the Section 106 Agreement.
- A Local Tie to give priority to people in the local community:

## RECOMMENDATION

Authorise the Development Manager of Planning and Transport Development to PERMIT subject to condition(s)

## CONDITIONS

1 Authorise the Development Manager, in consultation with the Planning and Environmental Law Manager, to enter into a section 106 agreement as detailed in the

report to Committee. Upon completion of the agreement, authorise the Development Manager to permit the application subject to the conditions contained in the report.

2 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).

3 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.

4 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.

5 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

6 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.

7 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.

8 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.

9 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.

10 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.

11 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.

12 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.

13 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.

14 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:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and
  - service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - 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.

15 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

16 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:

- There will be no built development in Flood Zone 3 or over or within 3m of the ordinary watercourse or culvert.
- 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.

17 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:

- 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
- detailed calculations of the attenuation required
- details of the size and location of attenuation features
- SuDs measures
- 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.

18 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:

- any exceedance or overland surface water flows expected following a more detailed surface water drainage scheme
- 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.

19 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:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- 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.

20 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

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

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

## **PLANS LIST:**

1 This Decision Relates To The Following 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

## **2 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:**

- 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.
- 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.

- 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

### 3 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

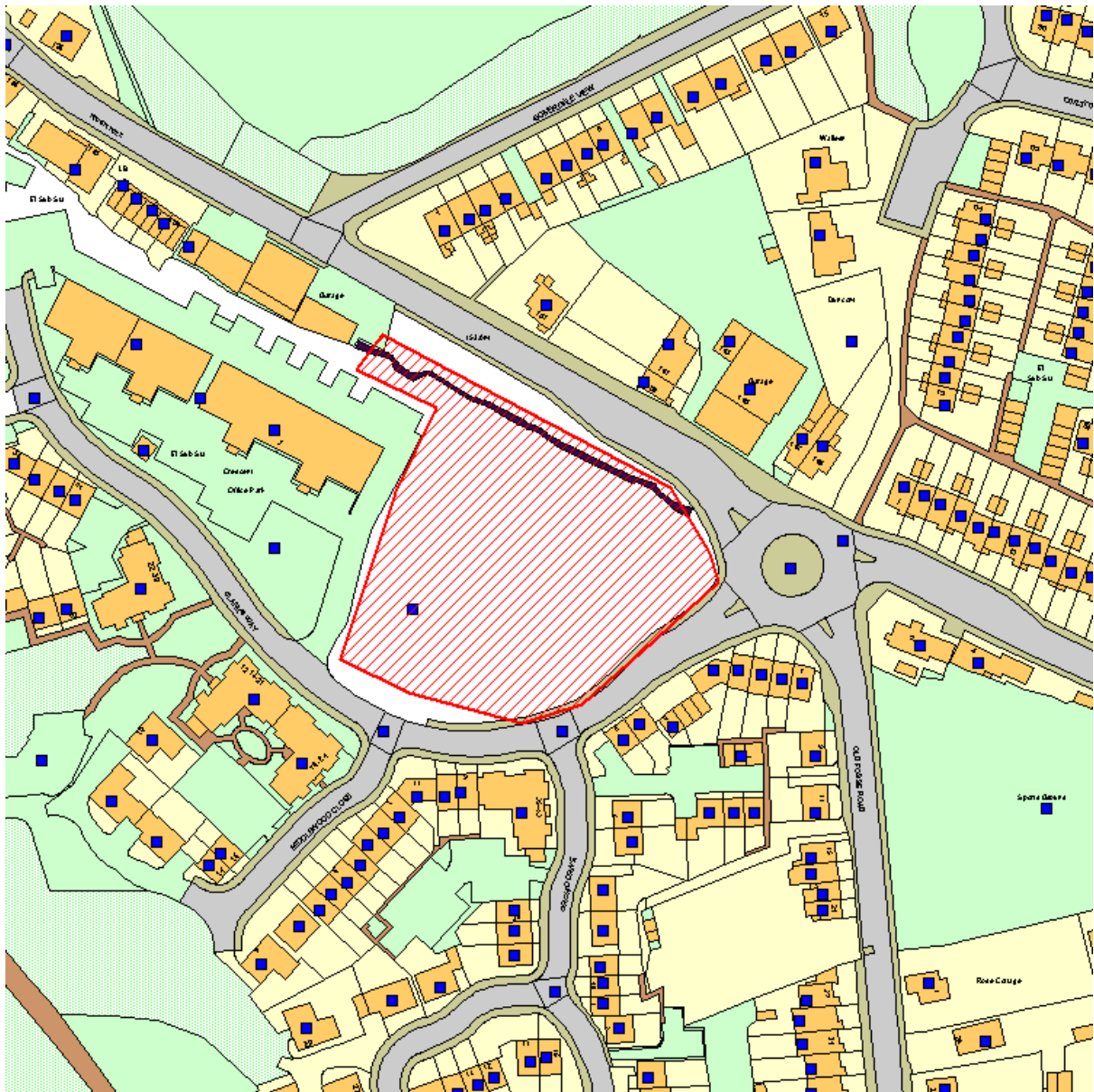
Policies D.2, D.4, IMP.1, CF.3, ES.2, ES.5, ES.14, ES.15, HG.1, HG.7, HG.8, SR.3, NE.1, NE.4, NE.9, NE.10, NE.11, NE.12, NE.14, T.1, T.23, T.24, T.25, T.26, of the adopted Local Plan are saved policies.



**Item No:** 03

**Application No:** 12/04063/OUT

**Site Location:** Crescent Office Park, Clarks Way, Odd Down, 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>	Outline Application	
<b>Proposal:</b>	Erection of a residential care home (Use Class C2) with associated car parking and servicing	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Forest of Avon, General Development Site, Hotspring Protection, Tree Preservation Order, World Heritage Site,	
<b>Applicant:</b>	Kenwright Developments Ltd	
<b>Expiry Date:</b>	9th January 2013	
<b>Case Officer:</b>	Sarah James	

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE

The application has been requested to be reported to Committee if approval is recommended on the request of Cllr Roberts on the basis that this land represents one of the few employment opportunities in Bath, with land being scarce. Placing a care home on the site is contrary to the original application.

2. That the care home parking will spill on to existing roads that weren't designed for the purpose.
3. That the size of the development will be seen from a sensitive hill over looking the city as with the current crescent park buildings.
4. The scale and size of the development will affect those trees with a TPO order upon them

### DESCRIPTION OF SITE AND APPLICATION

The application site is located on the former Clarks shoe factory site at Rush Hill approximately 2.5 km south west of Bath city centre. The site is bound to the north by rush hill with residential dwellings and a car wash beyond, to the east by undeveloped land which has extant approval for a crèche with a roundabout joining rush hill, Frome Road, Old Fosse Road, and Clarkes way. Clarkes Way forms the south boundary of the site with residential dwellings beyond and crescent Office park is located to the west. The site is irregular in shape and is fairly flat. The site is undeveloped and there are a number of mature trees located on the site several of which are protected by virtue of a tree preservation order. Clarkes way which runs along the south boundary provides vehicular access to various uses. Clarkes Way is not adopted highway.

The application is supported by a Design and Access Statement, Arboricultural report, Tree Survey, Noise Report, Phase 1 Habitat Survey, Bat survey.

**THE PROPOSAL:** The application seeks outline planning permission for the erection of a residential care home (C2) with associated car parking and servicing. Layout is to be considered as part of the application and landscaping, scale, appearance and means of access are reserved for future consideration. The application proposes a rectangular shaped building with a floor plate of 957 sq m, totalling 2,871 sq m over three floors. 23 no. car parking spaces and servicing/delivery area. 2,770 sq m of amenity space comprising formal terrace and informal woodland/gardens. The building would be positioned along the western boundary of the site, retaining the eastern and northern

extent of the site for landscaping and amenity space for the residents. Staff and visitor parking and a service layby will be sited along the western and southern boundaries.

#### HISTORY:

DC - 03/00572/EOUT - APP - 13 January 2004 - Redevelopment to provide residential development (Use Class C3), commercial development (Use Class B1), wildlife corridor, community facilities, associated access and parking provision (revised by Masterplan received 13th May 2003)

DC - 05/00254/RES - PERMIT - 10 August 2005 - Redevelopment to provide residential development (Use Class C3), commercial development (Use Class B1), wildlife corridor, community facilities, and parking provision (details of external appearance, landscaping, design and siting pursuant to outline planning permission 03/00572/EOUT) (As amended by revised plans and particulars received 24th March 2005)

DC - 06/04076/RES - PERMIT - 7 March 2007 - Commercial development (Use Class B1) comprising four buildings of 2 and 3 storey height. (detail pursuant to outline planning permission 03/00572/EOUT)

DC - 10/01532/FUL - PERMIT - 14 June 2010 - Erection of a creche facility (Use Class D1) with associated parking, external patio area and waste storage area.

DC - 10/04572/OUT - WD - 1 December 2011 - Erection of a 60 bed residential care home (Use Class C2) with associated car parking and servicing.

DC - 12/00524/OUT - WD - 27 April 2012 - Erection of a residential care home with associated car parking and servicing

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

HIGHWAYS DRAINAGE OFFICER: - Comments made 16th October 2012 - No objection subject to a surface water condition.

HIGHWAY OFFICER: Comments made 17th October 2012 - There is no in-principle objection to the development which is well-located and therefore sustainable. Traffic generated will not be greater than the consented office use on this site, and therefore it will not have an adverse impact on the local highway network. In order for the principle of access to be established the red line of the application must extend as far as the nearest public highway (the roundabout at Rush Hill). The level of parking has not been fully justified. I am aware that this probably need not be finalised at this outline stage, and while the level of parking proposed might be considered to be reasonable given the size and nature of the development, the applicant must bear in mind that parking provision will need to be revisited at the 'reserved matters' stage.

I note that "access" is not required to be determined at this stage, however there are issues of access which must be considered in order that the principle of development, and its layout (which does require approval) can be determined. No information has been provided to show that the 'Service Lay-by' will work in terms of access and manoeuvring of service vehicles. This may affect the layout and therefore, in my view, should be

considered at outline stage. Subject to confirmation therefore that general vehicular access can be achieved in principle, and that manoeuvring for service vehicles can be accommodated, there is unlikely to be a highway objection.

Additional comments 19th November 2012 - A plan has now been submitted showing access can be achieved to the existing public highway.

No further information has been submitted in respect of manoeuvring, but am reassured that the development site (being larger than that submitted previously) has the capacity to accommodate the necessary requirements, and this therefore can be agreed at reserved matters stage. Consequently there are no objections subject to conditions.

HOUSING OFFICER Comments made 31st October 2012 - The correct Use Class for the dwellings is queried i.e. C2 or C3. Ordinarily if the dwellings are self-contained then as stand alone units they would be C3, therefore the relationship of the dwellings with the associated support facilities are what tips the balance back into C2.

Planning should ensure that the correct range of facilities are incorporated and secured via the sec 106 agreement. Also The client group should be specified as over 65 and the access arrangements should be based upon need for such accommodation and again contained within a watertight sec 106 agreement.

CRIME PREVENTION OFFICER Comments made 2nd November 2012 At reserved matters stage details of security of the building should be included. I would expect to see access control on the entry points with external doors meeting the minimum standard of LPS 1175 level 2. Ground floor and easily accessible windows should be to BS7950 or the new PAS 24 standard.

ENVIRONMENTAL HEALTH: Comments made 16th October 2012 - The applicant submitted a noise impact assessment earlier this year in connection with a previous proposal and that places the site within Noise Exposure Category C within PPG24. It is noted that PPG24 is now withdrawn but is taken into account as a useful guide. On that basis a condition is sought if the development is to be approved.

ARBORICULTURAL OFFICER: comments made 6th November 2012 - No Objections subject to conditions This revised proposal has taken into account comments made with regards to 12/00524/OUT and subsequent discussions with the applicant. The proposal incorporates the area which was included within the proposed crèche site ( reference 10/01532/FUL ) which ensures that the perimeter trees which would have otherwise been lost are retained. In addition to the opportunities to plant, this mitigates for the proposed loss of four of the trees which are protected by Tree Preservation Order 500/112. I have noted the inclusion of the Arboricultural Development Statement which includes a tree survey covering the entire site and Arboricultural impact assessment and I am in agreement with their contents but question the need to crown lift all the retained trees to 2.5m. I have noted the contents of the preliminary Arboricultural method statement which is sufficient at this stage but it is accepted that it may need alterations once the construction contractors have been appointed as pointed out by the arboricultural Consultants under .2 of the document.

ECOLOGY : comments made 27th November 2012 - There are no significant ecological constraints on site and subject to conditions to secure the recommendations of the submitted Phase 1 Habitat there are no objections

### THIRD PARTY COMMENTS:

5 letters of objection have been received on the basis of

Traffic

Inadequate parking

Effect upon trees

Loss of views

Visual impact

Height of the building

Loss of residential amenity

Loss of Habitat

The application does not provide enough information

The application is not the same as was originally permitted

### **POLICIES/LEGISLATION**

The development plan for the area includes RPG10; the "saved" policies of the Joint Replacement Structure Plan; and the "saved" policies of the Bath and North East Somerset Local Plan.

### ADOPTED LOCAL PLAN

"Bath & North East Somerset Local Plan (including Minerals and Waste policies) 2007" was adopted October 2007. Policies relevant to this site in the Bath and North East Somerset Local Plan, including Minerals and Waste Plan are:

BH1 World Heritage site

D2 General Design and public realm considerations

D4 Townscape considerations

T24 General development control and access policy

T25 Transport assessment and travel plans

T26 On-site parking and servicing provision

ES.5 Foul and surface water drainage

ES.9 Pollution and nuisance

ES10 Air Quality

ES12 Noise and vibration

ES.15 Contaminated Land

NE4 Trees

NE9 Locally important wildlife sites

NE10 Nationally important species

NE11 Locally important species

NE12 Natural Features

BH22 External lighting

SC1 settlement policy

CF6 Community facilities

ET1 Office Floorspace

ET3 Office Floorspace

### NATIONAL PLANNING POLICY FRAMEWORK

National Planning Policy Framework (March 2012) can be awarded significant weight.

The B&NES Local Development Framework Core Strategy is at an advanced stage of preparation, with consultation on the Draft Core Strategy having been completed in February 2011 and examination of the Draft Core Strategy took place early 2012. However it is not yet adopted and therefore will only be given limited weight for development management purposes. The following policies should be considered

CP2: Sustainable construction  
CP6 Environmental Quality  
CP10 Housing Mix  
DW1 District-wide spatial Strategy  
B1 Bath Spatial Strategy  
B2 Central Area Strategic Policy

Adopted Supplementary Planning Document - Planning Obligations

## **OFFICER ASSESSMENT**

### **BACKGROUND**

The application site forms part of a larger site formerly the Clarks factory. Outline permission was given for the whole site around 5.4 hectares in 2004 (planning reference 03/00572/EOUT) for mixed use development. The commercial part of the Outline consent was granted reserved matters approval in 2005 (planning reference 06/04076/RES). The majority of the site was constructed as part of Phase 1 in 2009 including 2,300 sq metres of office development. The remaining office development was not brought forward due to lack of demand. In 2010 permission was granted for the erection of a crèche on part of the land (adjacent to the application site planning reference 10/01532/FUL).

### **PRINCIPLE OF DEVELOPMENT.**

In this location there is no protection for office use and whilst that may have been the use thought most appropriate at this site when the previous consents were granted another appropriate alternative use has the potential to be acceptable in principle. Office space is not afforded any policy protection in this location and it is key to note that there is currently an oversupply of office space within Bath and where new space is being sought this would be in the more central parts of the city in line with the Core Strategy. In respect of the use being proposed the site is located within the built up area of Bath and the development of a care home within this site is acceptable in planning policy terms. It is accepted that in Bath there would be a demand for this type of use. The development would provide some employment which is a benefit.

### **HIGHWAYS:**

The application is made in outline and means of access is a reserved matter. The application has been amended as per the requirements of the highway officer so as to extend to the public highway. The siting of the building would constrain the opportunities for how the parking and servicing arrangements would operate however it is considered taking account of the overall site and the nature of the use that this could be adequately resolved at reserved matters stage and if space is restricted the levels of accommodation to be provided within the building would be restricted in accordance.

### **DESIGN:**

The height of the building in terms of the three stories suggested does not exceed the reserved matters approval granted in 2005 and in respect of height alone a building of the

height suggested is acceptable. The siting of the building is in broad terms acceptable. The detailed external design is reserved for later consideration. Materials can be conditioned and will reflect those of the adjoining offices. Whilst design is not being considered in detail it is considered that if the development is acceptable in all other respects the external appearance of the building could be addressed satisfactorily at reserved matters stage.

#### EMPLOYMENT:

The development would create jobs which would be an overall benefit although there are no details provided as to how many jobs might be created.

#### ECOLOGY :

The applicant has submitted an ecological report and a tree climbing survey. It has been confirmed that there are no significant ecological constraints on the site and the development is acceptable so as to ensure ecology including protected species would not be adversely affected by the development.

#### NOISE:

The NPPF revokes and replaces a number of Planning Policy Statements (PPS), Planning Policy Guidance (PPG) and other guidance documents, including PPG24. Guidance within the NPPF advises that new development should be constructed so as to avoid noise from giving rise to significant adverse impacts on health and quality of life. Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. In this case it is considered that the development would be affected by noise to an extent whereby it would be reasonable to impose conditions in respect of noise.

#### RESIDENTIAL AMENITY OF NEARBY OCCUPIERS :

There are residential properties located at various points and distances from the site to the north, east and west. Residents have raised concerns with regard to the impact of the development through loss of views. However this concern has to be considered taking account of the extant scheme on the site for the office use. It is not considered that the impact of the current proposal could be so materially different from that of the approved scheme so as to recommend refusal on these grounds. It is also considered the case that the use as proposed is an acceptable one in terms of its relationship with neighbours and that it would not create materially more harm in terms of its impact on neighbours than created by the permitted offices either in terms of traffic generation or in terms of the activities associated with the use.

#### AMENITY OF OCCUPANTS :

A use of this nature does not require extensive areas of external amenity space however trees within the site that must be retained would provide a constraint. However as the site is now sufficiently generous to avoid any conflicts it is clear that the external space available has the potential to create an acceptable external environment for proposed occupants.

#### RELATIONSHIP WITH COMMERCIAL OFF SITE DEVELOPMENT:

The site is located adjacent to offices to the west that are constructed and in use. It is not considered the case that the care home would have any adverse impact upon the office uses.

To the east (on land within the application site boundary) whilst the land is currently undeveloped there is an extant permission for a crèche. That adjoining site and development is within the applicant's ownership. It is considered that the two adjacent uses with their associated requirements for privacy and amenity would result in a cramped and overdeveloped layout of the land that would be unsatisfactory and harmful to visual amenity. However the applicant has confirmed that the crèche consent will be relinquished as part of any consent granted as a result of this application. Subject to that being suitably controlled the development would not be in conflict with any existing or approved adjoining uses.

#### LANDSCAPE :

2,770 sq m of amenity space would be provided within the site that would be suitably landscaped and landscaping conditions could be applied to any consent granted. It is considered that the proposals provide a both the amenity space required for the proposed occupants but also provide an appropriate and satisfactory landscape setting for the building.

#### TREES:

Subject to the agreed relinquishment of the crèche consent this would allow for perimeter trees that would have been lost through that permission are now able to be retained and that in part offsets proposed tree loss that would arise through these proposals. The larger site area also allows for additional planting to take place and a combination of these two factors render the development acceptable in terms of tree impact.

#### USE CLASS

In response to the Housing Officers comments the applicant has advised as follows "The care home will provide individual or shared en suite bedrooms, with communal dining and lounge facilities. It is not the intention to provide individual residential units that would fall under use class C3. The Class C2 use can be secured by condition but I see no need to impose a minimum age limit on residents. As we are all too aware, unfortunately the illnesses and conditions that could render people needing the kind of care to be provided by the proposed residential care home facility do not necessarily only occur in 'old age'.

The application made as stated within the application is a C2 Use. The layout which will be submitted at reserved matters stage would be expected to demonstrate the use complies with the C2 definition and if there were any doubt of that matter it could be challenged at that stage. Notwithstanding that there are instances upheld at appeal whereby it has been found appropriate to specify a restricted age range there have been considerations specific to those cases notably the accommodation provided had a clear potential to deliver straight C3 use and there was agreement between parties that age restrictions could be imposed to provide necessary comfort on the issue. I have no evidence to be concerned that is the case here and again feel this is a matter that could be revisited at a later stage if justified. Considering the current application on its merits I am therefore of the view that no occupancy restrictions should be imposed and that the application should proceed on the basis that it would prove attractive to those only in need of care of the format provided.

#### CONCLUSION



In principle the use as proposed is acceptable. The development has sufficiently considered the effect upon ecology. It would not give rise to highway safety or traffic issues. The building would be set within a landscaped setting would provide a good standard of accommodation and amenity space for occupants and it would be of a scale and massing that accords with previous approvals and is considered acceptable so as to not be harmful to the visual amenities of the area including the World Heritage Site. The development is also considered an appropriate addition that would add to the overall mix of uses and would be compatible with those so as not to be harmful to existing uses and occupiers.

## RECOMMENDATION

A Authorise the Planning and Environmental Law Manager to either enter into a Section 106 Agreement or secure a Unilateral agreement to cover the following ;-

To relinquish the crèche planning application permission reference 10/01532/FUL in the event that the approval hereby granted is implemented

## RECOMMENDATION

PERMIT with condition(s)

## CONDITIONS

1 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.

2 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.

3 Approval of the details of the landscaping, scale, appearance and means of access of the site (hereinafter called the reserved matters) shall be obtained from the Local Planning Authority before any development is commenced.

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

4 Before the development hereby approved is first brought into use the parking indicated on the submitted plan shall be constructed to the satisfaction of the Local Planning Authority in accordance with details which shall have been submitted to and approved in

writing by the Local Planning Authority. This area shall be kept clear of obstruction and available for use as parking for the development at all times.

Reason: In the interests of amenity and highway safety.

5 Before the development hereby approved is first brought into use the service lay-by indicated on the submitted plan shall be constructed to the satisfaction of the Local Planning Authority in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority. This area shall be kept clear of obstruction and available for use as servicing/deliveries for the development at all times.

Reason: In the interests of amenity and highway safety

6 Prior to the occupation of the development a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the Travel Plan.

Reason: In the interests of sustainable development.

7 Prior to the occupation of the development sheltered and secure cycle parking shall be provided in accordance with plans which shall have been submitted to and approved in writing by the Local Planning Authority. This area shall not be used other than for the parking of cycles in connection with the development hereby permitted.

Reason: In the interests of sustainable development

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

Reason: In the interest of residential amenity

9 Provision shall be made within the site for the disposal of surface water, details of which including the means of outfall shall be submitted to and approved in writing by the Local Planning Authority prior to construction. The development shall proceed in accordance with the approved details thereafter.

Reason: In the interests of flood risk management

10 No development activity shall commence until the protective measures as stated in the approved 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. These measures shall be retained in place during the construction period.

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

11 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

12 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:
  - (i) human health,
  - (ii) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - (iii) adjoining land,
  - (iv) groundwaters and surface waters,
  - (g) ecological systems,
  - (v) archaeological sites and ancient monuments;
  - (vi) 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.

13 If required under the terms of condition 12 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.

14 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.

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 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.

16 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 no. 12, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition no. 13, 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 no. 15.

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

17 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of

reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

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

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

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

18 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.

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

19 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.

20 No development shall commence until a sample panel of all external walling materials to be used shall be erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed.

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

21 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.

The applicant has indicated on their application form that surface water will be disposed of via the main sewer. Under the Flood and Water Management Act 2010, the automatic

right to connect into the public sewer has been removed. Therefore, to support the discharge of the above condition the applicant will need to provide written confirmation from Wessex Water that the proposed development can make connection into their sewer. Discharge rates and connection points will need to be agreed.

**PLANS LIST: PL101**

**REASONS FOR GRANTING APPROVAL:**

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

(A) Bath and North East Somerset Local Plan (including Waste and Minerals policies) adopted 2007 Policies BH1 World Heritage site  
D2, D4, T24, T25, T26, ES5, ES9, ES10, ES12, ES15, NE4, NE9, NE10, NE11, NE12, BH22, SC1, CF6, ET1, ET3

**Item No:** 04  
**Application No:** 11/04249/FUL  
**Site Location:** Automobile Services, 37 Coombend, Radstock, Bath And North East Somerset



**Ward:** Radstock                      **Parish:** Radstock                      **LB Grade:** N/A  
**Ward Members:** Councillor E Jackson                      Councillor S Allen  
**Application Type:** Full Application

<b>Proposal:</b>	Erection of 7no. two bed dwellings with parking, altered site access, landscaping and ancillary works and allotments following demolition of garage workshop (Resubmission)
<b>Constraints:</b>	Agric Land Class 3b,4,5, Coal - Standing Advice Area, Conservation Area, Forest of Avon,
<b>Applicant:</b>	Henrietta Matthews House Ltd
<b>Expiry Date:</b>	28th November 2011
<b>Case Officer:</b>	Tessa Hampden

## **REPORT**

Reason for reporting application to committee.

The Chair of the Committee has agreed to this application being considered by Committee due to the objection of the Town Council, and the comments of Cllr Jackson.

### Site description and proposal

The application site relates to a former car garage workshop site, and land to the rear of 28-34 Coombend, located in Coombend in Radstock. Coombend runs parallel to the Bath New Road and sits between Radstock and Clandown. The site is set within the Conservation Area but outside of any defined Housing Development Boundary.

The application seeks planning permission for the erection of seven 2 bedroom units. Five of these are proposed to front the road, with two being located to the rear of the site. The development will provided two parking spaces per dwelling and an allotment area/open space to the rear of the site.

The application is a resubmission of a previous application which was withdrawn following discussions with the case officer and the agent.

### Relevant history

DC - 10/03295/FUL - WD - 2 December 2010 - Erection of 9no. two bed dwellings with parking, altered site access, landscaping and ancillary works following demolition of garage workshop.

DC - 11/04250/CA - PCO - - Demolition of garage workshop.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Environmental Health - object to the application on the basis that the site is unsuitable due to the exposure to noise of an industrial nature

Environment Agency - no objection subject to the inclusion of conditions

Highway Development - Development outside of the Housing Development Boundary and therefore unacceptable in principle but no objection to the details of the development subject to conditions.



Landscape - no objection subject to a number of points relating to soft and hard landscaping being resolved

Contaminated Land - No objection subject to the inclusion of conditions

Radstock Parish Council - Object to the development on the following grounds

- Loss of employment use
- No vehicular access or water access to allotments
- No proposals to build retaining walls to address slippage
- Noise pollution
- Ecology (including bat) information out of date
- Non compliant with ET3, CF8, and potential to compromise NR13, NE9, N10, N11 and NE12

1 representation has been received and the comments can be summarised as follows:

- Ownership/access issues
- Impact of the development on any future occupiers of the adjacent yard if this is also developed

### **POLICIES/LEGISLATION**

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

HG1 Meeting the District housing requirement

HG4 Residential development in the urban areas and R1 settlements

HG10 Housing outside settlements

ES12 Noise and vibration

ET3 Core Employment Sites

ES14 Unstable land

ES15 Contaminated Land

D2 - General Design and public realm considerations

D4 - Townscape considerations

HG4 - Residential development in the urban areas and R.1 settlements

NE3 Important Hillside

CF8 Allotments

NE10 - Nationally important species and habitats

NE11 - Locally important species and habitats

BH6 - Development within or affecting Conservation Areas

T24 - General development control and access policy

of the Bath & North East Somerset Local Plan (including minerals and waste policies) 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 and will be given full consideration.

## **OFFICER ASSESSMENT**

### Principle of development

Policy HG.4 of the Local Plan states that residential development in the urban areas will be permitted if it is within the defined Housing Development Boundary. The application site is located outside of the defined Housing Development Boundary 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.

Adjacent to the site lies a designated General Development Site within the 2007 adopted Local Plan, which proposes a mixed use scheme for residential use to accommodate about 30 dwellings (Proposal NR13 - Coombend Radstock). This has not been delivered and we are now at the end of the plan period. This however demonstrates that there is scope for new residential development within Clandown. The agent argues that the proposal as outlined in NR13 should be categorised as a non-deliverable housing scheme.

The Draft Core Strategy Policy SV1 - Somer Valley Spatial Strategy priorities development on previously developed land, and the redevelopment of vacant and underused industrial land and factories. The Policy aims to enable up to 2700 new homes to be built at Midsomer Norton, Radstock, Westfield, Paulton and Peasesdown St John. This Policy ensures that any new housing above the existing commitment of 2,200 dwellings is within the Housing Development Boundary. The Housing Development Boundary will be reviewed accordingly to enable delivery of the overall scale of development directed towards the Somer Valley Area.

However, this needs to be set against the priorities set out in the National Planning Policy Framework (NPPF). 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.

Paragraph 49 of the National Planning Policy Framework (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".

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 any defined housing development boundary, 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 this case, it is therefore not considered that the application could be solely refused on the grounds that it falls outside of any Housing Development Boundary.

#### 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.

The site comprises a single small building together with open areas which would have been used for the storage/display of vehicles. The building is of a basic design and of a poor condition due to its lack of use over the last couple of years. It would be difficult to bring the site back into any form of beneficial employment use without at least refurbishment of these buildings, which would in itself be likely to require planning permission. Bringing the site back into full active use is likely to result in unacceptable environmental and traffic impacts due to the access and circulation difficulties along Coombend. Further when 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 and local environmental benefits of an alternative use.

Given the above, there is no objection to the loss of the employment land or the development in principle.

#### CHARACTER AND APPEARANCE

The current site does not contribute positively to the character and appearance of this part of the Conservation Area. The existing building is of no architectural merit with the frontage of the site being dominated by the hard surfacing/parking area. There is therefore no objection to the loss of this building and the redevelopment of this site, subject to a satisfactory scheme being put forward.

The proposed units are of a suitable scale and reflect the modest size dwellings in this area. The small units are in keeping with the cottage style of both the traditional and more recent developments along Coombend. The development along the street frontage reflects the character of the area and continues the adjacent established building line. The dwellings to the rear follow the building line of the recently constructed terrace.

The number of units is considered to be acceptable on the site, and is not considered to represent the over development of the site. Whilst it is noted that there is relatively a large amount of parking area associated with this development, this is predominately to the rear of the site, so the impact upon the wider area is limited.

The houses are proposed in rough cast render with reconstructed Bath stone coins, head sills and surrounds, painted wood windows and doors, and brick chimney stacks. The roof is proposed in interlocking concrete tiles. These materials are considered to be acceptable in this area which comprises houses constructed from of a variety of materials, and is again similar to the recently built terrace.

The agent notes that the Local Plan identifies the unique character attributed to Radstock by its location at the convergence of five valleys which have prominent hillsides. However the development is considered to be sited as to ensure that the encroachment upon the hillside is minimal by retaining a large part of the site undeveloped and this has limited the impact upon this hillside. It should also be noted that there is already a large building on the site and therefore the development is considered to be sited appropriately on this plot between Coombend and Bath New Road.

The Council's Landscape Officer has raised concerns with regards to the choice of planting within the site, and a revised planting/landscaping scheme can be controlled through the inclusion of a condition on any planning permission to ensure that there is an appropriate landscape setting.

The development overall is considered to enhance the character and appearance of this part of Radstock Conservation Area.

#### Highway safety

With regards to the withdrawn scheme which was for 9 dwellings, it was previously advised that the scale of development would require an adoptable road. The layout as previously proposed was not considered conducive to an adoptable road. This has been reconsidered following receipt of additional information and as the majority of the dwellings front the existing adopted highway of Coombend, the whole access road could remain as private. This allows more flexibility in the layout, and allows for better provision for parking.

With regard to the principle of development, as the site falls outside of the Housing Development Boundary, the Highway Development Officer notes that this development would be contrary to policy. Whilst there are local facilities and public transport services close to the development, the Highway Development Officer considers that the site is not considered to be in the most sustainable location, and with the lack of appropriate footways to reach destinations providing such services, it is considered that the main mode of travel is likely to be the private car, which is contrary to sustainability policies. However, the principle of development has been considered above and the fact that the development is outside of the Housing Development Boundary would not on its own, be a reason for refusal. Whilst it is accepted that this development is not in an ideal location in terms of proximity to local facilities and public transport provisions, the development is not considered to be in an isolated position and is in reasonable distance of these facilities.

With regard to the detail of the scheme, the proposal is described in the Transport Statement as a development of seven 2-bedroom houses arranged around a shared surface access, with the initial length of the access being offered for adoption, and the remainder being private. Each dwelling would be allocated two parking spaces, and cycle parking is also to be accommodated in sheds within the rear gardens of the dwellings.

The Transport Statement has assessed the traffic generation of the former garage workshop use and the traffic that would be generated by the proposed residential use, together with an assessment of other modes of travel, and concludes that the proposed residential use would generate less movements than the former garage workshop use. It is recognised that the residential use will have a different pattern of movement from the former use.

The site access is proposed to be moved slightly from its current position, to secure an improvement to the visibility, which although not in line with current recommended standards, is considered by the Transport Consultants to accord with speeds of between 20-26mph. The submitted scheme proposes a footway across the frontage of the site, where there is currently none, which also incorporates the required visibility splays.

The access road is shown at 4.8m wide as a shared surface to serve two dwellings to the rear of the site, together with all the car parking, with the remaining five dwellings fronting onto Coombend itself. On the basis that the new access road would only have two properties with a direct frontage to the access road, it is considered that the access road need not be an adoptable road, and furthermore, the initial section shown to be offered for adoption would not be considered appropriate without the benefit of a turning head.

It therefore seems more appropriate for the access road, in its entirety, to remain a private road. The footway fronting the site, and adjacent to Coombend, would therefore be better to be continuous across the site frontage, with the vehicular access providing a private driveway off the back of the footway. The footway will need to be constructed in accordance with the Council's standards, and dedicated as public highway through a Section 38 Agreement.

It is understood from Waste Services that if the standard of the private access road is suitable, their vehicles would be able to utilise the access to carry out the bin collections. This would not need to be an adopted road. The location of the bin storage areas would

not exceed the recommended bin carry distance to kerbside collection points, although it is accepted that the distance from Plots 6 & 7 themselves would exceed this standard.

The submitted Traffic Manoeuvres plan shows that a refuse vehicle can adequately manoeuvre within the first part of the access road. The parking spaces for Plots 1-5 are, in some instances, remote from the corresponding dwellings, but it is noted that at least one space per dwelling is located as close as possible, in order to encourage their use. Having regard to the constraints of the site, it is considered that the layout, as submitted, achieves the best arrangement possible.

On balance therefore, the proposed development is not considered to result in any undue harm to highway safety.

#### Residential amenity

The proposed development is not considered to have a detrimental impact upon the residential amenity of the existing neighbouring occupiers. The dwellings are sited to ensure that they do not have an unacceptable overbearing impact or result in a significant level of light loss to the neighbouring occupiers. Further, due to the appropriate siting and screening proposed, the development is not considered to result in an unacceptable loss of privacy from the existing neighbouring occupiers.

The dwellings are of a modest scale but are considered to offer satisfactory living conditions in terms of the size of the property and amenity area provided. Detailed discussions have been held with regards to the impact of the adjacent noise, from the road and the neighbouring industrial site, on the residential amenity of the future occupiers of this development. With regards to road noise, the noise assessment has concluded that using the guidance in the former PPS22, the site would fall into Noise Exposure Category B. It is normal in these instances to ally a condition to ensure that appropriate sound attenuation measures are included in the new development.

However, the Council's Environmental Health Officer has raised concerns with regards to the impact of the industrial noise on the residential amenity of the neighbouring occupiers. The assessment concluded that between the hours of 06:00 and 07:00 the noise from Perfect tools was definable over the general road traffic noise. A British Standard 4142 assessment was undertaken to determine the impact of industrial noise, this resulted in a 'difference' of +9 decibels. This exceeds the 'difference' of +5 decibels where the British Standard states the likelihood of complaints is of 'marginal significance'. However, the agent states that the likelihood of complaints in the British Standard is based on dwellings with open windows. The proposed dwellings will have sealed windows and mechanical means of ventilation to control the road traffic noise. In this case the British Standard assessment does not necessarily accurately reflect the likelihood of complaints as the windows will be closed and ventilation provided by mechanical means. The agent believes that with the sound attenuation measures (closed windows and attenuated ventilation) that the industrial noise can be adequately controlled so as not to adversely affect the amenity of the proposed residential occupiers. The concerns of the Council Environmental Health officer relates to the fact that providing the buildings with sound insulation measures to control industrial noise to a level which is considered acceptable is not appropriate as the occupiers could open their windows, negating the benefit of the sound insulation measures and being exposed to unacceptable levels of industrial noise. However, as

stated above, the agent has cited that the dwellings will be designed with windows that will be closed.

The applicant's consultant has confirmed that they believe that the relevant standards can be met and highlight that there are a number of other residential properties, including 39 Coombend which is in close proximity to the noise source. It is considered, on balance, that given that as this is a new build scheme, where full sound attenuation measures could be incorporated into the building, the level of harm would not be significant enough as to warrant a refusal. Whilst it is noted that a number of the windows will not be able to be opened, there will be satisfactory ventilation and the living conditions are not considered to be so unsatisfactory as to warrant a refusal.

### Ecology

Whilst the comments of the Parish Council are noted with regards to the date of the survey, the Council's Ecologist is satisfied that the information is sufficient to ensure that there will be no harm to any protected species. The report cites that the building does not have the potential for bat roost and the remainder of the site is not home to any protected species.

### Land stability

With regards to the stability of the adjacent land, the site sections plans shows a retaining wall to the rear. The agent has confirmed that consideration has been given to the height and construction design of the retaining wall to ensure that it can be delivered as part of the development scheme to an appropriate standard to ensure ground stability. The agents highlights that the two properties to the rear are on relatively flat ground so that, although there is a retaining wall running off in an easterly direction into the slope to support the principal retaining wall for the turning head and parking spaces, there is no need for a retaining wall to continue along the east side elevation of these semi-detached units.

This issue would be dealt with in full at the building control stage, but the issue was addressed by the applicant and consideration has been given to the measures needed to ensure that the land remains stable. However, a condition can be included on any planning permission, requiring submission and approval of the construction of the retaining walls, prior to the commencement of the development.

### Contaminated land

The Environmental Screening report states that there is a potential risk for contamination of the soils and any shallow groundwater which may be present due to the historical use of the site as both a builders yard and a garage. The Environmental Screening report concludes that there are potential pollution linkages between potential sources of contamination onsite which could present a risk to future site workers and site occupants. The report states that given the proposed residential use of the site, a site investigation is necessary to ensure there are no unacceptable levels of contamination on site given its sensitive end use and also to ensure there is no contaminant migration from the site into the nearby Clandown Bottom (brook) and any other off-site receptors. Conditions are

therefore required on any planning permission to ensure that these matters are given full consideration.

## ALLOTMENTS/OPEN SPACE

The application proposes allotments to the rear of the site. Limited details have been provided with regards to the future use of these allotments. Whilst it is considered that they are in a suitable location for the residents of Coombend/Clandown, there are concerns with regards to the slope of the land, and the practicalities of the using this part of the site for allotments. The agent has confirmed that this area of the site could also be left as open space rather than allotments. This would be viewed as part of the adjacent hillside and would be an acceptable use of this parcel of land. Whilst it has been suggested by a third party. that contributions are sought for the community garden in Clandown, it is not considered that this would meet the appropriate tests including necessity under Regulation 122 of CIL which has to be applied in this instance.

## Other issues

Third party has raised concerns with regards to the impact on any occupiers of a future development at the adjacent yard. However, the amenity of these occupiers would be assessed if any application were to be submitted.

## CONCLUSION:

The proposed development is contrary to Policy HG.4 of the Local Plan, being located outside the Housing Development Boundary. 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 the proposed development is acceptable.

## RECOMMENDATION

PERMIT with condition(s)

## CONDITIONS

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

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

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



Reason: In the interests of amenity and highway safety.

3 The development hereby permitted shall not be occupied until the access, parking and turning areas have been properly bound and compacted (not loose stone or gravel) in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

4 The development shall not be occupied until provision has been made within the site for the disposal of surface water so as to prevent its discharge onto the highway, in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

5 Before the dwellings hereby permitted are first occupied 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 and the extremities of the site frontage shall be cleared of obstruction to visibility at and above a height of 600mm above the nearside carriageway level and thereafter maintained free of obstruction at all times.

Reason: In the interests of highway safety.

6 Before the dwellings hereby permitted are first occupied, the footway across the frontage of the site shall be constructed and laid out in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

7 No development shall commence until details of the proposed internal ventilation system has been approved in writing by the Local Planning Authority. The proposed development shall not be occupied until the approved details have been carried out on site.

Reason: In the interest of the amenity of the residents of the development.

8 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 character and appearance of the Conservation Area.

9 Prior to development commencing on site, full details of the retaining structures needed to ensure the stability the slope shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To safeguard the stability of the slope.

10 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:

-all previous uses

-potential contaminants associated with those uses

-a conceptual model of the site indicating sources, pathways and receptors

-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.

4) 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 prevent pollution of controlled waters.

11 No development shall commence 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.

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

## 12 Site Characterisation

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: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes, adjoining land, groundwaters and surface waters, ecological systems, 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'.

### 13 Submission of Remediation Scheme

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

### 14 Implementation of Approved Remediation Scheme

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 3 workers, neighbours and other offsite receptors

### 15 Reporting of Unexpected Contamination

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 13, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 14, 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 15.

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

#### 16 Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of [x] 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

17 No dwelling shall be occupied until its associated screen walls/fences or other means of enclosure have been erected in accordance with the approved plans and thereafter retained.

Reason: In the interests of privacy and/or visual amenity.

18 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.

19 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.

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

Reason: To ensure that any future occupiers of the development are safeguarded from an undue level of noise and disturbance

21 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: 01, 02D,03C,04D, 05, 06D date stamped 30th September 2011 and Site location plan date stamped 3rd October 2011

**REASONS FOR GRANTING APPROVAL**

1 The proposed development is contrary to Policy HG.4 of the Local Plan, being located outside any Housing Development Boundary. 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 the proposed development is acceptable. The development is considered to enhance the character and appearance of this part of the Conservation Area and is not considered to have an adverse impact upon highway safety or residential amenity

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.

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

HG1 Meeting the District housing requirement

HG4 Residential development in the urban areas and R1 settlements

HG10 Housing outside settlements

ES12 Noise and vibration

ET3 Core Employment Sites  
ES14 Unstable land  
ES15 Contaminated Land  
D2 - General Design and public realm considerations  
D4 - Townscape considerations  
HG4 - Residential development in the urban areas and R.1 settlements  
NE3 Important Hillside  
CF8 Allotments  
NE10 - Nationally important species and habitats  
NE11 - Locally important species and habitats  
BH6 - Development within or affecting Conservation Areas  
T24 - General development control and access policy

The National Planning Policy Framework

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

The proposed development is not fully in accordance with the Policies set out below at B, but the planning merits of the proposed development outweigh the conflict with these Policies.

B HG4 Residential development in the urban areas and R1 settlements  
of the Bath & North East Somerset Local Plan (including minerals and waste policies)  
2007.

Bath and North East Somerset Submission Core Strategy (May 2011)

0 The applicant should be advised that the construction and dedication of the footway will need to be subject of a Section 38 Agreement with the Local Highway Authority.

0 Under the Water Resources Act 1991 and Land Drainage Byelaws, Flood Defence Consent is required from the Environment Agency. This is required for any works taking place in, over, under or within 8m of the Coombend Culvert. The need for Flood Defence Consent is separate to planning permission.

Advice to Planning Authority/Applicant:

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

The applicant should refer to the Pollution Prevention Guidelines, which can be found at:

<http://www.environment-agency.gov.uk/business/topics/pollution/39083.aspx>

**Item No:** 05  
**Application No:** 11/04250/CA  
**Site Location:** Automobile Services, 37 Coombend, Radstock, Bath And North East Somerset



<b>Ward:</b> Radstock	<b>Parish:</b> Radstock	<b>LB Grade:</b> N/A
<b>Ward Members:</b>	Councillor E Jackson	Councillor S Allen
<b>Application Type:</b>	Conservation Area Consent	
<b>Proposal:</b>	Demolition of garage workshop.	
<b>Constraints:</b>	Agric Land Class 3b,4,5, Coal - Standing Advice Area, Conservation Area, Forest of Avon,	
<b>Applicant:</b>	Henrietta Matthews House Ltd	
<b>Expiry Date:</b>	28th November 2011	
<b>Case Officer:</b>	Tessa Hampden	

## REPORT

Site description and proposal

The application site relates to a former car garage workshop site, and land to the rear of 28-34 Coombend, located in Coombend in Radstock. Coombend runs parallel to the Bath New Road and sits between Radstock and Clandown. The site is set within the Radstock Conservation Area.

The application seeks Conservation Area Consent for the demolition of the garage workshop building. This is association with a proposal for the erection of seven number 2 bedroom units.

Relevant planning history

DC - 10/03295/FUL - WD - 2 December 2010 - Erection of 9no. two bed dwellings with parking, altered site access, landscaping and ancillary works following demolition of garage workshop.

DC - 11/04249/FUL - PDE - - Erection of 7no. two bed dwellings with parking, altered site access, landscaping and ancillary works and allotments following demolition of garage workshop (Resubmission)

## SUMMARY OF CONSULTATIONS/REPRESENTATIONS

None received

## POLICIES/LEGISLATION

From the point of view of the historic environment the main consideration is the duty placed on the Council under S 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the Conservation Area.

The Bath & North East Somerset Council Local Plan including minerals and waste policies, adopted October 2007 - Policy BH.7 is relevant in cases where buildings are considered to make a positive contribution to the special character or appearance of a Conservation Area.



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: BH7

The NPPF was published in March 2012, but there is not considered to be any conflict with the above policies.

### **OFFICER ASSESSMENT**

The current site does not contribute positively to the character and appearance of this part of the Conservation Area. The existing building is of no architectural merit and in a poor state of repair. There is therefore no objection to its removal.

It is therefore recommended that Conservation Area Consent is granted.

### **RECOMMENDATION**

CONSENT with condition(s)

### **CONDITIONS**

1 The works hereby approved shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

2 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 date stamped 3rd October 2011 and 05 date stamped 30th September 2011

Reasons for granting consent:

The decision to grant consent for the proposed demolition subject to conditions has been made in accordance with S 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character and appearance of the Conservation Area. The Council considers the proposal will not detract from the character and appearance of the Conservation Area.

**Item No:** 06  
**Application No:** 12/04286/OUT  
**Site Location:** 5 Bath Road, Peasedown St. John, Bath, Bath And North East Somerset



<b>Ward:</b> Peasedown St John	<b>Parish:</b> Peasedown St John	<b>LB</b>
<b>Grade:</b> N/A		
<b>Ward Members:</b>	Councillor S F Bevan	Councillor N L R L Hartley
<b>Application Type:</b>	Outline Application	
<b>Proposal:</b>	Erection of one pair of semi detached dwellings on land at rear of 5 Bath Road	
<b>Constraints:</b>	Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Housing Development Boundary,	
<b>Applicant:</b>	Mr & Mrs N Jory	
<b>Expiry Date:</b>	26th November 2012	
<b>Case Officer:</b>	Daniel Stone	

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE

Councillor Harley has requested that considering the high number of public comments received regarding the application and the support from the Parish Council, the application should be considered by Committee. The Chair of the Committee has agreed that this application should be considered by Committee.

### SITE CONTEXT AND PROPOSALS

The application site consists of a detached two storey dwelling on Bath Road in Peasedown St, John. The property has a very extensive rear garden, 48 metres deep and 12.5 metres wide.

To the west of the property runs a public footpath, and to the east is a shared residential access serving 4 and 5 Bath Road. The private drive runs between the two properties into the rear garden of number 5 and to a gateway into the rear parking area of number 4. This parking area is used by the occupants of number 3, number 4 and is also used to access the garden at the rear of number 4 (known as 8 Chapel Field), which is in separate ownership to the house.

Consent is sought for the erection of 2 two-storey, semi-detached properties at the bottom of the garden, accessed via the existing private drive serving 4 & 5 Bath Road. The application is in Outline, with Landscaping and Appearance as reserved matters. Consequently under consideration is the principle of 2 dwellings, the proposed layout and scale of the buildings proposed and the proposed means of access.

In response to the case officers feedback, the applicant has recently submitted a proposed ground floor and first floor layout, which confirms that the dwellings would have no windows in their side elevations, but would have 1st floor windows looking north back towards 5 Bath Road and south over private residential gardens.

The immediate area is characterised by a mix of Victorian terraces and semi-detached properties fronting onto Bath Road. To the east, Belle Vue Close consists of backland, infill development, served off a private road, and beyond this is a modern planned

suburban development. The site of the proposed dwellings is effectively in the middle of the "block", with residential gardens all around.

#### RELEVANT PLANNING HISTORY:

06/03940 - Construction of detached single-storey annex to rear of 3 and 4 Bath Road - refused.

06/01811/FUL - Erection of second storey rear extension, 5 Bath Road - Approved

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

Consultation letters were sent out to 23 properties and a notice was placed in the local press.

To date 17 responses have been received, of which 11 are letters of objection, 5 are letters of support and 1 is a general comments. The responses can be summarised as follows:

##### Letters of Objection

##### Amenity Considerations

- The houses will overlook our private rear garden (Pleasant View, Huddox Hill) at close proximity, overshadowing us and intruding on our privacy.
- The development would overshadow the rear gardens of 3 and 4 Bath Road.
- There is insufficient room for 2 dwellings. The proposed houses would have tiny gardens and hardly any outdoor space.
- The peace of our back gardens will be destroyed during building works, and once occupied the area will become overcrowded, with vehicle noise at the back of our properties

##### Highway Safety

- Bath Road is too congested to accept the additional traffic, with illegal parking, traffic to the co-op supermarket, school children and buses
- There is inadequate visibility onto Bath Road. The front boundary wall belonging to number 4 Bath Road will not be reduced in height to improve visibility as it doesn't belong to the applicants.
- The highways officer is misinformed as to the number of households using the private access road. 3, 4 and 5 Bath Road all use this access, plus the owners of the garden / smallholding at the rear of 4 Bath Road (known as 8 Chapel Field) who also park at the rear of 4 Bath Road. Due to lack of turning space, all of the drivers who park at the rear of 4 Bath Road have to reverse out onto the main Road.
- The access drive is too narrow and has too sharp a turn in it to be able to be used safely by 6 households.

- The development will result in drivers having to wait on Bath Road to get into the site.
- The proposed site plan is inaccurate, showing the driveway as wider than it really is and implying a less acute turn to get into the rear garden of 5 Bath Road.
- The access route to the site is inadequate for lorries and will cause hold-ups on the main road and disturbance to the properties opposite.

#### Design

- Two semi-detached houses will look totally out of place in this location.
- The development will destroy the older, mature, unspoilt part of the traditional village
- Object to loss of garden space for growing food

#### Ecology

- There is a badgers sett in the vicinity of the site, travelling daily through the gardens of 4 and 5 Bath Road.

#### Precedence

- Consent was previously refused for a single storey annex at the back of 3 and 4 Bath Road (06/03940), the reasons being that it "would be tantamount to the erection of a new dwelling which would constitute backland development and would be out of character within the group of properties in this part of the village in conflict with Local Plan Policies D.2 and D.4". This application should also be refused for consistency.
- The last time planning consent was sought for a house at the rear of 5 Bath Road it was refused. This application should also be refused for consistency. (NB: Officers cannot find the records of this previous application.)

#### Enforcement Queries

- The applicants have uprooted a native hedge and erected a fence without planning permission. (This has been the subject of an enforcement query that concluded the hedge was not protected, and planning permission was not required for the erection of the fence.)
- Within the last 6 months the owners of Bath Road have cut down a willow tree a few feet from the development.
- The boundary to the east is a party fence and 5 Bath Road do not have the right to change it to close boarded fencing without the permission of 4 Bath Road (This is a civil issue, not a consideration for the planning application.)

## Health and Safety

- The Council should consider whether if it is appropriate from a health and safety perspective for new properties to be erected so close to where livestock are kept. 7  
Cockerels are kept immediately adjacent to the location of the proposed dwellings.
- The houses will be too close to the electricity cables
- The development makes no provision for the access of emergency vehicles

## Other

- The proximity of existing trees in the gardens of 4 and 4 Bath Road makes the land unsuitable for development due to heave and subsidence.
- There is no need for additional housing, due to the 'Peasedown Meadows' development which will create 2 - 4 bedroom houses to satisfy local housing need.
- Impact on school and doctor provision in the village.
- Both residents of 4 and 5 Bath Road have submitted comments discussing the legal rights of access over the private drive. (These are civil issues, and are not material considerations for the determination of the planning application.)

## Letters of Support

- There is a nation-wide shortage of affordable housing and looking at the plans, this development would provide reasonably affordable accommodation for local people and work for local tradesmen. Developers David Wilson Homes are building considerably more homes locally, but at prices which are above what first time buyers can afford.
- I live opposite the site (69 Bath Road) and cannot believe there would be an adverse impact in terms of more traffic, a reduction in the value of the surrounding homes, or a burden on local services.
- I live opposite the site (68 Bath Road) and support the application. There is a strong sense of community on this road and more houses can only add to this.
- The development will not have an effect on traffic or highway safety, as the village is getting bigger with much larger developments than this. The parking for the proposed houses is more than adequate and up to 5 houses can use a private drive.
- There is a shortage of affordable housing in the village.

PEASEDOWN PARISH COUNCIL - Support, but no reasons for this support have been given.

## HIGHWAYS DEVELOPMENT CONTROL - NO OBJECTION

Visibility at the access position is considered adequate providing the front boundary wall to the existing dwelling (5 Bath Road) is reduced in height to afford improved visibility in a

westerly direction to a maximum height of 0.9 metres (currently it is the wall pillars that obstruct visibility).

Vehicular turning space is maintained/provided within the curtilage of the site so all vehicles will be able to leave and re-enter the public highway in a forward gear. Whilst the access is not wide enough to permit vehicles to easily pass within it, access is from a traffic calmed environment, so the intensification in use is not considered to be detrimental to highway safety.

The proposed level of on-site parking provision, two spaces each for the existing and proposed dwellings is considered adequate. The existing access has the benefit of being surfaced with a bound material and has a good footway crossing. No alterations are proposed to the access.

#### ADDITIONAL HIGHWAY COMMENTS, IN RESPONSE TO OBJECTIONS

Our normal standard is a maximum of 5 dwellings off a private drive. The 2 proposed dwellings will not result in this number being exceeded. Regarding the daily visitor to the garden for 8 Chapel Field, it is not clear whether or not the person concerned has a legal right of way and, in any event, it is not really any different to having a home help visit one of the existing dwellings on a daily basis.

Who is responsible for maintenance of the driveway is not a highway consideration. The submitted plans do not detail the pillar on the boundary of no 4 as being reduced in height. However, if the owner of no. 4 considers this to be a problem then they have the ability to reduce the height of their pillar for, not only their own benefit, but for the benefit of all users of the access.

All vehicles within the limits of the application site, including existing and proposed dwellings, will be able to turn so as to leave and re-enter the public highway in a forward gear so the increased use will not have any material impact on highway safety.

Regarding vehicles associated with no's 3 and 4, it is strongly recommended that they do not reverse onto the public highway, in accordance with the highway code. Either they should reverse off the highway or consider providing turning space within their curtilage (as the objector recognises, it is not in the interests of highway safety for them to leave their site in a reverse gear). However, even if turning space is provided, we cannot enforce its use.

Despite the above, the proposed development is unlikely to make this situation worse and it does result in some improved visibility across the frontage of no. 5 for all drivers entering the public highway.

Currently this area is subject to a 30mph speed limit with the highway fronting the site being subject to speed reduction measures. However, a 20 mph speed limit is proposed and the associated Traffic Regulation Orders are currently being proceeded with.

Bearing in mind the above, I do not consider there to be sufficient grounds to object to this development, with access within a traffic calmed environment, to be sufficient to justify a reason for refusal.

TRANSPORTATION AND HIGHWAYS (DRAINAGE) - No objections subject to a condition being applied requiring the approval of details of surface water drainage.

PUBLIC RIGHTS OF WAY TEAM - Public Footpath BA19/34 abuts the site as shown by the solid pink line on the attached plan. The line and width of the path must not be obstructed during or after works.

EDUCATION SERVICES have requested contributions of £5,516.21 towards the provision of primary school places and £400.20 towards Youth Services provision

Projections for Peasedown St. John Primary school indicate that by 2015, all places in year groups Year R, 1, 3, 5 and 6 will be full with no surplus capacity available. Five year groups will therefore be at capacity and there is projected to be sufficient available capacity in the other two primary year groups to accommodate the pupils generated by the development.

The contribution towards Youth Services Provision applies to all new houses of 2 beds or more as existing provision in Bath and North East Somerset is sufficient to meet the needs of the current population only.

## **POLICIES/LEGISLATION**

Policies/Legislation:

Adopted Local Plan:

- HG.1 - Meeting the District housing requirement
- D.2 General design and public realm considerations
- D.4 Townscape considerations
- T.1 Overarching access policy
- T.6 Cycling Strategy: cycle parking
- T.24 General development control and access policy
- T.26 On-site parking and servicing provision
- IMP.1 - Planning obligations
- NE.4 - Trees & woodland conservation
- NE.10 - Nationally important species and habitats
- NE.12 - Natural features: retention, new provision and management

Core Strategy

- SV1 - Somer Valley Spatial Strategy
- National Planning Policy Framework

## **OFFICER ASSESSMENT**

KEY ISSUES:

A. IS THE PRINCIPLE OF RESIDENTIAL DEVELOPMENT ACCEPTABLE ON THIS SITE?



## Policy Context

Policy SC.1 of the Adopted Local Plan defines Peasedown St John as an R.1 rural settlement. Policy HG.4 advises that development will be permitted in R.1 if it is within the defined housing development boundary and it is appropriate to the scale of the settlement in terms of the availability of facilities and employment opportunities and accessibility to public transport.

The site lies within the housing development boundary, is a development of limited scale, and is close to facilities and public transport, with a reliable bus route and shops located close by on Bath Road. As a consequence, the principle of residential development on this site is considered to be acceptable from a policy perspective.

The principle of residential development within the development boundary is also supported by Core Strategy policy SV1, which discusses up to 2,700 new homes to be built at Midsomer Norton, Radstock, Westfield, Paulton and Peasedown St John.

With the publication of the National Planning Policy Framework, the coalition government has given a strong signal that sustainable forms of development should go ahead without delay, and have emphasised the need to increase housing supply to meet market demand. The site is just such a sustainable location for new housing and there is a significant unmet demand for housing in the District, which this development would help to meet.

### B. IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN TERMS OF HIGHWAY SAFETY?

Officers note the concerns raised regarding highway safety concerns and in particular regarding the impact of a further two households using the shared private drive.

However the highway safety concerns raised seem to stem primarily from the intensity of use of the existing parking area at the rear of 4 Bath Road, which is currently used by 2 households and the small-holders. Due to the number of cars parked, there is no turning room, and all these vehicles have to reverse down the drive and out onto the main road to turn. It seems likely that the occupants of 5 Bath Road may also reverse out onto the main road in a similar fashion.

In this regard, the proposed development would enable the occupants of 5 Bath Road and the two new dwellings to turn on site and come out in forward gear, and the two additional dwellings would also have turning space on site. Highways Colleagues have therefore confirmed that as a result the increased level of use will not have any material impact on highway safety. The development would not result in more than 5 dwellings using the private drive, and the main road is scheduled to have a 20 mph speed limit applied to it.

Planning officers support this assessment. If vehicles entering the site to access the proposed dwellings are confronted by vehicles reversing out onto the public highway, the cause of any highway safety concerns is the vehicle reversing, not the vehicles accessing the new dwellings.

The Council's Building Regulations department advised that ordinarily Fire Engines would be expected to approach to within 45 metres of a dwelling (the length of a fire hose) to enable access to be enabled in case of fire. This could not be achieved here, and fire appliances would be too wide to drive down the private access, however this issue could be overcome by fitting a sprinkler system to the proposed dwellings and this would meet Building Regulations requirement. As a consequence this is not considered to be an insurmountable problem and is not a reason for the refusal of the application.

### C. IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN TERMS OF THE IMPACT ON THE AMENITY OF SURROUNDING RESIDENTS?

Local policy D.2 advises that development will only be permitted if.. "the proposed development will not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reason of loss of light, or increased overlooking, noise, smell, traffic or other disturbance."

The National Planning Policy Framework (NPPF) advises (para 17) that planning should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. At paragraph 64. the NPPF advises, "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions."

The site faces onto private rear gardens to the east, south and west and as shown in the site layout plan the proposed dwellings would be sited approximately 5 metres from the end of the host garden. The recently submitted ground and first floor plans confirm that the proposed dwellings would overlook the adjoining garden of Pleasant View from a distance of only 5 metres, and viewed from this and surrounding gardens the buildings would have an overbearing effect, by virtue of their height and proximity.

Whilst the site is large for a back garden, once space is allocated for parking and turning, the proposed dwellings, which would both be 3-bed family houses would have relatively small back gardens. Activity levels within these proposed gardens and on the access drive to them would be significantly greater than at present. The effect of this intensity of development and the introduction of traffic so far into the garden of the property would introduce noise and disturbance into an area that the residents are used to being quiet and undisturbed.

There are similar concerns about the impact of the proposals on the amenity and privacy of the occupiers of both 4 and 5 Bath Road, who would experience a significant increase in traffic using the drive between the two properties, which runs right past their properties and an equivalent increase in noise and disturbance.

Collectively these effects would unacceptably detract from the privacy and amenity of residents adjoining the site, and overall, whilst the principle of residential development is acceptable, the site is poorly suited to the intensity and form of development proposed. Likewise the proposed layout, predicated on squeezing two new dwellings and parking for three households onto the site, would not minimise the amenity impacts of the proposed development and would constitute the overdevelopment of the site.

#### D. IS THE SCALE AND FORM OF THE PROPOSED DEVELOPMENT ACCEPTABLE?

The application is in outline, but consent is sought for the principle of two semi-detached dwellings within the site and for the scale of development shown in the plans.

The proposed development would not be prominent from Bath Road, but would be seen prominently from the adjoining public footpath and also from the surrounding properties. Whilst the appearance of the scheme is a reserved matter, conventional two-storey semi-detached properties of the scale and form proposed would pay no regard to the backland nature of the site, would almost inevitably give rise to unacceptable overlooking impacts and would not be appropriate in this context. A single storey form of development of one dwelling, with vehicular access penetrating less far into the garden, may be much more appropriate for the context and would be more likely to resolve the amenity concerns raised above.

In 2006 a planning application for a single storey residential annex was refused in the rear garden of 4 Bath (reference 06/03940), adjoining the application site, on the basis that it would be out of character with the surrounding development. This is a material consideration in the consideration of this and any subsequent application, however it doesn't change the assessment of this application, which is considered to be unacceptable for the reasons stated above.

#### E. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF PLANNING OBLIGATIONS?

The Supplementary Planning Document entitled "Planning Obligations" (Adopted July 2009) sets out the Council's overall approach to planning obligations and includes the policy justification, thresholds and where appropriate, the formulae used to calculate specific forms of commuted payment.

As set out in the comments from Education, there is no spare capacity at Peasedown Primary School, and therefore a developer contribution of £5,516.21 is necessary in order to increase provision. A small contribution of £400.20 is also required for Youth Services provision.

#### CONCLUSION

In principle, residential development in this location is acceptable, and on the basis of the highway comments the development is acceptable in terms of highway safety considerations. However, by virtue of the backland context of the site, the proposed 2 storey dwellings would have an unacceptable impact on the amenity of surrounding residents by virtue of overlooking and overbearing effects.

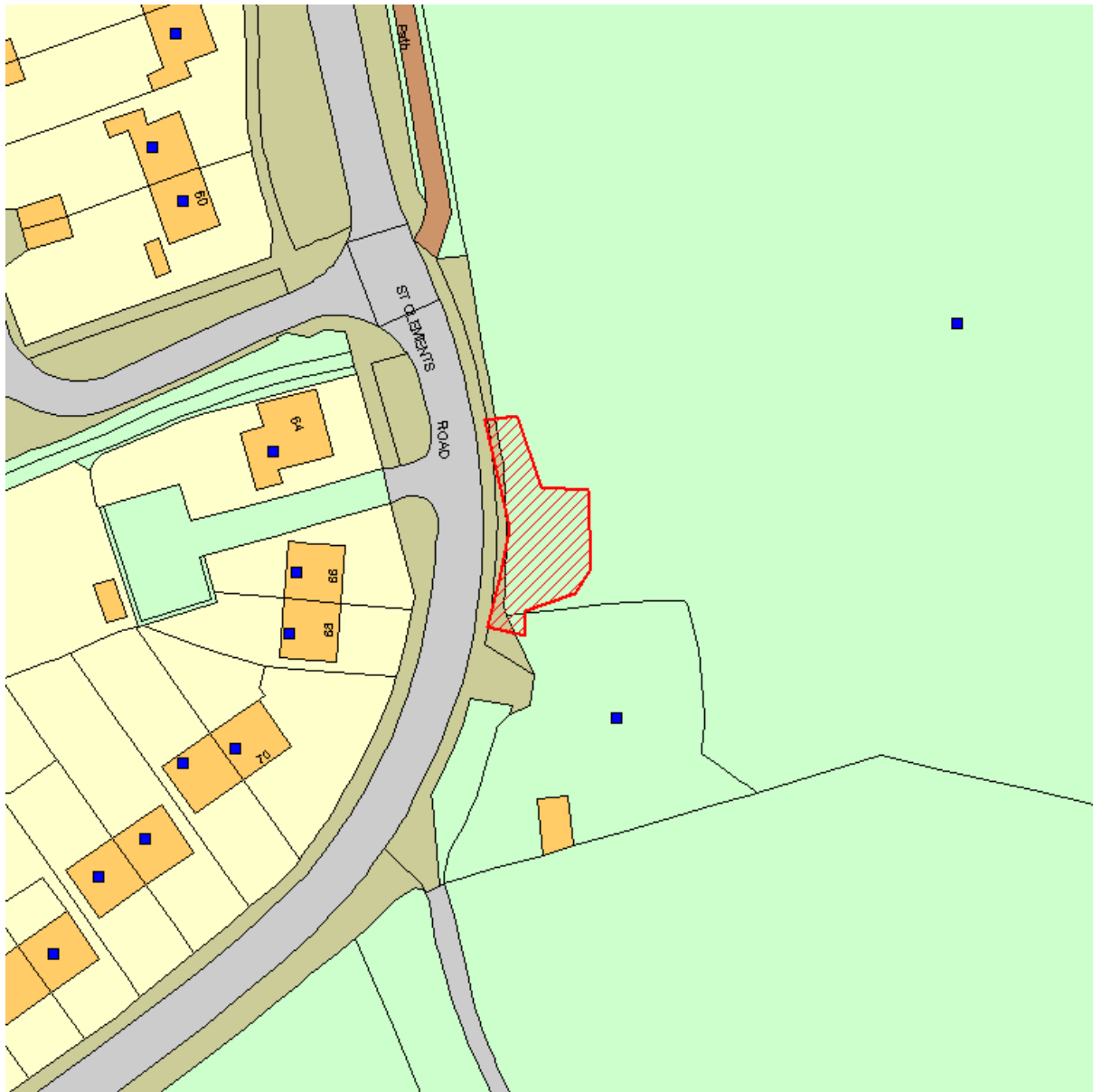
#### RECOMMENDATION

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

1 The proposed development, by reason of its 2-storey scale, proximity to adjoining back gardens, intensity of development and the introduction of vehicles so far into the site would constitute an unacceptable overdevelopment of the site, paying inadequate regard to its backland context. The development would have a detrimental impact on the amenity of surrounding residential occupiers by virtue of overlooking and overbearing effects and the introduction of excessive noise and activity into this quiet back garden location.

As such the development would be contrary to policy D.2 and D.4 of the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted 2007 and to the guidance set out in the National Planning Policy Framework.

**Item No:** 07  
**Application No:** 12/02966/FUL  
**Site Location:** Parcel 5975, St Clement's Road, Keynsham,



**Ward:** Keynsham South      **Parish:** Keynsham Town Council      **LB Grade:** N/A  
**Ward Members:** Councillor Alan Hale      Councillor Kate Simmons  
**Application Type:** Full Application  
**Proposal:** Erection of a new sewage pumping station.  
**Constraints:** Airport Safeguarding Zones, Agric Land Class 3b,4,5, Forest of Avon, Greenbelt,  
**Applicant:** Wessex Water Services Ltd  
**Expiry Date:** 7th September 2012  
**Case Officer:** Daniel Stone

## REPORT

### REASON FOR REPORTING APPLICATION TO COMMITTEE

Councillor Kate Simmons has raised concerns about lack of information around noise levels generated by the installation, odour generation, the hours of use and the reason why this site is preferred over the other possible site discussed, which was further from resident's properties. The Chair of the Committee has agreed that this application should be considered by Committee.

Members will be aware that on 22nd July 2011 planning permission was granted on Appeal for the development of the allocated housing site at the southern end of Park Road, Keynsham (identified as K.2(b) in the Bath and North East Somerset Local Plan and in the Council's Strategic Housing Land Availability Assessment (SHLAA)). The planning application for that scheme (09/04351/FUL) had previously been refused by this Committee. During the Inquiry, it was made clear that the development would require an off-site sewer connection, and the Inspector allowed the Appeal in the light of that understanding. The developer subsequently requisitioned the provision of the necessary connection from Wessex Water, and whilst most of the works (i.e. those underground) fall within Wessex Water's permitted development allowances, the need for a pumping station has necessitated the submission of the current application by Wessex Water. Members will need to consider the current application in the light of its own planning merits, and are advised that any remaining concerns about the approved development on the K.2(b) site are not material to the determination of this application.

### DESCRIPTION OF SITE AND APPLICATION

The application site consists of part of a field on the southern edge of Keynsham. The site is located within the Green Belt and looks out over the open countryside. To the west is a residential area, with the closest properties on the other side of the road being 25 metres from the application site.

Consent is sought for the installation of a sewage pumping station, necessary to provide sewerage infrastructure to serve the "K2" housing development off Park Road Keynsham. In their capacity as Statutory water provider, the applicants, Wessex Water have a statutory duty to provide clean drinking water and sewerage provision for new housing developments

A new layby would be formed off Clements road and two cabinets would installed above ground to house a dosing tank and control kiosk. The pumping station and tank would predominantly be housed underground, and the pumping chamber itself would be 5 metres below ground level. A 1.2 metre high stone wall would be built onto St Clements Road to screen the development, and screen planting would also be provided at the rear of the compound, within a post and rail fence.

In response to concerns raised by the Council's Environmental Health team the applicants have submitted a background noise survey, allowing the noise impacts of the proposed development to be more accurately predicted.

## RELEVANT PLANNING HISTORY:

None

## SUMMARY OF CONSULTATIONS/REPRESENTATIONS

### SUMMARY OF CONSULTATIONS AND REPRESENTATIONS

Consultation letters were sent out to 9 adjoining properties, a notice was placed in the local press and additionally a site notice was displayed on the site frontage.

To date 3 objections have been received, including an objection from Councillor Simmons referred to above. The objections can be summarised as follows:

- The application refers to 2 viable options for the siting of the sewage pumping station, this site and another site that would have been further away from St Clements Road and would have been obscured by existing buildings. I think that we should be provided with more information on Option 2 and why it was considered less suitable. It would have been hidden from properties on St Clements Road and would presumably have less impact on the residents.

### Noise

- Insufficient information is available to assess noise impacts. St Clements road is a very quiet road with no through traffic and therefore a noise level that is acceptable on a main road may be much more noticeable to residents on St Clements road.
- We are given no information on how often the pump will be operating. Will it be 24 hours a day or intermittently and if so, will it be operating during the night?

### Odour

The application states that there is a possibility of odour if the sewage stays in the tank for 6 hours but chemicals will be released to counteract this, how often is it likely that sewage will be contained for over 6 hours, do the chemicals guarantee zero odour?

- We are told that odour is caused by septicity which occurs when waste water is held for more than 6 hours. We are not told how often this is likely to happen and whether the chemicals used will guarantee that no odour will be detected

## Visual Impact

- There has been an effort to camouflage the structure from the Wellsway view with planting but not from the St Clements side which is much closer, the stone wall will only go half way up.

## Other

- The Development will devalue my property (NB. This is not a material Planning consideration).

KEYNSHAM TOWN COUNCIL - Object on the grounds that there is a lack of information, there are concerns about noise and the smell. Inadequate screening. In greenbelt area.

ENVIRONMENTAL HEALTH - No objection

## Odour

I am satisfied that the chance of complaints associated with odour from the operation are likely to be mitigated by adherence to the supplied odour management plan. I would suggest a condition that insures that the station is operated in accordance with the Odour management plan at all times.

## Noise

I have considered the revised noise assessment submitted and can confirm that the predicted noise levels are not likely to generate any complaints arising from their operation.

## CONTAMINATED LAND OFFICER

At the time of my previous comments I understood that further investigation/testing was being undertaken. As no further information has been submitted, I would recommend that conditions are applied requiring contamination investigations and remediation to be carried out, due to the historical quarry in the vicinity of the development and local anecdotal information regarding burial of mules infected with anthrax in a quarry in the vicinity of Conygre Farm/ Park Road at the end of the 2nd World War.

HIGHWAYS DEVELOPMENT CONTROL - No objection subject to conditions securing the provision of replacement lighting bollards and the submission of a Construction Management Plan.

The proposal includes a layby fronting the pumping station for access by service vehicles, but with the provision of bollards to prevent its general use. The layby would be located to the rear of the existing footway. I understand that the general arrangement of the layby and the construction details have been agreed with the Highway Maintenance Team.



A street lighting column and a street name sign will require replacement/relocation, with all costs borne by the applicant, and I understand the principle of this has been agreed with the Highway Electrical Team.

TRANSPORTATION AND HIGHWAYS (DRAINAGE) - No objections.

## **POLICIES/LEGISLATION**

### **POLICIES**

Adopted Local Plan:

- D.2 General design and public realm considerations
- D.4 Townscape considerations
- ES.12 Noise and vibration
- T.26 On-site parking and servicing provision
- ES.5 Foul and surface water drainage
- ES.9 Pollution and nuisance
- ES.10 Air quality
- ES.12 Noise and vibration
- ES.15 Contaminated land
- GB.1 Control of development in the Green Belt
- GB.2 Visual amenities of the Green Belt
- NE.1 Landscape character
- NE.14 Flood risk

Core Strategy

- CP5 Flood Risk Management
- CP6 Environmental Quality
- CP8 Green Belt

National Planning Policy Framework

## **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 not be given, except in very special circumstances, for development other than agriculture and forestry uses, essential sports facilities and other development and material changes of use of land which maintain the openness of the Green Belt and do not conflict with the purposes of including land in it;

The proposed pumping station does not fit into any of the appropriate uses identified above, and therefore constitutes 'inappropriate development' in the Green Belt. As a result, in order to be supported 'very special circumstances' need to be demonstrated as to why the development would need to be sited within the green belt and could not occur elsewhere.

The applicants, Wessex Water have advised that the pumping station is required to serve a new housing development off Park Road, Keynsham, and that the sewers in this area of Keynsham are already at maximum capacity and that without the pumping station, the additional flows from the K2 development would give rise to unacceptable risk of flooding to existing properties.

The pumping station is required to serve a new sewer (for which planning permission is not required) which would provide additional sewerage capacity to overcome this problem, however the point where the new sewer would connect into the sewerage network is at a higher elevation than the K2 development and therefore sewage needs to be pumped in order to reach it.

In terms of alternative sites outside of the Green Belt, the applicants have advised that the K2 development did not provide space for the pumping station to be housed and the areas not within the Green Belt are densely developed with existing housing.

On the basis of these details, officers consider that very special circumstances have been demonstrated for the pumping station, which consists of essential infrastructure which must be provided to serve the consented K2 housing development, and avoid the risk of flooding for existing and future properties.

Regarding the comments about possible alternative locations for the pumping station within the Green Belt, the applicants sought pre-application advice on the proposed development. In their pre-application submission (reference 12/01333/PREAPP), they sought feedback on two possible locations for the pumping station: in the location now proposed and further into the field, to the south-east of the current site. The Council advised that of the two options identified, the site now proposed was preferable, in that it would have the least impact on the openness of the Green Belt.

Officers would reiterate this view, that of the two options, the current option, housing the pumping station adjacent to the road (which is the boundary of the green belt) would intrude into the green Belt the least and avoid the need for the construction of an access track in the green belt, however it would be more visible to residents opposite than a compound created further into the field.

The dosing tank and control kiosk, which are the only elements which would protrude above ground level, are relatively small in scale, would have a minimal impact on the openness of the green belt and would be appropriately screened from view by a new stone boundary wall. Officers do not consider them to be unacceptable in appearance.

Concerns have been raised that the new boundary wall would only partially screen the cabinets. The applicants have advised that the new section of wall is designed to match the existing stone wall in this location, which is only 1.2 metres high, but that a different boundary treatment could be provided if it were thought necessary.

Officers consider that once installed the cabinets will quickly become scarcely noticed elements within the street-scene, and consider the boundary wall to be acceptable as currently designed.

Separately to the consideration of this application, the Council's tree officers have agreed to the loss of a street tree located at the northern end of the site and have secured funds from Wessex Water to pay for to 2 replacement trees to be planted elsewhere on the street.

## B. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THEIR IMPACT ON THE AMENITY OF SURROUNDING RESIDENTS?

The proposed pumping station would be positioned in close proximity of residential properties and could give rise to amenity impacts in terms of noise and odour.

### Noise

The only source of noise from the development will be the pump itself, which would be housed at the bottom of the pumping chamber, 5 metres below ground level, submerged in water and inside a sealed chamber.

In response to the initial concerns raised by residents and Environmental Health, Wessex Water carried out a more detailed noise assessment on 17 / 18th October on the roadside in-front of 66 St Clements Road. These measurements of existing noise levels enable reliable predictions to be calculated as to whether the noise generated will be audible from residential properties.

The background noise survey measured noise levels at the site during the day-time and night-time, finding minimum noise levels at the site of 34.5 dB during the night and 44.5 dB during the day. Taking into account the distance from the development to the properties opposite, the plant would give rise to an anticipated noise level of 29 dB(A) at the façade of the nearest property, 66 St Clement's Road, 5.5 dB below existing night-time noise levels and more than 10 dB below daytime noise levels. The location of the pumping station behind a stone wall will provide further noise attenuation which is not taken into account in these calculations.

The council's Environmental Health team have commented in support of this assessment, with the conclusion that the proposed plant would be inaudible from neighbouring properties and would be unlikely to give rise complaints.

The applicants have clarified that the pump will operate intermittently for approximately 5 hours a day, according to the volume of waste water being produced by the development it serves. It is therefore more likely that the pump will be in operation during the morning and evening (before and after work) than during the middle of the night.

### Odour

Wessex Water have advised that the most common cause of odour is septicity, when waste water is held for more than 6 hours. The sewage pumping station will increase

sewerage capacity and is designed to speed up the flow of sewage, so that sewage will not be held for more than 6 hours, thereby minimising the risk of septic conditions occurring.

The pumping station is also fitted with a chemical dosing station to minimise odours. Dosing is used intermittently according to the volume of waste water produced, and the pumping station will be a sealed installation which will further mitigate against the release of odours.

The applicants have submitted a generic odour management plan setting out the measures they apply to avoid odour problems on all the sewage pumping stations they operate, designed to comply with the DEFRA code of practice guide for Sewage Treatment works.

The management plan sets out the technical measures that will be adopted, and also commits that a site specific odour management plan will be undertaken if notice is received that an odour abatement order is being considered by the Council's Environmental Health department, or if more than 2 odour complaints a month, or 9 complaints a year are received through Wessex Water's own system.

Subject to a condition being applied to require the development to operate according to the odour management plan, the development is considered to be acceptable in terms of odour issues. The proposals are also considered to be acceptable in terms of noise issues.

#### C. ARE THE PROPOSALS ACCEPTABLE IN TERMS OF HIGHWAY SAFETY?

The development would give rise to traffic impacts during the construction process which would need to be managed through a construction management plan, but in operation would give rise to very low traffic flows.

#### CONCLUSION

The proposed development consists of essential infrastructure that is necessary to support new housing development and avoid flood risk to existing properties arising as a result of inadequate capacity in the existing sewerage system. The applicants, Wessex Water have a statutory requirement to make adequate sewerage provision for new housing developments and have demonstrated that the pumping station is necessary and cannot be provided outside of the Green Belt. Officers conclude that very special circumstances have been demonstrated to justify the pumping station being allowed in the green belt. Officers also consider the development to be acceptable in terms of its appearance.

On the basis of an assessment of the evidence submitted, Environmental Health advice that the proposed development is acceptable in terms of noise and odour impacts. If noise or odour complaints arise they would be dealt with under Environmental Health Legislation. Therefore additional specialised conditions covering noise and odour impacts, which would duplicate other statutory controls should not be applied.

The application is therefore 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 Prior to the commencement of the development, the street lighting column within the site frontage shall be replaced with two columns, located either side of the access in accordance with details to be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of highway safety.

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 The sewage pumping station shall be operated in full accordance with the odour management plan.

Reason: In the interests protecting the amenity of surrounding residents.

5 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:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - 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.

6 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.

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

8 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 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, 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 3.

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

- Site Location Plan and Proposed Site Layout - Drawing R12904/711 Rev C
- Proposed Elevations - Drawing R12904/712 Rev C
- Dosing Kiosk - Drawing R12904/713 Rev A
- Kiosk Elevations - Drawing R12904/714 Rev A
- Letter dated 9th August 2012 - Site selection process
- Generic Odour Management Plan - January 2012
- Preliminary Noise Assessment July 2011
- Environmental Supporting Statement - July 2012
- Background noise assessment - October 2012

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

The applicants should be advised to contact the Highway Maintenance Team on 01225 394337 with regard to securing a Licence under Section 184 of the Highways Act 1980 for the construction of a vehicular crossing. The access shall not be brought into use until the details of the access have been approved and constructed in accordance with the current Specification.

The applicants should be advised to contact the Highway Electrical Team on 01225 394262 with regard to arranging for the street lighting works to be undertaken. The applicants should also be made aware that all costs associated with the works shall be borne by them.

#### REASONS FOR GRANTING APPROVAL:

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

#### POLICIES

Adopted Local Plan:

- D.2 General design and public realm considerations
- D.4 Townscape considerations
- ES.12 Noise and vibration
- T.26 On-site parking and servicing provision
- ES.5 Foul and surface water drainage
- ES.9 Pollution and nuisance
- ES.10 Air quality

- ES.12 Noise and vibration
- ES.15 Contaminated land
- GB.1 Control of development in the Green Belt
- GB.2 Visual amenities of the Green Belt
- NE.1 Landscape character
- NE.14 Flood risk

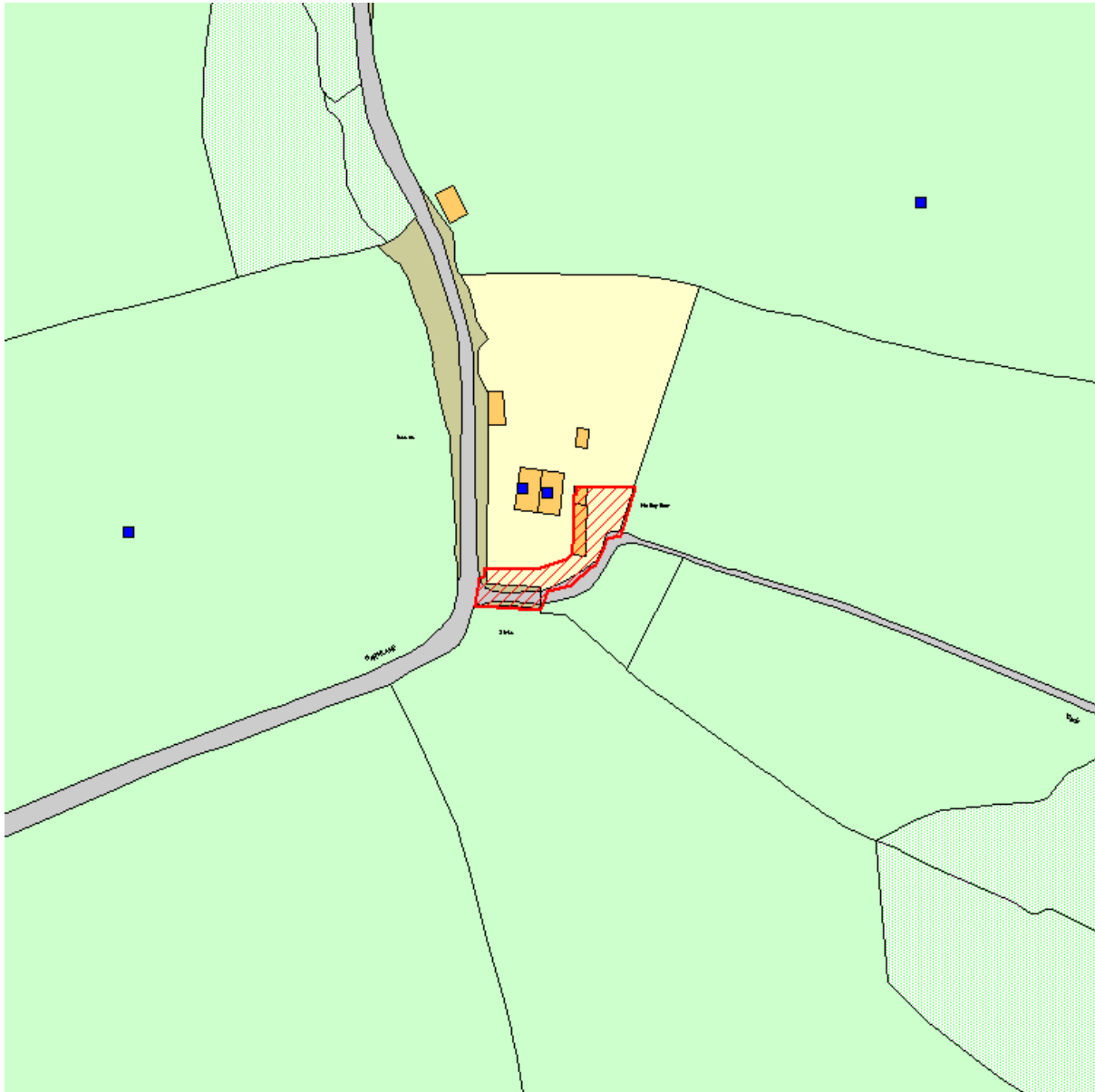
#### Core Strategy

- CP5 Flood Risk Management
- CP6 Environmental Quality
- CP8 Green Belt
  
- National Planning Policy Framework

The Council has worked proactively and positively with the applicants by working with the applicants to resolve issues by seeking additional information, and through applying conditions to the consent.



**Item No:** 08  
**Application No:** 12/03006/FUL  
**Site Location:** Hartley Barn Farm, Barn Lane, Chelwood, Bristol



**Ward:** Clutton                      **Parish:** Chelwood                      **LB Grade:** N/A  
**Ward Members:** Councillor Jeremy Sparks  
**Application Type:** Full Application  
**Proposal:** Refurbish existing barn into self-contained holiday accommodation with associated parking  
**Constraints:** Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Coal - Referral Area, Forest of Avon, Greenbelt,  
**Applicant:** Mr Colin Archer  
**Expiry Date:** 13th November 2012  
**Case Officer:** Rebecca Roberts

## **REPORT**

### **REASON FOR TAKING TO COMMITTEE:**

At the request of Cllr Sparks, and with the agreement of the Chairman as the Ward Member considers this a controversial application due to a dispute between neighbours and would like application determined in public to show transparency.

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

The application site is located within the Bath/Bristol Green Belt to the south of Chelwood village within the countryside, the host dwelling relates to a pair of semi detached cottages within an isolated location accessed by a shared driveway.

The application site lies outside of any defined housing development boundary and relates an elongated (18.3 x 4.6 metres) outbuilding used as ancillary storage. The site is not used for any agricultural purposes.

The building is single storey, constructed in a mix of breeze block and natural stone set into the slope of the surrounding land, the roof is covered by corrugated metal sheeting set as a pitched roof. The building is set to the side of Hartley Barn Farm within a separate parcel of land that doubles as the parking area for the properties. The land rises as you enter the site, the area closest to the access has eroded away and been covered by loose chipping's to form the parking area.

The application proposes to refurbish the existing building for use as a 2 bed self-contained holiday accommodation with parking which will involve internal and external works. It is also proposed to erect a single storey lean to design extension along the west elevation. The extension approximately half the full length of the building will be approx. 2.3 metres wide and will be of a height that matches the eaves of the barn, the lean to roof will extend from the ridge down to the eaves, the angle does not mirror that of the pitched roof. The extension will be finished in horizontal timber cladding, proposed as cedar. The barn will be clad with natural stone to match that visible on the existing building and will utilise the existing openings, timber cladding to match the extension will be incorporate above or below the new fenestration. A glazed gable end is proposed on the south elevation which faces onto the car parking to maximise the potential for natural light to enter the building. A new roof will be laid in order to meet building regulations and will be finished with clay roman pan tiles. Four new velux roof lights are proposed on the east roof slope, 3 of these will be the only source of light and ventilation into the W.C, bathroom and bedroom 2. The east elevation which overlooks open countryside will be a blank elevation.

The existing structure does not follow a traditional stone barn/byre which are found so readily within the rural landscape, it appears that it has gone into disrepair and some of the natural stone walls collapsed and been replaced by breeze block which is not in keeping with the natural environment that surrounds the site. The history maps recognise that the adjacent buildings are a pair of semi detached buildings, this coupled with the render finish of the buildings suggests that these may have been constructed as agricultural workers dwellings.

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

CHELWOOD PARISH COUNCIL: in accordance with ET.9. Support as holiday let. PD rights should be removed

HIGHWAYS OFFICER: No objection. The site is accessed along single track highways with limited opportunities for vehicles to pass. It is remote from local services and, due to the lack of public transport, will result in increased reliance on the use of the private car. Bearing the above in mind, had this application been for conversion to general residential accommodation, a highway objection would have been raised on grounds of sustainability. However, there is considered to be a material difference with regards holiday accommodation and overall traffic generation is likely to be lower with most movements unlikely to be during peak hours. Therefore, the proposed development is unlikely to result in operational problems on the public highway as a result of the nature of those roads.

#### OTHER REPRESENTATIONS/THIRD PARTIES:

Cllr Sparks - Proposal could help with rural tourism. Site is within the Green Belt and as of yet no special circumstances have been put forward. Concerns regarding lack of local infrastructure need to support proposal.

1x objection. Detrimental to residential amenity. No special circumstances, housing in the countryside. Would need re-construction as a mix of stone and breeze block, has no damp proof course. Not in a sustainable location. Would use a shared access which the applicant has no control over. Parking are not shown, site is too restrictive to allow additional parking.

#### **POLICIES/LEGISLATION**

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

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

GB.1 - Control of development in the Green Belt

GB.2 - Visual amenities of the Green Belt

NE.10 - Nationally important species and habitats

T.24 - General development control and access policy

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

CP8 Green Belt (replaces GB.1)

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

#### NATIONAL PLANNING POLICY FRAMEWORK (NPPF)

The NPPF has been considered in light of this application but does not raise any issues that conflict with the aforementioned local policies which remain extant. Chapter 9 - Protecting Green Belt Land proposes little changes to the local plan.

#### **OFFICER ASSESSMENT**

PRINCIPLE OF DEVELOPMENT:

Inappropriate development in the Green Belt is harmful by definition. Local Plan Policy GB.1 gives examples of development which is considered to be not inappropriate. The proposal essentially proposes the refurbishment of the barn with an extension to create a self-contained holiday let. As holiday lets fall within Use Class C3 and the Local Plan does not have a policy specific to holiday lets, the proposal must be considered in the context of Policy HG.12 and is therefore tantamount to a new dwelling in the Green Belt.

#### GREEN BELT:

Inappropriate development in the Green Belt is harmful by definition. Local Plan Policy GB.1 states the forms of development that are not considered to be inappropriate development. At point ii, it states that conversion of buildings in accordance with Local Plan Policy ET.9 is not an inappropriate form of development.

Policy ET.9 requires that the building should be capable of conversion without major extension or reconstruction and in the case of residential conversion; the application should have made every reasonable attempt to secure suitable business reuse. The applicant has failed to submit any evidence to suggest any attempts have been made to secure business reuse

The applicant has failed to submit any evidence to suggest that the building is capable of being converted without substantial re-building, the description for refurbishment would suggest some works is required which is supported by the proposal which involves an extension and a new glazed gable end, furthermore part of the existing building is constructed in breeze block, this would have to be replaced to be brought in line with modern day building regs and a new roof would be required, in addition to ground works to the side to create space for the proposed extension. This would suggest that reconstruction would be required and that the alterations to the existing building to its proposed form would represent a major extension of the building.

For the reasons stated above, it is not considered that the proposal accords with Policy ET.9 and therefore is inappropriate development, which is harmful by definition to Green Belt thus is contrary to Policy GB.1.

Point 7 of Policy ET.9 states that, in the case of buildings in the Green Belt, [the resultant building] would have a materially greater impact on the Green Belt than the present use on the openness of the Green Belt. As the resultant building would be altered in appearance and the addition of an extension would increase the width and volume of the building, it is considered that the proposal would have a materially greater impact on the openness of the Green Belt. This is contrary to Local Plan Policies ET.9 and GB.2.

#### CHARACTER AND APPEARANCE:

The proposed alterations to the building will result in a more substantial building of increased scale and massing. Furthermore, the building currently has a simple and functional appearance which has a neutral impact on the character and appearance of this locality and sits comfortably into the land. This would be lost as a result of the proposed conversion would sub-urbanize the site. This will lead to an erosion of the rural character of this part of the Green Belt, which is contrary to Local Plan Policies GB.2.

#### ECOLOGY:

The application was accompanied by a building inspection report which assessed its potential for supporting bats. The report states that no roosts or signs of potential habitable bat roosts were identified. Therefore no further ecological surveys were become. As such the proposed will not be assessed against the E.U habitats directive, the area is not within or in proximity of Sites of Special Scientific Interest or Site of Nature Conservation Importance that would encourage further assessments or consideration of policies NE.8 - NE.11.

#### **RESIDENTIAL AMENITY:**

The application building is located along the boundary of the applicants property which forms part of a semidetached pair and due to this close relationship, the use as residential has the potential to conflict with the existing amenity level enjoyed by neighbouring occupiers, however, the existing dwellings are set within large plots and as such the main amenity space of the dwellings is not focused to the front adjacent to the application building, therefore the proposed is not considered to cause undue harm to the amenity of neighbouring residential occupiers.

#### **HIGHWAYS:**

The highway officer has raised no objection as it is considered that a holiday let would result in less traffic generation. However a holiday let is within the same use class as a dwelling and has the potential to result in multiple daily trips by tourists using the holiday let. If booked for the majority of the year this would be equivalent to a new dwelling, the site is in a remote location approx. 1 mile from Chelwood which does not benefit from facilities such as a shop, the closest village with facilities/services would be Clutton approx. 2 miles away, therefore the users of the holiday let would rely on the car. The proposal is therefore considered to be in a location remote from public services and community facilities. The proposals are therefore contrary to Policy ET.9

#### **CONCLUSION:**

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

#### **RECOMMENDATION**

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

1 The resultant self-contained holiday unit results in a new dwelling in the Green Belt and therefore would represent inappropriate development, which by definition is harmful to the Green Belt. No Very Special Circumstances have been demonstrated that outweigh the identified harm and therefore the proposal is contrary to Policies GB.1, ET.9 and HG.12 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

2 The application fails to demonstrate that every reasonable attempt has been made to secure suitable business re-use for the existing building. Further, the site is in a location remote from public services and community facilities. The proposals are therefore

contrary to Policy ET.9 of the Bath and North East Somerset Local Plan (including minerals and waste policies) Adopted October 2007.

3 The proposed alterations to the building, by reason of their scale, massing and appearance, would result in the building losing its simple agricultural and functional appearance leading to an erosion of the rural character of this part of the Green Belt. This is contrary to Policies GB.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

**PLANS LIST:**

1 This decision relates to drawing no's S4960/001, S4960/100C and the Building Inspection Report date stamped 15th August 2012.

