

Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **10th April 2013**

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.

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2	12/05579/FUL 18 February 2013	Dormie Holdings Ltd. Charmydown Lodge, Charmydown Lane, Swainswick, Bath, BA1 8AB Conversion of Charmydown Barn to a 5no. bed dwelling, alteration and reinstatement of Charmydown Lodge to a 3no. bed dwelling, retention of new detached garage block, minor works to the walls of the former pigsties and associated soft and hard landscaping following demolition of modern barns, stables and lean-to (revisions to permitted scheme 08/04768/FUL and 08/04769/LBA).	Bathavon North	Rebecca Roberts	REFUSE
3	12/05580/LBA 14 February 2013	Dormie Holdings Ltd. Charmydown Lodge, Charmydown Lane, Swainswick, Bath, BA1 8AB Internal and external alterations for the conversion of Charmydown Barn to a 5no. bed dwelling, alteration and reinstatement of Charmydown Lodge to a 3no. bed dwelling, retention of new detached garage block, minor works to the walls of the former pigsties following demolition of modern barns, stables and lean-to (revisions to permitted scheme 08/04768/FUL and 08/04769/LBA).	Bathavon North	Ian Lund	CONSENT

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13/00376/FUL
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The Chase, Rectory Lane, Compton
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Erection of extensions including a first
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dwelling (Revised proposal)

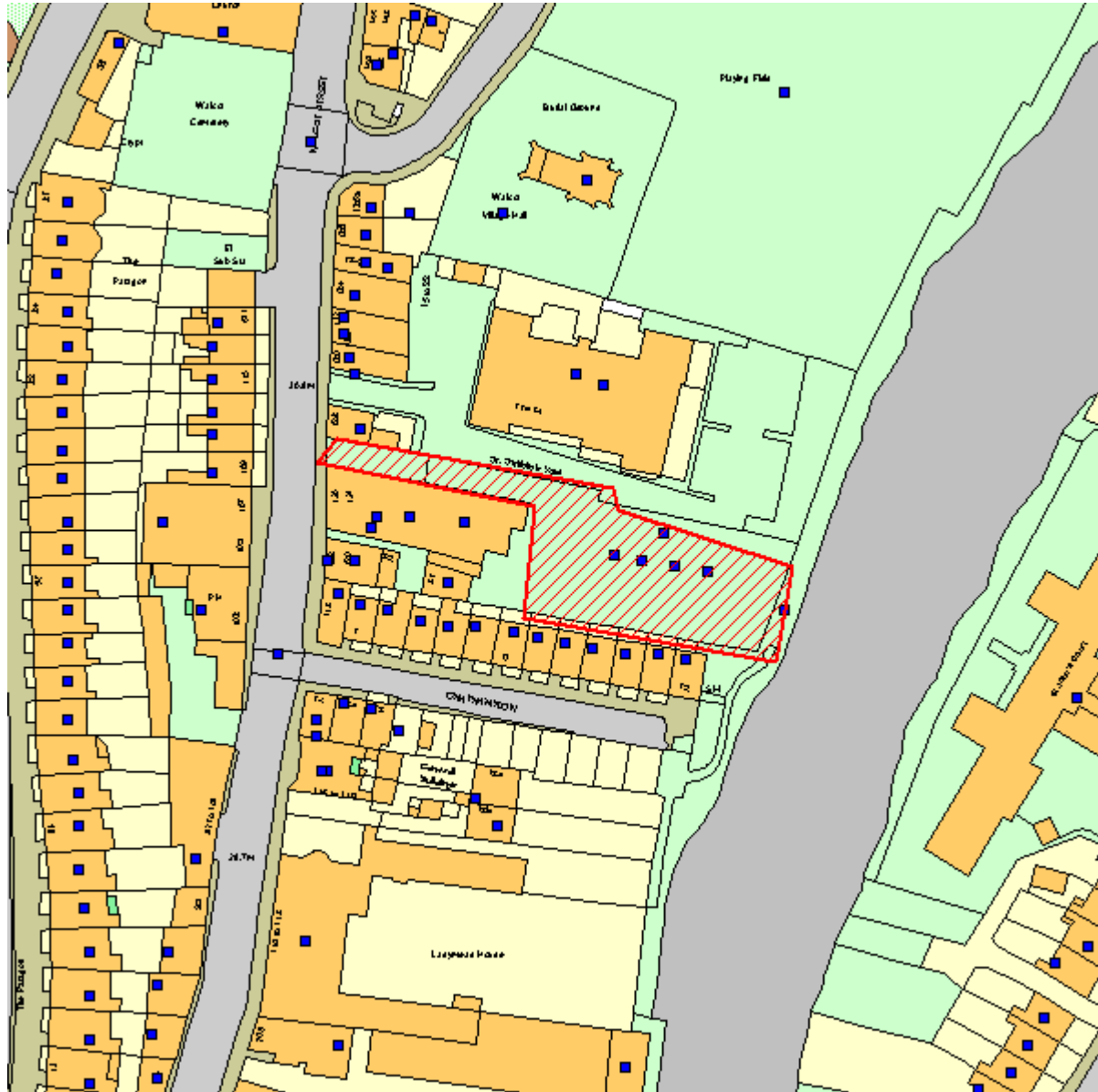
Chew Valley
South

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Faulkner

PERMIT

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

Item No: 1
Application No: 12/04076/FUL
Site Location: Gibbs Mews Walcot Street Bath



Ward: Abbey **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor B J Webber Councillor Manda Rigby
Application Type: Full Application
Proposal: Erection of 4no. dwellings (retrospective amendments to application 08/00591/FUL amended by 11/03532/NMA).

Constraints:	Agric Land Class 3b,4,5, Article 4, Conservation Area, Flood Zone 2, Flood Zone 3, Forest of Avon, Hotspring Protection, Sites of Nature Conservation Imp (SN), World Heritage Site,
Applicant:	Thameside Property Company Ltd
Expiry Date:	21st November 2012
Case Officer:	Rachel Tadman

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: Following a request from Councillor Manda Rigby the Chair of Development Control Committee confirmed that the application should be considered by Committee.

PROPOSAL: Erection of 4 no dwellings (retrospective amendments to application 08/00591/FUL amended by 11/03532/NMA)

SITE LOCATION: Gibbs Mews, Walcot Street, Bath

DESCRIPTION OF SITE AND APPLICATION:

The application relates to an existing development at Gibbs Mews, Walcot Street which is located at the rear of Chapel Row and adjacent to St Swithin's Yard. The site comprises of a terrace of four dwellings and associated parking and amenity areas.

The site is within the Bath Conservation Area and World Heritage Site and is within flood zones 2 and 3 along with a Site of Nature Conservation Importance. It is also within the setting of a number of Grade II listed buildings. The site adjoins the River Avon at the rear.

The proposal is for the erection of a terrace of four dwellings to include retrospective amendments to application no 08/00591/FUL as amended by 11/03532/NMA..

Planning permission for the original development of 4 dwellings on this site was approved in 2007 under planning ref: 05/04017/FUL and a revised application was then approved in 2009 under planning ref: 08/00591/FUL. An application for a Non-material amendment, planning ref: 11/03532/NMA, was subsequently approved making some minor amendments to the 2009 permission.

Construction was subsequently commenced but it has been found that the development has not been built in accordance with the approved plans in a number of areas. Specifically these relate to:

- The type and size of the walling stone
- The materials and design (fenestration) of the windows
- The design of the rear balustrade to the maisonette

RELEVANT PLANNING HISTORY:

05/04017/FUL - PERMIT - 11 April 2007 - Erection of 4 houses, as amended by drawings received 6th April 2006.

08/00591/FUL - PERMIT - 10 February 2009 - Erection of 4 houses (resubmission of application no 05/04017/FUL)

11/01989/FUL - RF - 26 July 2011 - Erection of four dwellings (Revised proposal)

11/04589/COND - DISCHG - 19 December 2011 - Discharge of condition 4 of application 08/00591/FUL (Erection of 4 houses (resubmission of application no 05/04017/FUL))

11/03532/NMA - APP - 12 September 2011 - Non-Material Amendment to application 08/00591/FUL (Erection of 4 houses (resubmission of application no 05/04017/FUL))

12/02639/COND - DISCHG - 9 August 2012 - Discharge of condition 7 of application 08/00591/FUL (Erection of 4 houses (resubmission of application no 05/04017/FUL))

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS DEVELOPMENT OFFICER: In terms of traffic impact, I am satisfied that there is unlikely to be an increase in traffic movements from the proposed development.

Highways comments to previous similar developments on this site identified an issue in respect of visibility from the access, and the potential conflict with pedestrians on Walcot Street. To this end a S106 agreement secured the installation of bollards in the pavement, which are now in place.

Similarly, to address the issue of vehicular visibility, contributions were secured towards the introduction of a 20mph speed limit on Walcot Street. This contribution was paid and the limit installed.

Parking for the development remains appropriate given the sites convenience for alternative modes of travel, and is proximity to local facilities - schools, shops, employment etc.

The cycle parking shown should be secure and sheltered to ensure their use.

There are therefore no highway objections to the proposed development subject to conditions being attached to any consent granted.

CONSERVATION OFFICER: Paragraph 137 of the National Planning Policy Framework states that:

Local Planning Authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites and within the setting of heritage assets to enhance or better reveal their significance.

The site is set back and screened from the road frontage but is clearly visible from the river. I also understand that the development allows land for a riverside footpath which when constructed will provide close public views of the development.

The consistent use of natural Bath stone makes a significant contribution to the locally distinct character and appearance of the conservation area and World Heritage Site. Use of authentic traditional materials, including Bath stone is encouraged in new development

to respect the above designations and status. Artificial materials which can harm quality and fail to respect the special character and appearance of the conservation area are therefore to be avoided.

Use of Bath cast stone

Artificial stone has been used at the development under construction at Gibbs Mews in place of natural Bath stone as required by Condition 3 of the planning permission. The facing used for the development is a reconstituted stone faced concrete block, manufactured by Bath Cast Stone. Whether or not this product is a fully reconstituted stone block or a concrete block faced with reconstituted stone is irrelevant in visual terms. Both display the same external appearance and it must therefore be considered if this is an acceptable material for use in the historic setting.

In my professional opinion the product used is incompatible with the appearance and character derived from a natural Bath stone. The standard size of the blocks (300mm) is more akin to concrete block-work in appearance, and together with its extremely regular coursing and texture appears artificial and out of character with this part of the Conservation Area and World Heritage Site. Furthermore, the quality of the workmanship is poor, resulting in uneven wall surfaces, particularly on the gable ends. The majority of the surrounding buildings, some of which are listed, display natural Bath stone facades, identified by generally larger and less regular sized ashlar blocks than those used on the development. They also have a warmer colour and softer texture and grain than that of reconstituted stone which has a more precise and harder appearance.

Use of small paned timber windows

It is recognised that the planning permission granted in 2008 included simple contemporary design bronze aluminium windows. The windows inserted in the development are small paned double glazed horizontal sliding sashes manufactured by Jeld-Wen. These have an eight-over-eight design which is not characteristic of the Georgian City and therefore inappropriate. Furthermore, the manufactured type used is of poor quality and detail, more usually found on large scale developer housing schemes.

The simple sliding sashes without glazing bars as approved are a more honest design, sympathetic to local character. I would therefore recommend that the existing windows are removed and replaced with the window design as originally approved.

Conclusion

The development as built fails to meet the guidance contained in the NPPF.

The historic and architectural character of the city is strongly identified by the consistent use natural stone, typifying Bath's heritage assets and their settings, and justifies why the planning permission required its use. Notwithstanding the planning history of this site I am of the opinion that the reconstituted stone used at Gibbs Mews fails to match the quality and appearance of natural Bath stone and does not therefore enhance the setting of this part of the conservation area and World Heritage Site, and should be resisted.

The appearance and quality of the unauthorised window types used on the development fail to preserve, enhance or respect local character and should be replaced by units designed as originally permitted.

ENVIRONMENT AGENCY: We understand the proposals relate to altering the external wall facing block and window design for the previously approved scheme. We have no objection to these changes. We would refer the Council to our previous planning response to the 08/00591/FUL application where we recommended conditions and informatives in relation to the proposals (our letter dated 07 April 2008, ref: WX/2008/106439/02-L01).

EDUCATION SERVICES: Contributions totalling are sought for £18,876.74, this comprises a contribution for school places of £18,276.44 and £600.30 for youth services.

OTHER REPRESENTATIONS / THIRD PARTIES

LOCAL MEMBER: Councillor Manda Rigby has made the following comments:

I would like to register my objection to the above application, and would like to ask that this is brought to committee if you are minded to approve it.

My reasons are as follows

1. I do not object to the change in windows requested and indeed already fitted.
2. The applicant has stated that they are requesting permission to change the size of the blocks used, but refer to them still as "Reconstituted Bath Stone Blocks" in section 9, materials, for which permission has not been given. They are requesting merely a change to the size, whilst not acknowledging the on-going enforcement action over use of the wrong materials, but by the way this application is phrased, could claim that the council was also giving retrospective permission for the reconstituted stone as well.

It is a shame that the sample board showing which stone was in fact approved has been removed by the applicant, and is especially unfortunate that this was done after the applicant was made aware that the council had not given approval for reconstituted stone and the only evidence that the applicant could have had was on the sample board, destroyed subsequent to being made aware of the councils position on the approved material.

I object to the use of the materials for all the reasons given in the objection of Mark McConnell and already published on the planning portal.

THE BATH PRESERVATION TRUST: Bath Preservation Trust strongly objects to this application for the following reasons:

Our particular objection relates to the use of reconstituted Bath stone. The original application (05/04017/FUL) specified [NATURAL] "Bath stone ashlar", and the relevant condition required "Natural local stone". The applicant now claims that the sample panel, which he maintains was approved in May 2008, used reconstituted Bath stone. If this were the case it seems strange that this is not mentioned in the letter from the then planning officer Neil Harvey, especially as reference to "cast stone" used in earlier correspondence by the applicant, was countered by advice that the use of reconstituted stone would require a new planning application (January 2008).

In any case, the condition relating to external walling material was restated in February 2009 (08/00591/FUL), repeating the need for the walling material to be 'Natural local stone' and [merely] confirming that the type, size, colour, pointing, coursing and jointing had been approved previously.

It is the assertion of the applicant both that the sample panel was made of reconstituted stone and that reconstituted stone meets the condition for natural stone. This seems perverse; natural stone would suggest in its natural state, and reconstituted stone is a product of a manufacturing process, & could never be described as 'sawn', as it is on the relevant drawings (08/00591/FUL). If the definition of 'natural stone' is extended to encompass reconstituted stone, it would appear extremely difficult for a condition to be set which requires 'real' Bath stone to be used.

It is to be noted that the BS1217 relating to cast stone cross references other British standards which specifically differentiate between 'cast stone' and 'natural stone', and there is a whole range of separate British Standards which deal with the specification for natural stone. Since the applicant has also failed to meet the condition relating to the sample size, it is hard to see how [and] aspects of condition 3 have been adequately met. Indeed, there does not appear to be any formal discharge of condition 3 on the file, nor of conditions 10, 11 & 13, which are also conditions precedent to 05/04017/FUL.

The assertion in the applicant's letter of 28 August 2012 that the appearance of the property built in reconstituted stone is 'materially superior to the surrounding buildings', which include the adjacent Grade II Chatham Row seems extraordinary.

We therefore reject the applicant's assertion that reconstituted 'cast' stone meets a condition for natural stone; this application is therefore contrary to policies D2 and D4 of the local plan.

We accept the applicant's proposal for timber-sashed windows as an improvement to the previous application and, because these are superior materials more appropriate for the conservation area, suggest that these are accepted despite the applicant's failure to apply for an amendment.

In relation to the issue of the stone we strongly encourage the local authority to make full use of their enforcement powers in recognition that 'Effective enforcement is important as a means of maintaining public confidence in the planning system' (NPPF para 207).

Further comments received following revised plans: The Trust recognises the alterations which have been made to this application, but note that our original concerns regarding the use of materials inferior to those envisaged in the original planning application and in the subsequent conditions have not been addressed, so we maintain our objection to the development as proposed. In addition, our previous objection acknowledged that the change to the fenestration was preferable. The new plans show large 'Victorian' panes for the widows while retaining small-paned glass in the doors and the resultant elevation is muddled.

LOCAL RESIDENTS: A total of 18 representations have been received. Of these 14 object to the scheme raising the following concerns:

1. The development has been constructed of materials that are not in accordance with the Condition 3 of 08/00591/FUL. This has shown a disregard for the planning process which is unacceptable.
2. The development has used poor quality and inferior materials.
3. Reconstructed stone is not the same as natural stone.
4. The development does not enhance the character of the Conservation Area or the World Heritage Site.
5. The windows are of poor quality design and do not reflect the character of the area.
6. Detrimental impact on residential amenity.

A total of 4 representations that support the development have been received.

POLICIES/LEGISLATION

Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007 - the following policies are relevant:

D.2 and D.4 - Design and Residential Amenity

HG.4 - Residential development within Bath

CF.3 - Developer Contributions

BH.1, BH.2, BH.6 - Impact on Listed Buildings and their setting, Bath Conservation Area and World Heritage Site.

NE.9 and NE.15 - Nature Conservation

T1, T24 - Highway Safety

Bath and North East Somerset Submission Core Strategy (May 2011). At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

Planning Obligations Supplementary Planning Document, adopted 2009.

National Planning Policy Framework - March 2012

OFFICER ASSESSMENT

BACKGROUND INFORMATION AND EXPANDED PLANNING HISTORY:

The site has a relatively long planning history and a complicated situation that has resulted in the submission of this application to regularise outstanding matters. For clarity all the applications described below have been submitted by Thameside Property Company Ltd.

A chronological list of events has been compiled and is explained below:

05/04017/FUL - Planning permission was granted for four dwellings with the attached Condition 3 stating:

3 Natural local stone shall be used in the construction of the external walls of the building(s)
and no development shall commence until samples of the stone, its coursing, bedding and jointing have been submitted to and approved in writing by the Local Planning Authority.
Reason: In the interests of the appearance of the development and the surrounding area.

Furthermore the application documents clearly refer to the proposed walling materials as 'Bath Stone Ashlar'.

On 16 May 2008 a letter was sent to the Agent from a Senior Planning Officer, in relation to Condition 3, referring to a site meeting on 14 May 2008 where a sample panel had been viewed. The letter confirms that 'the sample of plain Bath stone ashlar jointed as the sample was acceptable'.

Whilst the letter does not refer to the size of the stone blocks within the sample panel it has been confirmed by the Agent that they were 440 x 100 x 294 mm blocks.

Whilst Condition 3 does not appear to have ever been formally discharged it is clear that the Officer was, in his view, considering Bath stone ashlar and not reconstructed stone.

08/00591/FUL - At the time of writing the 16 May 2008 letter, a revised application ref: 08/00591/FUL was also under consideration having been received on 8 February 2008.

This application was subsequently approved on 10 February 2009 with the attached Condition 3 stating:

3 Natural local stone shall be used in the construction of the external walls of the building to correspond in respect of type, size, colour, pointing, coursing and jointing to the sample panels erected on the site and approved by the Local Planning Authority.
Reason: In the interests of the appearance of the development and the surrounding area.

Again the application documents, including the approved plans, clearly refer to the proposed walling materials as Bath Stone or coursed sawn stone or rusticated ashlar. The Delegated Report specifically refers to the use of:

'natural Bath stone ashlar on the front (north-facing) elevation, with rusticated ashlar at ground floor level and plain ashlar above, the sides and rear of the building to be in natural sawn Bath stone intended to replicate the stonework on the rear elevation of Chatham Row facing the site.'

From this statement it is clear that the Officer believed that the proposed materials were to be natural Bath stone and by attaching Condition 3 it is also clear that he continued to believe the sample panel on site was also of natural local stone i.e. natural Bath stone.

With regard to the windows, the approved plans refer to the use of bronze finish vertical sliding sash windows with no fenestration. The balcony railing was approved as a stainless steel rail with panels of opaque glass running the entire length of the rear balcony.

11/01989/FUL - On 6 May 2011 a revised application for the erection of four dwellings was received seeking to amend the original permission Ref: 08/00591/FUL. This application was refused on 26 July 2011 for reasons of inaccurate drawings and detrimental impact on residential amenity.

However the submitted Design and Access Statement states that:

'The elevational treatment remains in Bath Stone ashlar and coursed stone as previously approved both on the approved drawings and sample panels on site.'

11/03532/NMA - Following the refusal of application ref: 11/01989/FUL, an NMA was approved on 31 August 2011 making some minor amendments to application ref: 08/00591/FUL. The minor amendments included the removal of rusticated ashlar walling from the scheme and its replacement with 'coursed sawn stone'. The approved plans refer throughout to 'coursed sawn stone'.

The balcony railing was also amended to show the use of a single panel of opaque glass under a stainless steel rail. It continued to run the entire length of the rear balcony.

The approved plans again refer to the use of bronze finish vertical sliding sash windows with no fenestration.

Construction of the development then commenced and, following a complaint, an Enforcement Officer first visited the site on 17 April 2012, followed up by a letter advising the Applicant that natural local stone must be used as per the condition, that the use of reconstituted stone is unauthorised and must cease and be removed from the building within 21 days. The site was then visited on a number of occasions in the following weeks where it was found that the use of reconstituted stone was continuing and the applicant was consistently advised against this and that works were being carried out at their own risk.

It then became apparent, following another site visit, that the building was being constructed of a reconstituted faced Bath stone blocks of 440 x 100 x 215 mm in size which also did not match the sample panel. Furthermore it was discovered the windows were not in accordance with the approved plans. It was therefore found that the development did not appear to be being constructed in accordance with the approved plans or the conditions attached to planning permission 08/00591/FUL. A letter to the applicant dated 15th August 2012 confirmed this and contained a further warning advising to stop work and seek retrospective consent.

Despite the Enforcement Team voicing these concerns, both in writing and verbally, the development was completed and is now ready for occupation.

The main areas of dispute are:

1. The external walling materials are not in accordance with the approved drawings or the sample panel approved on site. This both in relation to the type of stone used and the size of the stone blocks.
2. The windows are not in accordance with the approved drawings.

3. The balustrade to the rear balcony of the maisonette is not in accordance with the approved plans.

External Walling: It is the case that the development has been constructed using reconstituted faced Bath stone with blocks of a 440 x 100 x 215 mm size.

The documents supporting the current application claim that the sample panel on site was originally constructed using reconstituted Bath stone and that this was what was seen by the Officer and referred to in his letter of 16 May 2008 where he refers to 'plain Bath stone ashlar'.

When Officers visited the site in 2012 it was clear that the sample panel on site, at that time, and since removed, was constructed of reconstituted Bath stone. However, as explained below, it cannot be confirmed whether this is the same sample panel originally approved in 2008.

The application documents also attempt to argue that natural Bath stone ashlar is the same as reconstituted stone and therefore the only issue of outstanding dispute is the size of the blocks. Officers do not agree with the statement that natural Bath stone ashlar is the same as reconstituted stone as they are two distinctly different materials. Natural Bath stone ashlar is a natural product whereas reconstructed stone is a manufactured product.

Unfortunately it is not possible to confirm whether the same sample panel viewed in 2008 is the same as that viewed in 2012 or whether a new one has been erected in the meantime. Objectors have asserted that the sample panel was removed for a time and then re-erected once development commenced, furthermore it was not recalled as being on site when Officers visited to consider planning application 11/01989/FUL.

A photo of the sample panel as viewed in 2008 has been submitted as part of the application. A photo of the sample panel in 2012 was also taken when the Enforcement Team visited. The block size in both photographs appears the same although the blocks in the later photo seem to have weathered significantly in the four years since they were laid. Furthermore the blocks have been chipped and the jointing appears quite new. It has been stated by the Applicant that the reason for the chipping and new jointing is that the sample panel was inadvertently demolished and rebuilt soon after.

Nevertheless the application does confirm that the size of the blocks used in the development is not in accordance with the sample panel on site. A more traditional sized block of 440 x 100 x 294 mm was approved whereas a smaller block size of 440 x 100 x 215 mm was actually used. The reason given for this is that the supplier was unable to provide the approved block size so this was substituted with a smaller commercially sized block.

It is clear from the above that the external walling material proposed, and the sample panel on site in 2008, has been consistently referred to as being of natural Bath stone. This is consistent through the entire pattern of events prior to enforcement visiting the site, and throughout the long planning history. Furthermore at no point has the use of reconstituted stone been approved, or referred to, within the submitted documents until the site was visited by the Enforcement Officer and the submission of this application.

Furthermore Condition 3 of the approved planning permission ref: 08/00591/FUL and the letter dated 16 May 2008 from the Senior Planning Officer clearly stated that 'natural local stone' and 'Bath stone ashlar' was being approved. If this was not the case, as this current application is clearly asserting, why did the Agent or Applicant not raise this error with Officers at the time?

The consistency with which the external walling material has been referred to as natural Bath stone throughout leads Officers to conclude that the sample panel was constructed of natural Bath stone and that the development has not been constructed in accordance with the sample panel under Condition 3 of 08/0591/FUL with regard to both the type of stone used and the size of the block. Of further note is that the sample panel viewed in 2012 is a reconstituted Bath stone block whereas the material used on the building is a reconstituted Bath stone faced block.

Windows: White painted timber sash windows have been installed with an '8 over 8' fenestration in place of the bronze finish windows as approved. As a result of negotiations the application revised plans have been received proposing vertical sliding timber sash windows with all fenestration removed. The French doors on the rear elevation, however, are shown to be retained as installed.

Balustrade: The rear balustrade has been constructed with solid walling extending 1.45m from either side and with a clear glass balustrade in between under a stainless steel rail. The opening to the car park below has also changed accordingly with the omission of a supporting column.

IMPACT OF THE DEVELOPMENT:

As can be appreciated from the planning history above the situation is quite complicated but is clear that the development has not been constructed in accordance with the sample panel referred to in Condition 3 of 08/0591/FUL. However the development is now complete and this application has to be considered on its merits. As the overall development has already been approved as acceptable under 08/00591/FUL the consideration below is confined only to the changes proposed. In respect of the principle of the development changes to Policy, including the NPPF, are not considered to undermine the acceptability of the principle of the development on this site.

External Walling: The development is now completed and the impact of the external walling on the character and appearance of the terrace, the setting of the listed buildings as well as this part of the Bath Conservation Area and World Heritage Site has to be considered.

The external walling has attracted objections and concerns from the Council's Conservation Officer, local residents and business as well as Bath Preservation Trust.

It is the professional opinion of the Conservation Officer that the reconstituted stone product used is incompatible with the appearance and character derived from a natural Bath stone. The standard size of the blocks (300mm) is more akin to concrete block-work in appearance, and together with its extremely regular coursing and texture appears artificial and out of character with this part of the Conservation Area and World Heritage

Site. Unfortunately these issues have been compounded due to the poor quality of workmanship, resulting in uneven wall surfaces, particularly on the gable ends.

The use of reconstructed stone and smaller more regular sized blocks does not reflect the character of the stone used on the majority of the surrounding buildings, some of which are listed, which display natural Bath stone facades, identified by generally larger and less regular sized ashlar blocks than those used on the development. They also have a warmer colour and softer texture and grain than that of reconstituted stone which has a more precise and harder appearance. This has resulted in the development having a very poor quality appearance.

The site is within a location at the rear of Walcot Street, which is not prominent and not prominent in the majority of views from publicly accessible locations. The site is located at the rear of Walcot Street and views of the site are available down the vehicular access to the dwellings but it is not prominent. This is with the exception of the river where the gable is visible and located at an elevated position to the river.

Nevertheless it is considered that the reconstituted stone and block size used is incongruous and fails to preserve or enhance the character and appearance of this part of the Bath Conservation Area. Furthermore it is also considered to have an unacceptable detrimental impact on the setting of the surrounding listed buildings. In regard to the impact on the World Heritage Site it is not considered that the development would harm the qualities which justified the inscription of Bath as a World Heritage Site.

It should also be clarified that as this application is retrospective it is easier to assess the harm of the development on the surrounding area. However Officers are also of the view that the use of reconstituted stone within this location would also have been considered unacceptable, for the same reasons, had this not been the case.

Windows: The 2009 permission included simple, but high quality, contemporary design bronze aluminium windows. The windows inserted in the development are small paned double glazed horizontal sliding sashes which are of a manufactured type and of poor quality and detail.

However revised plans have been received to change these to remove the small panes. This amendment has been welcomed as the current eight-over-eight design is not characteristic of Bath and is considered unacceptable.

Therefore whilst the revised scheme still retains the use of a poor quality window, in comparison with those approved, they are constructed of white painted timber which is a characteristic of Bath. The French doors retain their fenestration but, on balance, it is considered that the installed/proposed windows are not unacceptable and do not have a significant detrimental impact on the appearance of the terrace, the setting of the listed buildings or fail to preserve or enhance the character and appearance of this part of the Bath Conservation Area or World Heritage Site.

Balustrade: The changes to the balustrade are relatively minor and are considered to be acceptable as they do not have an unacceptable impact on the appearance of the terrace, the setting of the listed buildings or this part of the Bath Conservation Area or World Heritage Site.

IMPACT ON RESIDENTIAL AMENITY:

An objection has been received from a neighbouring resident that the development has caused overlooking. However the issue of overlooking, and the impact on residential amenity, was considered in full as part of the 08/00591/FUL application. Some minor changes to windows were also approved under the 11/03532/NMA which were also found to be acceptable.

IMPACT ON HIGHWAY SAFETY:

The revised application does not propose any changes to the development that would have an impact on highway safety. In light of this the Highways Development Officer is satisfied that there is unlikely to be an increase in traffic movements from the proposed development.

The previous permission, 08/00591/FUL identified an issue in respect of visibility from the vehicular access, and the potential conflict with pedestrians on Walcot Street. Therefore a S106 agreement was secured for the installation of bollards in the pavement and contributions towards the introduction of a 20mph speed limit on Walcot Street. This contribution has already been paid, the limit installed and the bollards also installed so, even if approval was being recommended, a S106 agreement in this respect is no longer required as part of this application.

ECOLOGY:

The revised application essential relates to changes to the elevations and do not affect any nature conservation or ecology aspects on the site.

RIVERSIDE WALK:

The Council has a long-standing objective of forming a public Riverside Walk along the west side of the River Avon, extending northwards from the city centre. As part of this, the earlier scheme 08/00591/FUL was linked to a Section 106 Agreement which required that a strip of land adjacent to the river was to be made over to the Council to enable a section of the Riverside Walk to be formed at the rear of this site. To safeguard the provision of the Riverside Walk this would need to be linked to a Section 106 agreement requiring the making over of the section of riverbank to form the Walk, however as the application is being recommended for refusal this is not necessary at this time.

FLOODING:

Part of the site is within Flood Zone 2 and 3 due to its location directly adjacent to the River Avon. The issue of flooding was considered fully as part of the previous permission 08/00591/FUL. The Environment Agency has raised no objection to the development provided that appropriate conditions are attached which is considered appropriate in this case.

EDUCATION SERVICES: The Education Services Department has requested a total contribution of £18,876.74, for school places and youth services. Whilst a contribution for

education services was not required under application 08/00591/FUL the amendments to the scheme have required the submission of a new application for planning permission which has to be considered on its merits.

At the time the 08/00591/FUL application was permitted Education Services would have assessed whether a contribution was required, however at that time it would have been projected that there would be spare capacity within the local schools to accommodate any children from this development meaning a contribution was unnecessary. Since that time there has been, and continues to be, population growth and both the existing, and projected, spare capacity within local schools has gradually reduced. Therefore, this revised development will put pressure on places in the local schools for which there is little or no capacity and a contribution is therefore required.

However as the application is being recommended for refusal a legal agreement is not required at this time.

OTHER ISSUES: Bath Preservation Trust have raised concerns that Conditions 10, 11 and 13 of 05/04017/FUL. However it appears that the development has been constructed under application No 08/00591/FUL which did not include these conditions.

CONCLUSION:

This application for planning permission has been submitted due to concerns raised by the Enforcement Team that the development has not been constructed in accordance with the approved plans or the attached conditions.

The main areas of dispute are:

1. The external walling materials are not in accordance with the approved drawings or the sample panel approved on site.
2. The windows are not in accordance with the approved drawings.
3. The balustrade to the rear balcony of the maisonette is not in accordance with the approved plans.

With regard to the external walling materials the issues surrounding this are complicated and are explained in full above. However it has been concluded that the development has not been constructed in accordance with the sample panel under Condition 3 of 08/0591/FUL with regard to the type of stone and size of the block used.

It is considered that the reconstituted stone and block size used is out of character with the area and has an incongruous appearance which fails to preserve or enhance the character and appearance of this part of the Bath Conservation Area. Furthermore it is also considered to have an unacceptable detrimental impact on the setting of the surrounding listed buildings. In regard to the impact on the World Heritage Site it is not considered that the development would harm the qualities which justified the inscription of Bath as a World Heritage Site.

Through negotiation revised plans have been received to remove the fenestration to the windows, although it has been retained on the French doors. Whilst the revised plans have been welcomed the windows remain of a poor quality but, on balance, it is

considered that the installed/proposed windows are not unacceptable and do not have a significant detrimental impact on the appearance of the terrace, the setting of the listed buildings or this part of the Bath Conservation Area or World Heritage Site to justify refusal on this point.

The changes to the balustrade are considered to be minor and do not have an unacceptable impact on the appearance of the terrace, the setting of the listed buildings or this part of the Bath Conservation Area or World Heritage Site.

The impact of the development on the residential amenity of neighbouring occupiers was fully considered under the previous planning permission 08/00591/FUL. The proposed development is not considered to have any further detrimental impact over and above that which is already being experienced by the previously approved scheme and any subsequent amendments.

Finally the development would not have any increased impact on highway safety than the previously approved scheme.

RECOMMENDATION

REASON(S) FOR REFUSAL

1 The development, due to the use of reconstituted Bath stone and block size, is out of character with the surrounding area and has an incongruous appearance which fails to preserve or enhance the character and appearance of this part of the Bath Conservation Area. The development would also have a harmful impact on the setting of the surrounding listed buildings. This is contrary to Policy D2, BH2 and BH6 of the Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007.

PLANS LIST:

The application relates to drawing nos 875.location, PL 13, PL 14, PL 15 Rev C, PL 16 Rev C, 876.block, 876/10/1 Rev A, 876/10.02.

Decision Taking Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The submitted application has been found to be unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No: 2
Application No: 12/05579/FUL
Site Location: Charmydown Lodge Charmydown Lane Swainswick Bath BA1 8AB



Ward: Bathavon North **Parish:** St. Catherine **LB Grade:**
Ward Members: Councillor M Veal Councillor Gabriel Batt Councillor Geoff Ward

Application Type: Full Application

Proposal: Conversion of Charmydown Barn to a 5no. bed dwelling, alteration and reinstatement of Charmydown Lodge to a 3no. bed dwelling, retention of new detached garage block, minor works to the walls of the former pigsties and associated soft and hard landscaping following demolition of modern barns, stables and lean-to (revisions to permitted scheme 08/04768/FUL and 08/04769/LBA).

Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt, Public Right of Way, Water Source Areas,
Applicant:	Dormie Holdings Ltd.
Expiry Date:	18th February 2013
Case Officer:	Rebecca Roberts

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application has returned to re-apply for the development as the works were not carried out in accordance with the approved scheme and as it was previously dealt with by committee due to its sensitive nature the Chair has agreed for this application to be considered by the Committee.

DESCRIPTION OF SITE AND APPLICATION:

The former Charmydown Farm stands in open countryside to the north of Swainswick village within the Green Belt and Cotswolds Area of Outstanding Natural Beauty.

The Farmhouse is grade II listed in recognition of its special architectural and historic interest in February 1884. The associated barn and pair of semi detached structures formerly known as Charmydown Lodge previously formed part of the farm complex, the farmhouse was sold off separately and the agricultural use lost. One of the considerations in this case is whether the barn and the structures formerly known as Charmydown Lodge are curtilage listed.

The Farmhouse and the barn/structures formerly known as Charmydown Lodge have a historic and aesthetic connection that amplifies the experience of the significance of each and would be considered to be within one another's setting, an element that is not unexpected within a group of buildings. The farm comprises a large stone built barn (intended to be converted) which is located at the heart of the site surrounded by a number of modern agricultural buildings (steel framed), which are in a derelict (partially collapsed/unsafe) condition. To the north east of the barn lie the old piggeries, where the nine circular pillars that supported the lean to structure partially remain. The former lodge structures referred to in the application description stand separately away from these buildings approximately 35 metres north of Charmydown Farmhouse. In terms of their physical layout, it is considered that the barn and former Lodge structures are closely associated with the Farmhouse.

The stone barn is a large structure which has been developed incrementally over the years, the earliest part probably dating from the 18th century and evidence suggests that the long barn and cross barn were once separate buildings. Overall it is approximately 47 metres long and 6.5 metres wide, and comprises a long unbroken section running east-west over the site with a later section built at 90 degrees to this at the eastern end to form a 'T' shaped layout. The principal facade overlooks the lower yard and out over the Chilcombe Bottom. Built of coursed rubble stone with freestone quoins and a clay tiled roof on the cross barn, the tiles on the long barn have been replaced by black corrugated metal sheeting. Externally the barn appears to be well maintained and in good structural order.

The structures formerly known as Charmydown Lodge were originally a pair of stone built semi-detached structures constructed for residential use, identical in design, offering a symmetrical principal facade on the southern elevation, and built of coursed rubble stone with freestone dressings and ashlar surrounds to the windows and doors.

The former Lodge structures have been vacant for a period of time and left roofless and exposed. The overgrown vegetation resulted in the partial collapse of the rear wall. However a structural engineers report submitted as part of the 08/04768/FUL stated that the former Lodge structures were structurally sound and could be restored to a habitable condition without major rebuilding, however in 2012 the rear elevation, single storey side projection, north east elevation and part of the south west elevation were demolished. What's left of the former Charmydown lodge is not considered a building but a ruin.

The application proposes to convert the barn into a five bedroom single dwelling, re-instate the old piggeries to form an ancillary outbuilding to the barn, to retain the single storey garage and to re-instate/re-build the former Charmydown Lodge structure to form a single dwelling.

The barn would be converted primarily using existing window openings but with a number of new openings formed to accommodate the internal subdivision of the building. Solid oak timber frames will be used for the windows and doors, the three large openings on the south elevation will be glazed, in addition the doors on the eastern elevation will be replaced by a full height oak framed glazed opening, oak shutters and cladding to the plant room are proposed, and once oxidised will help soften the appearance of the building but also provide a strong rural link with the built and natural environment.

Externally the barn would have a large curtilage occupying the former farmyard. Most of the remaining buildings will be demolished but the old piggeries to the north east of the barn will be reinstated to form a lean to single storey outbuilding proposed as a studio and plant room, these will be joined by a timber pergola that will allow climbing plants to intertwine within the structure to create a green roof. The green roof will extend the garden level around the side of the building splitting the elevation but will also screen the retaining wall. This will allow the natural boundary hedging to extend around the site encouraging wildlife into the site. To the south of this an open air swimming pool is proposed, the 08 application proposed that the pool would be constructed in the lower level area close the boundary in place of the dilapidated stables block due to be demolished it is now proposed to shift the swimming pool to the upper terrace adjacent to the old piggeries structure. The area below will be formally landscaped as a studio garden.

A new single storey garage, designed on the basis of a traditional wagon shed has already been constructed as approved in the 08 application. It is situated on the upper yard on the northern side of the barn, this was constructed as it formed part of the ecology mitigation. The existing access and upper yard area would become the driveway and parking area for the barn. The lower yard would be landscaped to form the main garden.

The former Lodge structures are proposed to be re-built to the scale, designs and proportions approved under the 08/04768/FUL application to form a three bed single dwelling with pitched roof and small rear extension to accommodate the staircase. A hardstanding to the south west of the building off the existing track is proposed as parking with the bulk of the curtilage located to the west of the former Lodge structures.

Two public rights of way run through the site, one to the north of the former Lodge structures and the other runs between the buildings towards the southern boundary of the site. The development will not block the rights of way which will preserve the ease of movement through the site.

The application has been supported by the submission of a design and access statement, business statement, archaeological assessment, arboricultural statement, structural engineers report, ecological impact/mitigation assessments and a historical assessment which provides a foundation for evaluation of the development. Understanding the significance of a heritage asset will enable the contribution made by its setting to be understood.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS:

No. The site is at the end of an access track of some 2 kilometre length which for the most part is single carriageway with passing places. Whilst most passing places are intervisible on the lower part, those on the plateau one generally not.

The site is therefore very remote from services and facilities where the car will feature as the major mode of travel. New development will therefore not be in accord with the key objectives of policy ET.9 and would normally attract a recommendation of refusal. However, in highway terms, this application is similar to that permitted by way of application 08/04768/FUL which was granted 23rd December 2010 and has been commenced.

ARBORICULTURAL OFFICER:

The submitted Tree Protection Plan now shows a new access road to the north (between T89 and T90 etc) which is beyond the red line boundary of the original planning application (08/04768/FUL). The submissions do not include the extent of this new access or construction methods or whether any further trees are implicated in the proposal.

The Arboricultural Report has not been revised to address any changes such as the new access road or rebuilding of the demolished walls. The swimming pool appears to have been relocated closer to the canopy of T66 (mature Beech)resulting in the likelihood of increased debris dropping into it.

WESSEX WATER:

Objection. Access road has deteriorated since construction commenced and applicant is not willing to repair roads. Access across agricultural land is across Wessex water land and no permission has been granted to cross this land.

PUBLIC RIGHTS OF WAY:

Public footpaths BA21/9, BA21/11, BA2/12 and BA2/11 cross the site. The development must not obstruct or alter the line or width of any of the footpaths.

ECOLOGY:

Updated ecological and protected species surveys have been submitted, which are comprehensive in addressing key ecological issues such as protection of bats and mitigation for impacts on roosts; mitigation for birds including barn owl; protection of reptiles. The main barn still supports roosts for pipistrelle and lesser horseshoe bats. Some of the mitigation approved under the previous planning consent has already been implemented.

A European Protected Species licence will be required for this proposal and the LPA must consider the 'three tests' of the habitats regulations. I would consider that, provided mitigation continues to be implemented in accordance with the proposed mitigation plans, the 'third test' of the habitats regulations would be met and there would be no harm to the conservation status of the affected species. Implementation of all mitigation must as for the previous consent be secured by condition as appropriate.

The Arboricultural report has not been updated to take account of changes to the plans. This is an area of concern and needs to be addressed for ecology also, as changes for example to retained trees could impact on bats, owls and other ecology.

BATS AND THE HABITATS DIRECTIVE: Bat roosts had been found in the main barn and in Charmydown Lodge. The site is also in use generally by bats as an area for feeding, foraging and commuting.

Bats are protected by European law which means that the Council, in its function as the local planning authority, must have regard to the requirements of the Habitats Directive when considering whether to grant planning permission and listed building consent. If the development would involve the deterioration or destruction of a breeding site or resting place for bats, or would cause deliberate disturbance to bats, then Article 12 of the Directive will be engaged and permission must not be granted unless the Committee is satisfied that the derogation tests under Article 16 are met.

With regard to the use of the whole site by bats generally for foraging, feeding and commuting, a number of mitigation measures are proposed to ensure that no disturbance is caused. These include a sensitive lighting scheme and retention of existing trees and shrubs where possible. Subject to these mitigation features being secured by condition, it is considered that there will be no disturbance to bats within the meaning of Article 12b) of the Directive.

The bat roosts in Charmydown Lodge were removed/destroyed under the Bat License issued by Natural England.

The main issue is the effect of the development on the bat roosts situated in the main barn. The approved proposal had been amended and involved the installation of a ceiling to close off an area of roof space in the main barn, effectively boxing in the roosts. This will mean changing the access points to the roost. The applicant has provided an alternative roost above the garage and new bat boxes were erected on trees within this locality.

Whilst the roosts in the main barn would not be destroyed, the Council's ecologist is of the view that the boxing in would lead to a deterioration in quality because at present the bats

have use of the whole of the barn and that aspect of the roost's functionality will be lost if the roost is boxed in and the barn developed. Furthermore, officers consider that changing the access points to the roost also represents deterioration in the quality of the roost as bats do not always adapt easily to a new access. Officers are therefore of the view that Article 12d) of the Directive (deterioration of breeding sites or resting places) is engaged which means that permission/consent must not be granted unless the Council is satisfied that the derogation tests under Article 16 are met.

In summary there are three derogation tests which must be assessed against the particular scheme and its impacts on the conservation status of the bats. All three tests must be met before permission/consent can be granted.

The first test is that there is no satisfactory alternative. The current guidance issued by the European Commission states that this should be approached in three parts: what is the specific problem which needs to be addressed? Are there any other solutions? If so, will these resolve the specific problem for which the derogation is sought? In this case it is considered that the 'problem' is that barn is unused and unoccupied. It would be difficult to argue that a satisfactory alternative is that the barn should be left to decay; therefore it follows that the building should be brought back into use. Based on evidence submitted by the applicants, officers are satisfied that an agricultural or office use would not be viable and that a residential use is the only viable option. In terms of the works to be carried out to enable the barn to be residentially occupied, officers did not accept that there was no satisfactory alternative to destroying the roost as originally proposed. The applicants have therefore proposed the alternative 'boxing in' solution which officers consider will preserve the ecological functionality of the roost (albeit with some deterioration in quality) whilst allowing the barn to be restored to beneficial use. There is no alternative to the boxing in solution. Officers therefore consider that this test is met.

The second test is that there will be no detriment to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range. The Council's ecologist is of the view that boxing in the roost in the main barn together with the provision of a roost in the garage roof will ensure that favourable conservation status will be maintained and therefore this test is met.

The third test is that there are imperative reasons of overriding public interest for allowing the derogation. The European Commission guidance emphasises the overriding character of the public interest and suggests that in most cases this will be a long term interest. Such judgments must be made on a case by case basis. In this case it is considered that leaving the barn vacant and decaying is harmful to the public interest - it is a very large building and is part of a substantial group of buildings located in a prominent position in the landscape. Furthermore, the barn is of considerable historic interest. As stated in the accompanying listed building report, the barn is curtilage listed and is also a heritage asset of some significance in its own right. The barn also contributes to the setting of the listed farmhouse. For all of these reasons it is considered that there is an overriding public interest in it being brought back into beneficial use. Accordingly it is considered that this test is met.

In conclusion, officers consider that the derogation tests are met with regard to the main barn and, subject to the mitigation being secured by condition. It is therefore considered

that the requirements of the Habitats Directive are met in this case and the development complies with policies NE.11 and NE.12.

OTHER REPRESENTATIONS / THIRD PARTIES:

3x objections from local residents

The large set of documents submitted do not make clear the number of amendments and additions to the original plans and serves only to confuse and distract any third party from trying to make sense of it.

Documents conceal some fundamental changes such as the introduction of a new proposed access road, which oddly appears in the Tree protection Plan. Eating into yet more Green belt and crossing footpaths, this is significant yet cannot see any mention in the main body of the application.

Object to the development of the farm workers cottages, they have been uninhabited since at least 1946 and were in a derelict and ruinous state. The fact that builders have removed all but one and half external walls underlines that the building was not substantial enough to convert. Erroneous to suggest that the cottages have suddenly changed in the last 2yrs, the state of the cottages has barely changed in the 8 years I have lived here.

Considered the lodge building structurally unsound at time of original application. Amounts to a new dwelling in the Green Belt. Have done multiple works that do not accord with the planning permission, removed towers of the barn by the proposed swimming pool. The cottages have been deteriorating for over 70 years and not in recent years as Mr Sutcliffe's report states.

New access across green belt land is shown on the tree protection plan but not mentioned elsewhere in the application. With all the documentation submitted it is unclear as to what is being amended/new.

POLICIES/LEGISLATION

RELEVANT PLANNING HISTORY:

02/00963/FUL - Conversion of barn and cottages to two dwellings and garage, plus formation of access and passing bays. PERMITTED. August 2002 (Expired August 2007).

08/04768/FUL - Conversion and enlargement of barns to create new dwelling and garage, and refurbishment and alteration of cottages to create new dwelling with associated soft and hard landscaping, following demolition of existing modern barns, stables and double storey lean-to. PERMITTED. Dec 2010

08/04769/LBA - Conversion and enlargement of barns to create new dwelling and garage, and refurbishment and alteration of cottages to create new dwelling with associated soft and hard landscaping, following demolition of existing modern barns, stables and double storey lean-to. CONSENT. Dec 2010

POLICY CONTEXT:

NATIONAL PLANNING POLICY FRAMEWORK:

Section 9 - states that inappropriate development is, by definition harmful to the Green Belt and should not be approved except in very special circumstances.

PPS 5: PANNING FOR THE HISTORIC ENVIRONMENT: GUIDANCE NOTE

Section 79 of the PPS5 practice guide states

'There are a number of potential heritage benefits that could weigh in favour of a proposed scheme:

1. It sustains or enhances the significance of a heritage asset and the contribution of its setting.
2. It reduces or removes risks to a heritage asset
3. It secures the optimum viable use of a heritage asset in support of its long term conservation.
4. It makes a positive contribution to economic vitality and sustainable communities.
5. It is an appropriate design for its context and makes a positive contribution to the appearance, character, quality and local distinctiveness of the historic environment.
6. It better reveals the significance of a heritage asset and therefore enhances our enjoyment of it and the sense of place'.

BATH LOCAL PLAN (adopted 2007)

D.2 - General Design and public realm considerations

D.4 - Townscape considerations

ET.9 - Re-use of rural buildings

GB.1 - Control of development in the Green Belt

GB.2 - Visual amenities of the Green Belt

NE.1 - Landscape character

NE.2 - Areas of Outstanding Natural Beauty

NE.9 - Locally Important Sites

NE.10 - Nationally Protected Species and Habitats

NE.11 - Locally important species and habitats

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

BH.2 - Listed buildings and their settings

T.24 - General development control and access policy

T.26 - On site parking and servicing provision

CORE STRATEGY:

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches substantive weight to the amended Core Strategy in the determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework.

OFFICER ASSESSMENT

PRINCIPLE OF PROPOSED USE: The principle of a residential use has previously been approved in the 02/00963/FUL application and more recently under the 08/04768/FUL approval. However a new application was requested as one of the buildings proposed to be converted was significantly demolished and as confirmed in *Hadfield v SOS* 19/6/1996 in this instance planning permission is lost and a fresh permission is needed.

GREEN BELT OR OTHER PLANNING POLICY CONSIDERATIONS:

The structures formerly known as Charmydown Lodge had not been lived in and no practical steps taken by previous owners to restore the building it had become a roofless shell. At the time of the 2008 application Officers considered whether the residential use had been abandoned and considered the assessment of abandonment

- 1) The physical condition of the building - The former Lodge structures show no sign internally of residential use and have been gutted out, the roof has collapsed leaving the shell of the building.
- 2) The length of time for which the building had not been used - no clear evidence has been provided as to how long the former Lodge structures have been vacant however from determining the dates of ownership it is more than a decade;
- 3) Whether it had been used for any other purposes - comments from neighbours suggest that the former Lodge structures were used for storing agricultural equipment, feed and livestock; and
- 4) The owner's intentions - in the past there has been no evidence of any intention to resume/continue the residential use, as evidenced by the casual use for storage

These criteria are of equal relevance and are to be tested by considering whether a reasonable man with knowledge of all the circumstances would conclude that the use had been abandoned. In the case of Hughes, the Court of Appeal held that the test was an objective one and, accordingly, it was wrong to regard the wishes and intentions of the owner as the determinative factor.

There is no policy within the adopted local plan that refers to the issue of abandonment.

On balance it was considered that the residential use had been abandoned. The former Lodge structures effectively had a 'nil' use and were deemed a rural building in the same respects as the long barn, stables and hay barn. Because the former Charmydown Lodge structures were not considered to be a dwelling, policies HG.14 and HG.15 which refer to the extension or replacement of dwellings within the Green Belt, could and will not be considered and the former Lodge structures were instead considered under the same policies as the barn: GB.1, GB.2 and ET.9. However the demolition of over half the building means the existing is more of a ruin than a building; the proposed re-construction/re-instatement would therefore be tantamount to a new dwelling in the Green Belt which is inappropriate development and by definition harmful to the Green Belt. The re-instatement of the former Charmydown Lodge does not fall within policy GB.1 or ET.9.

Policy GB.1 sets out the types of development which are acceptable within the Green Belt and are therefore not 'inappropriate development' in Green Belt terms. One such form of 'appropriate' development is the re-use of existing buildings, which makes allowance for conversions falling within policy ET9. The barn as previously considered within the 08/04768/FUL application which involves conversion, is considered to fall within the remit of policy ET.9.

Policy ET9 states that proposals for the conversions of a building to a dwelling are not to be permitted if the building is in a position isolated from public services and community facilities, and unrelated to an existing group of buildings. This policy also states that within the Green Belt, a proposed conversion will not be approved if the proposed use would have a materially greater impact on the Green Belt than the present use. The policy also requires that any building to be converted shall be in keeping with its surroundings and

that any building is itself of substantial construction and can be converted without major reconstruction or extension.

The barn is within an isolated location, which is a common characteristic of farms to be partially isolated from urban areas. Although isolated, the barn is considered to have an aesthetic and historic link to Charmydown Farmhouse as a rural building which once formed part of the Farm complex/enterprise. The former Charmydown Lodge structures were previously considered to have a link as they were occupied by agricultural workers however this use has been abandoned and a significant amount of the building demolished which has seen the aesthetic link lost. A surveys report was submitted previously an updated report submitted to support the conversion of the barn which states that there may be the need of some repair and rebuild to part of the north elevation however this is limited when assessing the building as a whole. Therefore, the barn is an existing but vacant rural building, and can be converted without substantial or complete reconstruction, the proposed development is considered to comply with section 3 of policy ET.9.

A structural engineers report submitted at the time of the 08/04768/FUL application stated that both buildings were structurally sound and could be restored to a habitable condition without major rebuilding. This was supported by the Council's Building Control Surveyor who has confirmed that he is in agreement with this report. The report suggested that cracks within the Former Lodge elevations were cosmetic and could be repaired without the need to demolish and re-build. The agent was requested to confirm this on numerous occasions and advised that if any building had to be re-built, it was tantamount to a new dwelling in the Green Belt and would in principle not be supported. However the agents now argues that in the 2 years since the permission the level of decay was significant enough to warrant demolition as the building was unsafe, this was done without any prior discussions with or notifications to the Local Planning Authority

The agent has submitted a structural engineer's report which outlines a timeline of the steps taken during the works. Firstly it is noted that the surveyor considers that the building was essentially unprotected to the elements and susceptible to freeze/thaw and further vegetation growth which resulted in the weakening of areas of the building. The report notes that concern was raised in October 2011 and work commenced in May 2012 during this time and even prior to this (during/after permission was granted) the applicant had every opportunity to secure the building but chose not to, furthermore the building could have been enclosed in a temporary structure which gave protection to further weathering (such structures have been previously erected around the Theatre Royal during its renovation and more recently at the Gainsborough building) but again the applicant chose not to do as therefore took a risk in leaving the building in its redundant state.

A historical statement which endeavours to convince the LPA that the Former Charmydown Lodge building should be reinstated because it is a heritage asset and of historical importance in the setting of the Charmydown Farm complex has been submitted to support the proposal. The Conservation officer has stated that a great deal of heritage significance had been lost as a result of poor maintenance and has been further lost as a result of the demolition works and that the reinstatement of the Former Lodge will make a limited contribution to the Farmstead, therefore the heritage value of reinstating the former lodge building or the argument that a pair of cottages once existed on the site are not

considered to demonstrate very special circumstances that outweigh the harm to the Green Belt. Therefore the proposed development of the Former Charmydown Lodge is considered inappropriate development in the Green Belt which fails to preserve the local distinctiveness of the AONB.

Section 5 of ET.9 states that residential conversion will not be permitted unless the applicant has made every reasonable attempt to secure suitable business re-use. The applicant provided a basic business statement as part of the 08/04768/FUL which stated that the site had not be marketed for another use, this was due to the site being purchased with planning permission for residential use, but never implemented and that continual heavy traffic movement up and down this drive would be very detrimental to its survival. In addition a budget cost plan was submitted. The report included an assessment by Carter Jonas (property firm) that assessed the site and possible business use. The report concluded by stating that they did not consider there was any prospect, either now, in the past two decades, or in the foreseeable future, of any commercial development being justified at this site. The cost of refurbishing existing buildings would, undoubtedly, exceed any realistic commercial value of the finished development. It is therefore considered that this part of policy ET.9 has been satisfied in terms of the Barn Conversion.

The scheme involves not only the conversion of the Barn and re-instatement of the Former Cottages but proposes reinstating numerous features that the site survey and historic assessment have unearthed. This includes the reinstatement of the front steps to the long barn, the old piggeries and opening into an underground storage area between the barn and the old piggeries. The room will be accessed from a glazed doorway between the cross barn and the old piggeries, oak shutters are also proposed, this part of the building is built into the hillside and will not increase the existing massing of the barn and associated buildings, therefore it is not considered to have a materially greater impact than the existing structures in accordance with ET.9, GB.1 and GB.2. The concrete on the upper yard above will be removed and a green roof utilised with a lantern window.

The bulk of the old piggeries building has eroded away but evidence is still visible of its structure, in particular the supporting stone columns that would have held the roof against the rear retaining wall, this reinstatement was also proposed within the 02/00963/FUL, however it was proposed as an open unit. The old piggeries formed one of the key buildings within the original farm complex and its reinstatement is considered to enhance the historic conservation of the site whilst preserving the rural character of the Green Belt and AONB. The proposed reinstatement works would not increase the existing footprint of the site and are therefore considered to represent a proportionate addition to the barn, which preserves the openness and visual amenity of the Green Belt within this locality and is therefore not considered to conflict with policy GB.1, GB.2 and ET.9 of the local plan. The stones that made up the columns which formed the piggeries have unlike the former cottages been carefully dismantled and rearranged in order within the cross barn to protect them whilst the upper terrace is cleared and the rear wall and side walls repaired, the columns will then be re-built in accordance with the 2008 approval.

The new garage approved in the 2008 application is proposed to be retained; this was built prior to other works as it formed part of the ecology mitigation measures. On balance the garage was considered to represent a proportionate addition that did not result in a materially greater impact to the openness of the Green Belt. The garage/carport has been constructed to the rear of the Long Barn in order to be screened from view from the valley

below. The garage plays an important role in providing alternative bat and owls' roosts within the roof space and has been designed so as to appear as a converted outbuilding which utilised materials to match the barn.

The proposed conversion of the barn, retention of the garage and reinstatement of the piggeries and swimming pool will operate ancillary to the use of the barn and have been designed so as to cause minimal disruption to the openness and visual amenity that is currently evident through careful siting and design and are considered to represent an appropriate form of development within the Green Belt that does not materially harm the openness of the surrounding Green Belt in accordance with Policies GB.1, GB.2, NE.2 and ET.9. This part of the proposal creates a well-balanced design that respects the rural character whilst maintaining the harmonious environment in this locality, but also enhances the local distinctiveness that is a key element within the AONB.

The reinstatement of the structures formally known as Charmydown Lodge are proposed to be used ancillary to the barn, a Unilateral Undertaking (legal agreement) has been drawn up which restricts the former Lodge structures to be ancillary as they are considered to be independent structures which can be described as having its own setting away from the barn, this legal agreement will form part of the application. As considered previously the demolition of a significant part of the lodge building meant the previous planning permission was lost, the previous consideration of a conversion was on balance considered appropriate however the new proposal to re-instate the building (rebuild 2 and half elevations and single storey projection) would involve significant works which is tantamount to a new dwelling in the Green Belt which is inappropriate development and no special circumstances have been demonstrated that outweigh the harm to the Green Belt contrary to policy GB.1.

A split decision cannot be made on a Planning Permission application, if any element of a proposal is considered inappropriate which in this case it is the proposal must be recommended for refusal. Prior to the submission and during the consideration of this revised proposal the agent was advised to submitted separate applications which could have seen works on the conversion of the barn continue.

LISTED BUILDING/CONSERVATION AREA: These have been assessed in full in the listed building committee report.

RESIDENTIAL AMENITY: On balance, due to the distance between the sites, orientation and landscaping along the boundaries it is not considered that the proposed development would cause a significant amount of overlooking that would lead to a loss of privacy.

With regards to noise, the proposed would cause increased level of noise during construction but this is not unacceptable with any level of development, informatives would be attached to any permission with regards to codes for construction which should be adhered to. The noise levels associated with a residential use are not considered to be higher than the noise levels that could arise from an agricultural use (working farm).

PLANNING OFFICER ASSESSMENT OF HIGHWAY ISSUES: ET9 states that proposals for the conversions of a building to a dwelling are not to be permitted if the building is in a position isolated from public services and community facilities, and unrelated to an existing group of buildings. It is important to note that whilst the buildings could be

regarded as being located in an isolated position away from public services and community facilities to conflict with Policy ET.9 the buildings must also be unrelated to an existing group of buildings. The proposed building is within an isolated location, which is a similar position to other farms within the local area, it is a character of farms to be partially isolated from urban areas, although isolated the barn and former Lodge structures are regarded to form a group of buildings along with the Farmhouse, which would have formed the Charmydown Farm complex. The existing boundary treatments of hedging and natural stone walling will be maintained along the boundary and the existing access will remain, the plans illustrate that ample space is available for parking and turning on site.

Concern has been raised regarding a new access track running to the north of the site which is annotated on the landscape plan. This was a temporary access to the site for larger vehicles to use due to the current state and width of the road restricted certain vehicles. Once the development had been completed the temporary surface would have been removed and the land re-instated. It does not form part of the application as it lies outside of the application site.

LANDSCAPE: The areas surrounding the whole barn and to the front of the former Charmydown Lodge are all concrete, where insufficient drainage is provided. The application proposes to remove this concrete. The lower yard area and part of the upper yard will be landscaped (soft) a large part to lawn, a landscape plan has previously been approved and has been submitted as part of this application. The upper yard and existing access will be covered by a permeable surface so as to avoid standing water and to allow for the natural drainage of water. The proposed will therefore be an improvement in terms of water drainage and surface water run-off.

SUSTAINABILITY AND RENEWABLE ENERGY: Some renewable schemes have been considered in discussion between the Local Authority and agents with regards to solar panels and ground source heat pumps; however nothing has been confirmed and included within the drawings. Concern was raised with regards to the use of solar panels on the Barn however the garage roof slope could accommodate panels. The ground source heat pump would be more appropriate.

REFUSE COLLECTION: Both the Barn and the Cottage would have their own bin store areas within the curtilage of the buildings. There are no waste water services in this locality therefore arrangements for foul sewage disposal will be made.

CONCLUSION: The Charmydown Barn is a large traditional building of high visual quality and historic interest, and justifies its retention by conversion into a dwelling. However, the significant demolition of the former Lodge structures has reduced the historic significance of the former lodge and would result in the re-construction of a building for residential use which is tantamount to a new dwelling, which is considered inappropriate development in the Green Belt, contrary to policy GB.1 and is harmful by definition. No special circumstances have been demonstrated that outweigh the harm to the Green Belt and local distinctiveness of the Area of Outstanding Natural Beauty.

The application is accordingly recommended for refusal.

RECOMMENDATION

REASON(S) FOR REFUSAL

1 The proposed re-instatement of the Former Charmydown Lodge Structures is tantamount to a new dwelling in the Green Belt which represents inappropriate development, and fails to demonstrate very special circumstances which would outweigh the harm by reason of inappropriateness to the Green Belt and local distinctiveness of the Area of Outstanding Natural Beauty, contrary to Policy GB1, GB.2 and NE.2 of the Bath and North East Somerset Local Plan (including minerals and waste policies) 2007.

PLANS LIST:

1 This decision relates to drawing no's 1743A - E - 010, 1743A - E - 011, 1743A - E - 02, 1743A - E - 03, 1743A - E - 05, 1743A - P - 010, 1743A - P - 02, 1743A - P - 03, 1743A - P - 04, 1743A - P - 06, 1743A - P - 232, 1743A - S/01, 1743A-P-221, 1743A-P-222, 1743A-P-223, 1743A-P-224, 1743A-P-231, 282/001 REV. C, CHA_014, CHA_015, CHA_016, CHA_017, CHA_018, CHA_019, CHA_020, CHA_021, CHA_022, CHA_023, CHA_024, CHA_025, CHA_028 B, CHA_030 REV. A, CHA_031REVA, CHA_039, CHA_040, CHA_041, CHA_042, CHA_043, CHA_044, CHA_045, CHA_046, CHA_047, CHA_048, CHA_049, The Arboricultural Report, Schedule of Rainwater goods, Window Schedule, Schedule of Materials, Statement of Architectural and Historical Significance, Structural Survey - Barn, Structural Survey - Former cottages and updated Ecological Statement date stamped 20th December 2012 and drawing no's 1743A-P-011 A and 1743A-P-05 B date stamped 28th February 2013.

Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant choose not to withdraw the application and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

Item No: 3

Application No: 12/05580/LBA

Site Location: Charmydown Lodge Charmydown Lane Swainswick Bath BA1 8AB



Ward: Bathavon North

Parish: St. Catherine

LB Grade:

Ward Members: Councillor M Veal Councillor Gabriel Batt Councillor Geoff Ward

Application Type: Listed Building Consent (Alts/exts)

Proposal: Internal and external alterations for the conversion of Charmydown Barn to a 5no. bed dwelling, alteration and reinstatement of Charmydown Lodge to a 3no. bed dwelling, retention of new detached garage block, minor works to the walls of the former pigsties following demolition of modern barns, stables and lean-to (revisions to permitted scheme 08/04768/FUL and 08/04769/LBA).

Constraints:	Agric Land Class 1,2,3a, Area of Outstanding Natural Beauty, Greenbelt, Public Right of Way, Water Source Areas,
Applicant:	Dormie Holdings Ltd.
Expiry Date:	14th February 2013
Case Officer:	Ian Lund

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

A previous similar application relating to this site was considered by the Committee.

DESCRIPTION OF SITE AND APPLICATION

The former Charmydown Farmhouse stands in open countryside to the north east of Swainswick village and is listed Grade II in recognition of its special architectural and historic interest. The associated barn and the dilapidated structures that previously formed a pair of semi detached cottages (known as Charmydown Lodge) have been previously considered to fall within the curtilage of the Farmhouse. The farmhouse which lies to the south west of the barn is in separate ownership and does not form part of this application.

THE APPLICATION PROPOSAL:

The proposed scheme is essentially similar to that previously consented. The application is comprehensive and encompasses all the elements previously considered. In summary it requests the conversion of the barn into a five bedroom single dwelling, the re-instatement of the semi-detached cottages to form a single dwelling, the retention of a single storey garage and the re-instatement of the piggeries, adjacent to north east of the barn, to form an ancillary outbuilding.

Some aspects of the approved scheme have already been implemented. However consent is now requested for additional works which comprise the following main elements:

Additional works to the Main Barn

Additional work to the walls of the former pigsties

Regularisation of the taking down of external walls of The Lodge, and substantial reconstruction

A more thorough explanation of these elements is included below.

PLANNING HISTORY

Planning permission and listed building consent (02/00984/LBA) for conversion of the barn and cottages into two dwellings granted in August 2002. Not implemented and now expired.

Planning permission and listed building consent (08/04769/LBA) for conversion of the barn and cottages into two dwellings granted in December 2010. Partly implemented.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Parish Council :

No response

Ecologist :

No response

National Amenity Bodies :

Consulted due the extent of demolition that has taken place but no responses have been received

Arboricultural Officer :

It is unclear how the revisions will impact on the trees on the site. The submitted Tree Protection Plan now shows a new access road to the north (between T89 and T90 etc) which is beyond the red line boundary of the original planning application (08/04768/FUL). The submissions do not include the extent of this new access or construction methods or whether any further trees are implicated in the proposal.

The Arboricultural Report has not been revised to address any changes such as the new access road or rebuilding of the demolished walls. The swimming pool appears to have been relocated closer to the canopy of T66 (mature Beech) resulting in the likelihood of increased debris dropping into it.

There is insufficient information to provide arboricultural comments.

Other representations :

A letter has been received from a neighbour to the site. The substance of the communication does not relate accurately to the listed building issues, and as repeat comments have been submitted on the planning application are best considered in that context. The main issues raised relate to an objection to the development of the farm workers cottages as they have long been in a derelict and ruinous state. The new house will be larger than the original cottages. The pigsties appear to have been freely demolished, and any building would be a new one in the green belt. The introduction of a new access road is opposed as heavy equipment has already caused damage to the access track. Finally, the sheer weight of documentation serves only to confuse and distract.

A further letter of objection, also repeated to the planning reference, has been received. The main points are the cottages were abandoned and have been ruinous for many years. Beautiful stone towers behind the barn have been torn down. The writer is highly critical of the documents submitted in support the application and he regards the application as being contemptuous and an attempt to manipulate facts.

POLICIES/LEGISLATION

LEGISLATION

The primary consideration is the duty placed on the Council under S 16 of the Listed Buildings Act to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

NATIONAL POLICY

Section 12 'Conserving and enhancing the historic environment' of the National Planning Policy Framework sets out the government's high-level policies concerning heritage and sustainable development. The Historic Environment Planning Practice Guide published jointly by CLG, dcms, and English Heritage provides more detailed advice with regard to alterations to listed buildings, development in conservation areas and world heritage sites.

OFFICER ASSESSMENT

The general principles concerning this ensemble of protected buildings were re-established by the committee as recently as November 2010. The overall details of the case do not therefore need to be repeated at length again. The focus needs to be on any changes to the surrounding circumstances and variations to the details of the scheme.

The main change to background policy is the publication of the NPPF. In respect of the historic environment the government's policy is not greatly altered. When the previous applications were considered PPS 5 had only recently been published and its contents were essentially absorbed into the all-embracing NPPF published during 2012. However, NPPF does emphasise a general requirement that wherever possible local planning authorities should approach decision-taking in a positive way and work proactively with applicants to secure developments that improve the economic, social and environmental conditions of the area.

Changes to the main barn

Further structural surveys have been commissioned which identify a need to re-build the lower half of a short section of the north elevation. Clarification has been sought from the agent who has confirmed that the stone repairs to a (subterranean) section of the north wall of the main barn will be carefully carried out in a piecemeal fashion to avoid any danger of the collapse of the wall above.

Members may recall that there is bat activity within the application site. The Habitats Directive applies to listed building applications. Following discussions with agent, details of the baffles and entrances to satisfy the assumed ecology requirements have been provided.

The overall scheme for the main barn remains acceptable.

Changes to the piggeries

Works have begun to make the pigsties safe and this has included taking down the circular rubble stone piers found at the open front elevation. This work was not explicitly specified in the original applications. However, the former pigsties are of limited heritage significance, and the proposals include reinstating the piers. The removed stone has been carefully set aside for re-use. This additional work is minor and when completed will put the former piggery into sound condition.

Changes to The Lodge

An update to the planning report in November 2010 indicated that the Council's Building Control Surveyor had confirmed that the cottages were structurally sound and capable of being renovated without major reconstruction. The applications and reports referred to a proposed restoration. However, the works undertaken so far do not conform to the approved drawings particularly with regard to the extent of demolition. The amount of the Lodge that has had to be taken down means that the scheme can no longer be accurately described as conversion. The current application now involves substantial reconstruction. The principal south, and west, elevations remain largely intact as freestanding walls but the rear and east elevations have been taken down and would need to be completely rebuilt in order to put the property into habitable condition.

In mitigation a GL Hearn Statement submitted with the application indicates the winters of 2010 and 2011 were particularly severe and this had a significant detrimental effect on the exposed masonry walling; and in addition mature trees had taken root within the roofless building further weakening its structure. The report also states English Heritage has confirmed that the Barn and Lodge are listed buildings, being part of the original curtilage of Charmydown farmhouse when it was listed.

It is perhaps possible this may be true, although determining the extent of curtilage is not normally a role performed by English Heritage, and as the evidence has not been shared with the LPA it should be afforded little weight.

Supporting documents argue the degree of loss is not as dramatic as it may initially appear because surviving elements of the original building constitute its most important features. It is also argued the contextual relationship with the adjacent long barn and the farmhouse is of such significance that if the Lodge was lost this would have a detrimental impact on the character of the farmstead as a whole.

The LPA is also asked to accept the taking down works were not undertaken with malicious intent.

It is acknowledged that the walling was not taken down with complete disdain and the rubble stone was carefully set aside for re-use. The surviving walls have been given temporary support and the heads protected. With these aspects in mind, officers have not recommended a prosecution. It might also be helpful to point out that the conservation of historic buildings often requires on-going evaluation as work progresses and your conservation officers are experienced in dealing with situations that may arise. In these circumstances, and having regard to the build-up to the commencement of the project, it is disappointing to say the least, that the decision by the developer to take down the walls was reached without liaison with the LPA. It is possible that had discussion taken place at

an appropriate time a greater emphasis could have been put on consolidation of fragile masonry rather than on re-construction.

Conclusion

For the reasons given above the proposed works to the main barn and the former piggery are not controversial. The proposals will preserve the special interest and setting of the farmhouse, and will not adversely affect its contribution to the local scene. In terms of the NPPF, taken as a whole, the proposal will not lead to substantial harm to the significance of a designated heritage asset, and will help secure a viable use for other assets.

The main issue relates to the taking down and, substantial amount of rebuilding, at The Lodge. In weighing up the acceptability of the proposals the application provides the prospect of arresting the long term decline of the former cottages, at least of the surviving elements. The scheme would also secure a viable use with regard to future maintenance and security. It could also be argued to favour the setting of the listed farmhouse, and to preserve and enhance the group of buildings forming the historic farmstead.

On the other hand, the amount of rebuilding that is now essential means that as regards The Lodge the scheme can no longer be readily recognised as a building conservation project.

The key to the decision rests with understanding the significance and level of importance of the building. The farmhouse, is clearly a designated heritage asset. As reported previously, the main barn should also be regarded as a heritage asset, as it would appear to meet the criteria for listing in its own right. It is a large, rare and interesting survival, demanding every effort be made to ensure its conservation. The Lodge however is essentially formed from two standard cottages. Although originating in the nineteenth century a great deal of heritage significance had been lost as a result of poor maintenance and decay during the second half of the 20th century.

When the property was last considered by the committee the roof had collapsed and the general condition was ruinous. The significance of the ruin has been reduced again as a result of the recent taking down of the rear and east walls. For these reasons it has less importance than it had previously. Arguably the reconstruction will make a small contribution to the integrity of this isolated farmstead but the preservation of the comparatively small amount of the physical remains of The Lodge is of marginal meaning from a heritage point of view. Essentially The Lodge would comprise a large percentage of new or re-constructed elements. As a stand-alone feature the significance of the rebuilt Lodge would be very limited. This however does not make the proposals objectionable. The policy context for the accompanying planning application has to be re-assessed but, provided the proposed works to The Lodge are completed with sympathy towards the setting of the farmhouse and the main barn, there is no reason why the grant of listed building consent should not be recommended for the proposed works. The decision-taking body is entitled to re-consider the case in the light of the current circumstances but a positive recommendation in respect of the amended specifications is generally in line with the previous wishes of the committee.

RECOMMENDATION

CONSENT with condition(s)

CONDITIONS

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

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

2 With regard to the main barns and proposed attached structures, prior to the commencement of works, details of all new external joinery and glazing design shall be approved in writing by the Local Planning Authority. These details shall include depth of reveal, materials and full working drawings including both horizontal and vertical sections, to a scale of not less than 1:10. At no time shall the approved joinery be altered without the prior approval, in writing, of the Local Planning Authority.

Reason: To enable the Local Planning Authority to be satisfied with the completed appearance of the buildings.

3 At no time shall any flues, vents, meter boxes or other fixtures be attached to the exterior of the buildings other than those approved as part of this consent, without the prior approval in writing of the Local Planning Authority.

Reason: To enable the Local Planning Authority to be satisfied with the completed appearance of the buildings.

4 Full details of the treatment to be given to the eaves, soffits and verges shall be submitted to and approved by the Local Planning Authority prior to the commencement of the works. Such details shall include precise construction information and materials shall be implemented in strict accordance with these details.

Reason: In the interests of protecting the character of the Listed Buildings.

5 Full details of all chimneys, flues and vents shall be submitted to and approved by the Local Planning Authority prior to the commencement of the works. Such details shall include precise size, and where appropriate, samples and shall once agreed be strictly complied with.

Reason: In the interests of protecting the character of the Listed Buildings.

6 With respect to the main barns a full schedule of the details of the roof repairs and any structural repairs (or other such schedule as may be deemed to be appropriate) shall be submitted to and approved by the Local Planning Authority. Such schedule shall, once agreed be strictly complied with.

Reason: In the interests of protecting the character of the building.

7 With respect to the main barns the method and manner of the removal and replacement of the flagstone floors shall be agreed by the Local Planning Authority. Their removal and reinstatement shall be in strict accordance with these details.

Reason: In order to protect the character of the buildings.

8 With regard to the main barns full details of all joinery, including windows, doors, screens and internal railings, shall be submitted to and agreed by the Local Planning Authority prior to the commencement of the works. Such details shall include horizontal and vertical cross-sections at a scale of not less than 1:20 and shall be implemented and thereafter maintained in strict accordance with these agreed details unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and to protect the character of this Listed Building.

9 With regard to the main barns full details of the design and means of fixing of the proposed plywood baffles shall be submitted to and approved by the Local Planning Authority prior to the commencement of the works. The works shall be then implemented in strict accordance with the approved details.

Reason: In the interests of protecting the character of the Listed Building.

10 With regard to the main barn no works shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall include (but shall not be limited to):

(i) a method statement for the retention of all bat roosts on the site including the maintenance of

the bats' existing accesses or the provision of alternative new accesses and the proposed timing of

all works affecting the bat roosts and details of a monitoring scheme

(ii) details of any lighting scheme to prevent harm to bats and retention of dark areas and corridors

for bats

(iii) details of monitoring schemes, aftercare and/or management proposals as applicable for the

above.

All the proposed methodologies shall be in accordance with current published best practice guidance.

Reason: to ensure that the conservation status of the various protected species present on the site

is maintained and/or enhanced in accordance with national and European legislation and current policy.

11 The main barns shall not be occupied until all of the works detailed in the approved Wildlife Protection and Enhancement Scheme have been implemented on the land to the written satisfaction of the local planning authority.

Reason: to ensure that the conservation status of the various protected species present on the site is maintained and/or enhanced in accordance with national and European legislation and current policy.

12 Following implementation of the works detailed in the approved Wildlife Protection and Enhancement Scheme pursuant to condition 18 above, the development shall thereafter be managed, maintained and monitored in accordance with the provisions of the approved Wildlife Protection and Enhancement Scheme (or such variations of the same as may be approved in writing by the Council from time to time).

Reason: to ensure that the protected species present on the site are properly managed

13 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 Existing Plans : 1743a-s101, 1743a-e-02, 1743a-e-03, 1743a-e-05, 1743a-e-010, and 1743a-e-011 all date stamped 20 December 2012.

Proposal Plans :

Main barn and garage - 1743a-p-03, 1743a-p-04, 1743a-p-05, 1743a-p-06 date stamped 20 December 2012, and revised drawing 1743-p-05b date stamped 28 February 2013.

The Lodge - 1743a-p-010, 282/001c, date stamped 20 December 2012 and revised drawing 1743a-p-011a date stamped 28 February 2013,

Overall Site Plan 1743a-p-02 date stamped 20 December 2012.

Fenestration schedules / plans for The Lodge : Window schedule, Door schedule, 1743a-p-221, 1743a-p-222, 1743-a-p-223, 1743a-p-224, 1743a-p-231, and 1743a-p-232 all date stamped 20 December 2012.

Additional documents : Lime mortar mix, schedule of rainwater goods, schedule of materials, lime render specification, photographs of material samples, and draft S106 agreement all date stamped 20 December 2012, and email dated 28 February 2013 from Watson, Bertram and Fell.

Design and Access Statement, GL Hearn Planning Statement, Mann Williams Main and Cross Barns Structural Report, Mann Williams The Lodge Structural Commentary, J R Sutcliffe Charmydown Lodge Statement of Architectural and Historical Assessment, Tyler Grange Update Ecological Assessment, S J Stephens Associates Arboricultural Report and Tree Protection Plan all date stamped 20 December 2012.

2 REASONS FOR GRANTING CONSENT

The decision to grant consent subject to conditions has been made in accordance with Section 16 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation of the protected buildings and the setting of a nearby principal building. The decision is also generally consistent with the part 12 of the National Planning Policy Framework and accompanying practice guidance and has taken into account the views of third parties.

Whilst the works have the potential to impact upon protected species, these impacts have been identified, assessed and a suitable mitigation scheme designed. The amended proposals are considered to meet the requirements of the E U Habitats Directive. Although the bat roost situated in the barn will be preserved, the development has the potential to cause deterioration of the roost. However, it is considered that the derogation tests in Article 16 of the Habitats Directive are satisfied as there are considered to be imperative reasons of overriding public interest in restoring the historic barn structure to a beneficial use, there is no satisfactory alternative and the development would not have a detrimental effect upon the conservation status of the bats. The impacts of the development on protected species have been identified, assessed and a suitable mitigation scheme designed. The development is therefore considered to meet the requirements of the Habitats Directive.

Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. For the reasons given, and expanded upon in a related committee report, a positive view of the revised proposals was taken and consent was granted.

3 Informative

Please note the grant of listed building consent for the proposed works does not authorise development requiring separate planning permission.

Case Officer: Heather Faulkner

REPORT

Reasons for reporting application to committee

The application has been referred to Committee due to the comments of the Parish Council, who object to the application for the reasons summarised in the representation section below. The Ward Councillor has also requested that the application be determined by the Committee. The Chair of Committee considers that this application raises difficult issues which can be heard at Committee.

The application relates to a property in Compton Martin. The existing property is a bungalow which is set at a slightly higher level than the road and is partially screened by trees. The existing bungalow is of render construction under a concrete tile roof. The site slopes down from south to north and there are relatively modern properties to the north and south of the bungalow. There is a two storey house set at a higher level to the south (with garage nearest the boundary) with a split level dwelling at a lower level to the north. The dwelling at a lower level to the north has windows in the side elevation that look towards the site.

The bungalow is within the AONB and is to the south of the Conservation Area.

This application seeks to develop the property by adding a first floor extension as well as extending the footprint of the property to the rear. The building would project by approximately 2.3 metres from the existing main rear wall of the property. The height of the building would increase from 6.1metres to the ridge to 8.1 metres. The extended building would have a hipped roof of a similar pitch to the existing bungalow. The existing flat roof extensions on the property will remain and the ground floor window detail will remain the same on the front elevation. Two gable dormers are proposed in the front and rear elevations of the property.

Relevant history:

Planning application 12/02072/FUL for the erection of extensions and provision of a first floor was refused on 23rd July 2012 for the following reason:

The proposed extensions, by reason of their height, mass, bulk and detailed design would fail to respond to its local context, would not respect and complement the existing dwelling and would harm the natural beauty of the Mendip Hills AONB. The proposals would therefore be contrary to "saved" policies D.4 and NE.2 of the Bath and North East Somerset Local Plan.

This decision was subsequently appealed and the appeal was dismissed on 28th November 2012.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Neighbouring properties were consulted and two representations were received. The comments made are summarised below:

- Objection to loss of views from property and garden
- Loss of value to property
- Inaccuracies on the plans and lack of detail
- The bulk and mass of the application are not materially different from the previous application.
- The proposal is not in keeping with the AONB and conflicts with policy NE2.
- Loss of amenity due to oppressive and overshadowing effects of development.
- Increased overlooking and loss of privacy
- Loss of light to neighbouring property
- Impact on light received to solar panels.

Case officer comments:

Loss of view and impact on property values are not material planning considerations and therefore cannot be given significant weight in the determination of this application.

Concerns have been raised in respect of the accuracy and level of details on the plans as well as the fact that a sunlight study has not been submitted. The level of information submitted is considered to be adequate and is the same level of detail as the previous application. This level of information was also considered to be adequate by the Planning Inspectorate when considering the recent appeal. The case officer has also visited the neighbouring property to assist the residents in understanding the drawings.

Compton Martin Parish Council: Object, reasons summarised below:

- The revised application is improved design but does not overcome the Parishes previous concerns
- The plans lack dimensions
- Increase in height of the roof
- The topography of the site should be considered
- Overlook neighbouring properties
- Design out of keeping with the area
- The development does not enhance landscape and open space.

POLICIES/LEGISLATION

Policies/Legislation:

The following "saved" policies in the Bath and North East Somerset Local Plan (including minerals

and waste policies) are relevant to this proposal:

D.2 - General design

D.4 - Townscape

NE.2 - AONB

NE.4 - Trees

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches substantive weight to the amended Core Strategy in the

determination of planning applications in accordance with the considerations outlined in paragraph 216 of the National Planning Policy Framework. Policies D.2 and D.4 of the local plan are proposed as saved policies within the submission core strategy.

National guidance in the National Planning Policy Framework (NPPF) is also a material consideration. The following sections are of particular relevance:

Section 7: Requiring good design

Section 11: Conserving and enhancing the natural environment

OFFICER ASSESSMENT

The previous application and subsequent appeals are key material considerations in the assessment of this application. A key point to note is that the previous application was not refused on the basis of the impact on the neighbouring property and this issue was not raised by the Planning Inspector at the appeal stage.

There are a number of comparisons between the previous proposal and the current application; however the scheme has also been significantly altered in terms of its design. The previous application proposed to add an additional storey to the property however, the way in which this was proposed significantly altered the character of the property making it appear as a bland modern style gable fronted building.

The current proposals show a building with a slightly reduced footprint. The height of the proposed building would be around 0.6 metres higher than previously proposed although the roof would be hipped in order to reduce its mass.

The rear elevation of the building, which is the one most visible from the open countryside now has a more symmetrical appearance.

Character and appearance

The previous application was refused for the reason given above due to the affect of the extension on the character of the area and the host dwelling. This issue was discussed at length in the Inspectors report.

The Inspector reported the following about the existing bungalow:

"The existing bungalow is modest in character. It has a simple, traditional and unassuming design. Whilst it has been altered, it retains a certain amount of symmetry, with its near square floor-plan and box bay windows, their gables echoing the line of the pyramid roof"

It was considered that the previous proposal almost entirely subsumed this modest character and traditional appearance with little vestige of the character of the original building remaining. It was concluded that the proposed conflicted with Policy D.4 of the adopted Local Plan which required the appearance of extensions to respect and complement their host building. The revised proposals whilst still increasing the scale of the building are more complementary to the existing character of the building. The change to the roof form is most significant as it takes a similar form to the original roof of the house.

The west elevation of the property retains its symmetrical character and the gable dormer windows are similar to gables currently existing on the bay windows to this elevation.

The east elevation, fronting Rectory Lane, as existing lacks any clear distinction as the front of the property. Whilst the window arrangement at the ground floor level is somewhat haphazard this is the existing arrangement. The addition of the extra floor does not harm the appearance of this elevation. Overall it is considered that the proposed extension whilst adding an additional storey to the building does retain the character of the original building.

Turning to the impact of the development on its wider context the Inspector had reservations about the quality of the design. The Inspector noted the following:

"The properties in the vicinity of the site are of various ages, sizes and designs and, setting aside the conflict with Local Plan Policy D.4 identified above, I acknowledge that a substantial modern house would not be out of place."

Therefore if it is considered that the alterations to the building are acceptable the size of the building cannot be considered to be a reason for refusal of the proposals in design terms. The design of the building is significantly improved from the previous scheme. The rear elevation which is most visible from the footpath to the rear has been significantly improved and the front elevation will remain partially screened from the road which the Inspector acknowledged. It is considered that the alterations would not have an adverse impact on its setting in the Area of Outstanding Natural Beauty and could not therefore be refused on the basis of NE.2.

To conclude it is considered that the revisions to the proposals are sufficient to overcome the concerns raised at the Planning appeal.

Impact on neighbouring properties

Concerns have been raised by the occupants of the property to the north of The Chase. When the previous application was assessed the following conclusion was reached in terms of impact on the neighbouring properties:

"The proposals will have an impact on the amenity of the neighbouring occupier to the north.

However, the existing bungalow and proposed extension are set in from the existing boundary and their impact on the amenity of the neighbouring occupier to the north will not result in "significant harm" by reason of loss of light or overshadowing".

As previously suggested there are similarities between this application and the previous application in terms of the impact on the neighbouring property. Whilst it is noted that the resultant building would be higher than previously proposed the hipped form of the roof helps to lessen this and reduce the overall impact.

During the assessment of this current application a visit was made to the adjacent property 'Meadow Combe'. The property has a side window facing towards The Chase, this window is a high level window and provides a secondary source of light to the room

as there are also windows in the rear of the property which provide light and outlook. Whilst it is acknowledged that the light levels to this side window would be affected, and to a limited degree the outlook from the window, as previously concluded this is not considered to be so harmful to warrant the applications refusal.

No issues in respect of overlooking have been raised previously in respect of this application. The positioning of the windows in this application are broadly similar to the previous application. The side windows at ground floor level would not introduce any greater level of overlooking than currently exists. A rooflight is proposed in either side of the roof slope however one relates to a stair way and the other to a bathroom so would not result in a harmful level of overlooking. The windows proposed in the rear elevation would face at an angle towards Meadow Coombe. However, there are already some views into this property's house and garden from The Chase and the angle of overlooking would not be direct. It is also of note that the side window of Meadow Coombe already looks directly into the garden of The Chase. Overall the level of overlooking and relative privacy is considered to be acceptable. Conditions will be recommended to ensure no further windows are installed in the side elevations of the building.

The proposals will also have an impact on the views from some properties, but the private views from existing houses are not generally material considerations.

The conclusions reached in terms of the impact on neighbours have not significantly altered from the previous decision. It is also of note that no reference was made by the Planning Inspector to any harmful impact on the neighbouring property. Overall, the proposals will accord with Local Plan policy D.2.

Other matters

The neighbouring occupiers have also raised concerns in terms of the impact the increase in the height of the building would have on the level of light received to their solar panels. This impact is not one that would harm their amenity as such but there is some weight to be given to this issue on the grounds of sustainability.

The solar panels were in place at the time of the previous application and subsequent appeal and the panels were not a reason for the refusal of the application.

Whilst it is noted that some light may be lost to these panels in the winter months when the sun is lower in the sky the impact this would have would not result in a significant loss that would warrant the refusal of this application.

The proposals should not harm the existing mature Beech tree on the site and they would therefore accord with Local Plan policy NE.4

Conclusion

The Planning Inspector in her review of the previous case considered that a substantial house would not be out of place in this location. The amendments to the design of the proposal show a scheme which better complements the character of the existing house and would not harmfully impact the appearance of the wider area.

Whilst the impact on the neighbouring property has been acknowledged and carefully assessed the impact on them is not considered to be so severe to warrant the refusal of this application .

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

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

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

2 All external walling and roofing materials to be used shall match those of the existing building in respect of type, size, colour, pointing, coursing, jointing, profile and texture.

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

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no windows, roof lights or openings, other than those shown on the plans hereby approved, shall be formed in the side elevations (north east or south west) at any time unless a further planning permission has been granted.

Reason: To safeguard the amenities of adjoining occupiers from overlooking and loss of privacy.

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

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

PLANS LIST:

1 This decision is taken on the basis of the following drawing numbers:

Received 29th January 2013

Design and Access Statement

2012/Chase01B Location Plan

2013/Chase/03B Existing Elevations

2012/Chase04B Existing Elevations

2013/Chase06B Proposed Ground Floor Plan

2013/Chase07B Proposed First Floor Plan

2013/Chase08B Proposed Elevations

2013/Chase/09B Proposed elevations

Received 1st March 2013

2012/Chase05B Existing Floor Plan

Received 6th March 2013

2013/Chase02D Existing/Proposed Block |Plan

Received 15th March 2013

Site Plan with dimensions

2 REASONS FOR GRANTING APPROVAL

1 The development is considered to be of an acceptable scale, design and siting , which would preserve the character and appearance of this building and the surrounding Area of Outstanding Natural Beauty. There will be no harm to highway safety or residential amenity as a result of this development.

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

A.

D.2 - General design and public Realm Considerations

D.4 - Townscape considerations

NE.2 - Areas of Outstanding Natural Beauty

NE.4 - Trees and Woodland conservation

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

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

The National Planning Policy Framework published in March 2012

Decision Taking Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework. The applicant sought pre-application advice prior to this application being submitted. For the reasons given above the application was recommended for approval.