

Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **25th September 2013**

AGENDA
ITEM
NUMBER

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

TITLE: **APPLICATIONS FOR PLANNING PERMISSION – SITE VISITS**

WARDS: ALL

BACKGROUND PAPERS:

AN OPEN PUBLIC ITEM

BACKGROUND PAPERS

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

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

The following notes are for information only:-

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

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

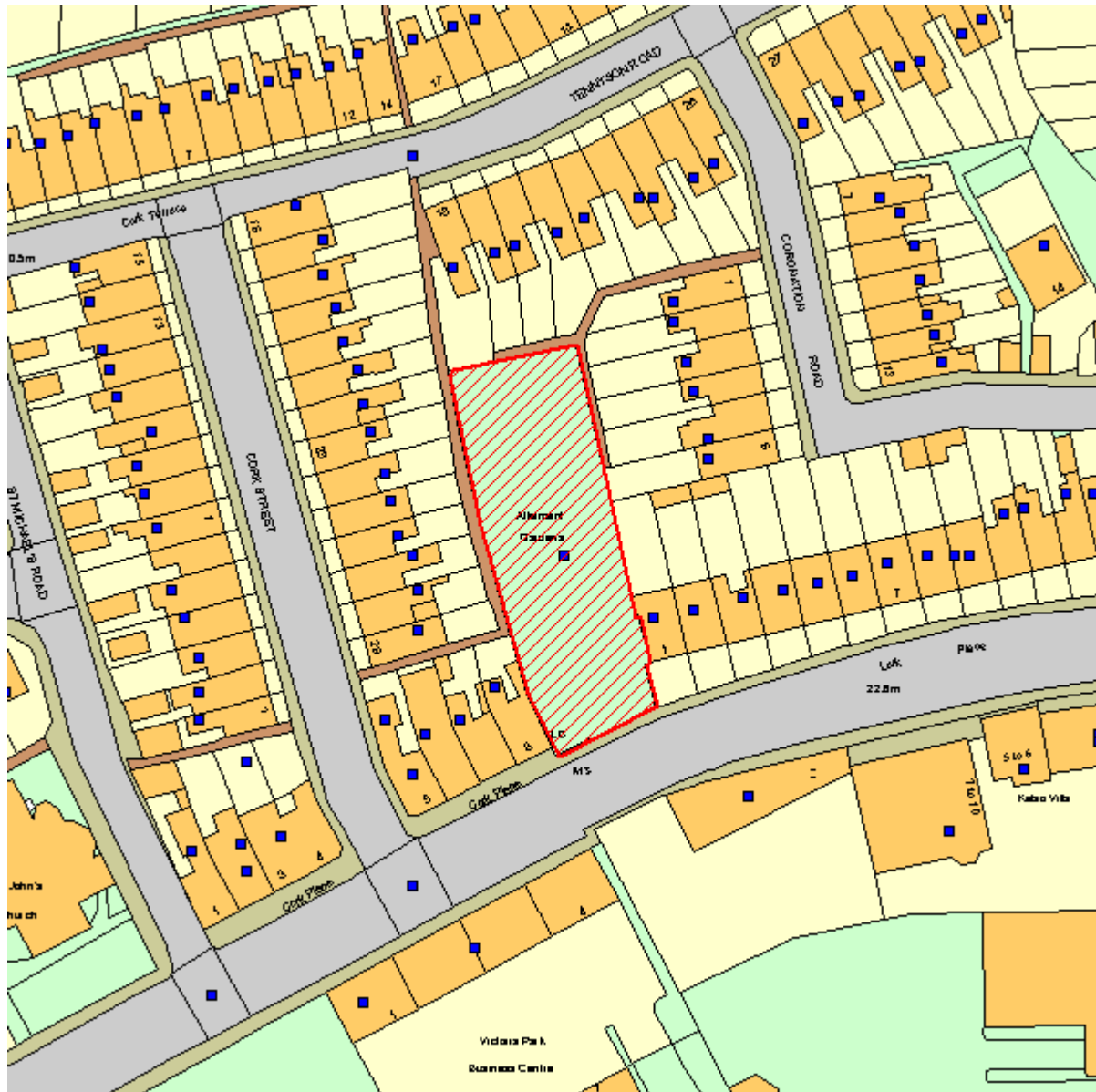
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting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

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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	13/02098/FUL 24 July 2013	Mr P.A. Wells Private Garden, Lark Place, Upper Bristol Road, Lower Weston, Bath Erection of a pair of two storey semi-detached 3 bedroom dwellings, and a terrace of 3 no. two storey 3 bedroom dwellings, including access, parking for 5 cars, cycle storage, and amenity provision.	Kingsmead	Daniel Stone	Delegate to PERMIT
002	13/02302/FUL 13 August 2013	Oldfield School Oldfield School, Kelston Road, Newbridge, Bath, Bath And North East Somerset Relocation of existing temporary classroom building within the school campus, erection of new single storey Drama Block on the current site, reintroduction of grassed area and removal of existing lighting columns to current temporary car-park at rear of site	Newbridge	Victoria Griffin	PERMIT

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

Item No: 001
Application No: 13/02098/FUL
Site Location: Private Garden Lark Place Upper Bristol Road Lower Weston Bath



Ward: Kingsmead **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Douglas Nicol Councillor A J Furse
Application Type: Full Application
Proposal: Erection of a pair of two storey semi-detached 3 bedroom dwellings, and a terrace of 3 no. two storey 3 bedroom dwellings, including access, parking for 5 cars, cycle storage, and amenity provision.

Constraints:	Agric Land Class 3b,4,5, Article 4, British Waterways Major and EIA, Conservation Area, Forest of Avon, Hazards & Pipelines, Hotspring Protection, World Heritage Site,
Applicant:	Mr P.A. Wells
Expiry Date:	24th July 2013
Case Officer:	Daniel Stone

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

Councillor Andrew Furse requested that if the application is to be recommended for approval it should be brought to committee due to the impact upon many residents in Cork Street, Tennyson Road, Coronation Road and Lark Place (not including other local residents who had an allotment on the proposed site), and the fact that it is a significant development within the Conservation Area.

DESCRIPTION OF SITE AND APPLICATION

The site consists of an undeveloped space fronting onto the Upper Bristol Road, surrounded by housing. The applicant describes the site as a private garden that is rented out to an adjoining resident, but surrounding residents describe the land as allotments. The land is not designated as allotments in the Local Plan. The Council's allotment manager describes the site as private allotments, not within the control of the Council.

The site is within the World Heritage Site, and Bath Conservation Area, and additionally the stone fronted terrace to the east is a Grade II Listed building. A Cast iron "milestone" set onto a stone post in the front boundary wall of the site is also Grade II Listed.

The site frontage consists of a high stone boundary wall, above which fruit trees and scrub within the site can be seen. There is currently no access to the site off the Lower Bristol Road, but alleyways run around the perimeter of the site, accessed off Coronation Road to the east, Cork Street to the west and Tennyson Road to the north.

The proposals consist of a pair of semi-detached dwellings to be erected on the site frontage, adjoining the listed terrace and an additional 3 dwellings to be erected towards the back of the site. Openings would be formed in the wall on the road frontage to allow a pedestrian access for the right hand dwelling and to allow the vehicular route through to the dwellings, parking and turning areas to the rear of the site. The listed "milestone" would be removed from its current location and re-erected in the new wall near to its current location.

RELEVANT HISTORY

- 0/5177 - Change of use from allotments to residential purposes - refused 1957. Reason for refusal "The land is zoned for allotment purposes in the Development Plan and the proposed use would conflict with that zoning.

- 6540 - erection of a timber building to be used as joinery workshop, the existing garden to remain as such - refused 1961 - Reason for refusal "The land is zoned for allotment purposes in the Development Plan and the erection of an industrial building on the land would be detrimental to the amenities of the adjoining properties.

- 6540/1 - erection of a timber building to be used as joinery workshop - Reason for refusal "The land is zoned for allotment purposes in the Development Plan; the erection of an industrial building on the land would be detrimental to the amenities of the adjoining properties and the proposal would lead to vehicles standing on the adjoining classified road creating a traffic hazard on this very busy stretch of road.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Summary of Consultation/Representations:

CONSULTATION:

Consultation letters were sent out to 33 properties, a notice was placed in the local press and additionally a site notice was displayed on the site frontage on Upper Bristol Road.

REPRESENTATIONS:

To date 68 letters of objection have been received, plus a petition objecting to the development with 68 signatories. No letters of support have been received.

OBJECTIONS (Summarised):

Existing Use of the site / Loss of Allotments

- Object to the loss of Allotments and to the lack of any alternative provision to make up for the loss.

- The site is incorrectly described as a private garden. It's always been allotments, since before 1960 and was used by 7 residents until being given notice to quit a few months ago.

- There is a shortage of allotments for those who want them in Bath, with a 2 - 3 year waiting list for the nearby allotments: Lower Common West, High Common, Sion Hill. Growing our own food is increasingly important for health and to help families budget.

- The individual allotments are / where maintained by over 7 local resident households and provide a great sense of community

- Object to loss of the green space, which is a useful social and community contact point for the surrounding houses and attractive open space.

- The OS 1:1250 sheet dated December 1950 (some 13 years before the brothers Walkington bought the plot) contains the notation "Allotment gardens" in the area of the proposed development and this notation continues on the current OS sheet.

- The site was allocated as open space / allotments in the 1953 Town Plan

- Regardless of what the tenancy agreement says, the land was sub-divided and sub-let into individual plots for use as allotments, and 4 years ago a resident asked the tenant whether he could be added to his waiting list for allotments.

Conservation and Heritage impacts

- The development would necessitate a Victorian wall being knocked down, which adds to the character of the street.
- Object to the milestone being re-sited from its historical position. The listing includes the fact that it is by definition 1 mile from the Guildhall; exact map references are sited in the listing, and it is farcical to think that placing it elsewhere will not impact its historical importance.

Design

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- This is an overdevelopment of the site involving the loss of garden areas which in OS maps are described as allotments and are used by the local community
- The design of the houses (in particular the rear three units) is not in keeping with the character of the Conservation Area, the character of adjoining Georgian terrace (Lark Place) or the Victorian / Edwardian houses of Cork Place, Tennyson Road and Coronation Road.
- Unacceptably high density/overdevelopment of the site, especially as it involves a loss of garden land and the open aspect of the neighbourhood.

Amenity Impacts

- Proposed dwellings would overlook and overshadow the surrounding properties, resulting in an unacceptable loss of privacy and daylight.
- The rear units would particularly overshadow the adjoining gardens, 2 metres to the east, belonging to Coronation Road.
- Construction would result in noise pollution for surrounding residents.
- Concerns raised regarding the proposed excavation works and potential subsidence problems.
- Loss of outlook over green space for surrounding dwellings
- Insufficient detail is shown regarding the relationship between the existing and proposed ground levels and no. 8 Cork Place.
- Concerned about the installation of external lighting within the development.
- There is a known problem in Cork Terrace where the ground has been found to be less than solid. To remove this amount of soil and change the structure of the ground between the two lines of terraced houses could put these houses in danger of a further subsidence or heave particularly by a very busy road which carries very large vehicles thus causing vibration.

Highway Safety / Parking

- It was wrong at pre-application stage to suggest to the Applicant that parking bays lost on the Upper Bristol Road due to the construction of the driveway could be regained by "tacking-on" bays to the east of the existing. This should not happen and a TRO to this effect will not succeed. The parking as it stands extends as far as it physically can eastwards. Even at present, I have observed eastbound traffic encroach into the westbound lane of Upper Bristol Road when passing a vehicle parked at the eastern end of the bays.

- It is not appropriate in highway safety terms to create a residential access (to a small infill development) directly onto an arterial road.
- The driveway into the site is too steep - introducing such a steep access directly onto an arterial road introduces the risk for cars to build up significant momentum prior to having to stop at the entrance to the site.
- The application proposes a very bad access to the site with poor visibility. A swept path analysis should be carried out for fire appliances, refuse trucks and a plan should be submitted showing sight lines for vehicles exiting the site onto Upper Bristol Road.
- Development would cause congestion at the entrance of the site on the Upper Bristol Road

- The access of the Upper Bristol Road is difficult, with high traffic flows and difficult junctions with Park Lane, Cork Street and St Michael's Road
- A vehicle trying to exit the site will have to block the pavement in order to gain the necessary sight lines to make the manoeuvre safely.
- Concerned about inadequate parking - parking in the area is already very difficult. 1 Space per dwelling is not enough
- No traffic assessment has been submitted with the application nor data relating to the impact the proposed access road and crossover will have on the Upper Bristol Road.

Adjoining Businesses

- Object to the loss of parking spaces on the site frontage, which are vital for the survival of the adjoining shops.
- Hair by Dular, the adjoining shop, provides hairdressing particularly to the elderly, some of whom are disabled and arrive by car.
- Starcol Services, the adjoining computer repair shop, raise concerns about the loss of parking, which is essential to their business, allowing customers to pick up and drop off computers / printers.

Consultation process

- Insufficient consultation has taken place

Landscaping / Ecology

- Object to loss of habitat for local wildlife and fruiting trees.
- The landscaping shown on the proposed plans offers an inadequate replacement of the trees and shrubs currently on site and blocks off what has become a wildlife corridor

Other

- The development would reduce property values (Officer Note: Within the existing legislation, the effect of development on property values is not a material consideration).
- The development would add further pressure to local schools.
- If consent is granted, conditions should be attached covering noise, disturbance, dust and the management of construction traffic during the construction period.
- The site is of archaeological importance.
- The private drive giving access to units 3, 4 and 5 will open up easier access to the rear of neighbouring properties

COUNCILLOR FURSE - OBJECT

My objection is based on the following:

- Loss of allotments - already there is a significant deficit with allotment provision in Bath, this would lead to further reduction.
- Loss of natural habitat which complements local gardens.
- Loss of residential amenity for dwellings adjacent to the development site who will suffer significant overlooking.
- Significant visual impact on adjacent dwellings and an over development of the site.
- Difficult and potentially dangerous access and egress to Upper Bristol Road.
- Removal of historical milestone (1 Mile to Guildhall) and wall to gain access to site.
- Increased pressure on current parking zone.
- Impact on the number of limited waiting parking spaces on UBR which are in situ to support local businesses and the reduction of on street parking used during evenings by residents.
- Design of proposed dwellings is not in keeping with either terraced housing in Cork Street/Tennyson Road or Coronation Rd, or with Lark Place as viewed from the UBR. Blending with the local dwellings would be expected within this conservation area. The application is presented as a private garden but is in fact allotments.

BATH PRESERVATION TRUST

Bath Preservation Trust notes that the land to be developed may currently be used as allotments and therefore protected under Local Plan policy CF.8. This clearly needs to be clarified before any planning permission could be granted. Our comments on the design proposals are made without prejudice to the issue of whether the land is available for development.

In general, Bath Preservation Trust supports the development of housing on unused land within the city which will alleviate pressure to build within the Green Belt. We therefore broadly support this proposal, but only subject to clarification of the status of the land.

We do, however, regret the intention to move the Guildhall milestone so far from its current position. Whilst we understand that the marker may have to be moved, it ought to be re-installed far closer to where it sits currently.

We feel strongly that this development must be tightly conditioned in terms of materials including sample panels and that more attention must be given to the related highway proposals as per the highways consultation response if permission is to be given.

HIGHWAYS DEVELOPMENT CONTROL - No objection subject to conditions and contributions being sought towards strategic transport measures.

The submission was the subject of considerable pre-application discussion with the applicant's agent some months ago, particularly in respect of the access from the Upper Bristol Road.

This length of the A4 is very busy at all times, but especially at peak hours, and traffic queues on the westbound approach to the Windsor Bridge Road signal-controlled junction (opposite the proposed access). In addition, it will be necessary to remove a length of existing on-street parking in order that access can be achieved.

In respect of the principle of access from the Upper Bristol Road, I have observed access for vehicles to/from Cork Street and St. Michael's Road, both of which serve many more dwellings than that proposed at this development. While sometimes drivers need to be patient in waiting for an appropriate opportunity to proceed, there do not appear to be safety issues arising (there is no injury-accident record at either junction). In some instances there is a small delay to queuing traffic while a car waits to turn right into the side-road, however the likelihood of this occurring (when access for only five dwellings is required) is very low.

A yellow box-junction is proposed to address the issue of obstruction to queuing traffic. While this was previously thought to be an appropriate way forward, I would now suggest a simple 'Keep Clear' marking should be introduced, secured by way of a contribution to allow the location and extent of the marking to be considered by colleagues. The access is wide enough for a distance into the site to allow one car to enter the site if another is waiting to emerge. A centre-line should be provided on the access to ensure this works efficiently.

The Head of Parking Services and the Area Traffic Engineer have been consulted in respect of the loss of on-street parking. The Head of Parking Services has advised that although the most recent data (2009) shows this is not parked at capacity, he would nevertheless want the lost parking to be replaced. The Area Engineer concurs and has stated that the required changes to the Traffic Regulation Order will have to be funded by the developer. There is a risk in the delivery of the Traffic Regulation Order as the statutory consultation process does not guarantee a positive outcome - I would therefore recommend a Grampian condition to ensure the development cannot commence until there is a successful outcome to a TRO process. The funding for the TRO legal and administrative costs, as well as signs, lines etc. will need to be secured through a Section 106 agreement.

In terms of detail, the low-key design of the access i.e. the footway running across the frontage giving pedestrian priority, is appropriate. Visibility from the access will be compromised by parked vehicles to a certain degree, however Manual for Streets 2 suggests this is a common occurrence in built-up areas and it does not appear to create problems in practice. The site layout allows for emergency access and is designed as a shared-space to minimise speeds and create a low-key environment. It is not required that this road be offered for adoption as a public highway due to the level of development served. The level of parking provided is appropriate as it is consistent with the parking provision at the Western Riverside development (across the other side of the Upper Bristol Road), and the site is located convenient for local facilities as well as alternative forms of travel (a frequent bus service, access to the riverside cycle path, a level walk/cycle to the city).

To reinforce this principle, and to ensure parking doesn't overflow onto Cork Street etc. the applicant should be advised that the occupants will not be entitled to apply for resident's parking permits. The development meets the threshold by which it must contribute

towards strategic transport measures. A development of 5 dwellings is required to contribute a sum of £17,648.40 (5 x 7 multi-modal movements per day, x £504.24). Subject therefore to this being secured, together with the cost of the Traffic Regulation Order and installation of parking restrictions (£6500), and the introduction of the 'Keep Clear' marking on the Upper Bristol Road (£1500), which allows for traffic management), no highway objection is recommended.

FURTHER COMMENTS - 12th August 2013.

I refer to the copy of a letter from Mr Bubb in which he raises a number of highway concerns in relation to the development proposal. I have also considered other objections which have been received following the highway recommendations dated 10th June 2013.

Concerns has been expressed in relation to the additional traffic generated by the development; loss of parking on Upper Bristol Road affecting businesses, insufficient parking on site for the development; steepness of access drive; level of visibility for new access; and the use of the box junction causing more problems on the Upper Bristol Road.

The proposal is for 5 dwellings, where the level of traffic generated by such a development would not result in a material increase in traffic using the Upper Bristol Road. Whilst a new junction would be created from the Upper Bristol Road, resulting in turning movements onto, and off, the highway, the impact of this has been considered in detail.

A yellow box junction has been proposed, but it is now considered that a "keep Clear" marking is sufficient. The means of access, in terms of its geometry and visibility have been considered, having regard to current guidance, and is considered to be appropriate for the level of development.

With regard to the impact on the parking on Upper Bristol Road, the Parking Services Manager has advised that any parking lost as a result of the development would need to be replaced, and a Grampian condition to ensure that Traffic Regulation Orders can be made to secure this before development commences has been suggested.

The level of parking spaces within the site accords with current standards, and reflects the sustainable location of the site, whereby residents would not need to be wholly reliant on the private car. The provision of cycle storage facilities would also help to encourage cycle use.

The gradient of the access drive is proposed with a 1 in 15 gradient for the first 5m, and an average gradient of 1 in 8 beyond, and whilst this would provide a steeper access drive, it falls within acceptable limits.

Therefore, whilst the access to serve the development may not be considered to be ideal, the previous highway recommendations are maintained.

URBAN DESIGN - not acceptable in its current form.

- Support continuation of building line, but I think there should be two access points from the Upper Bristol Road - one for each frontage house as there are along the rest of the terrace.
- Units 1 and 2 roof features double mansard with no chimneys: this makes the roof space unable to be adapted in future, and does not create the articulation chimneys provide. A pitched roof like those to the east of the site could be adaptable in my view and the addition of stack ventilation chimneys would provide a source of natural ventilation that would help reduce the noise from opening windows and provide the articulation roofscapes in the city should have. The patio area, dining area and kitchens of these houses would lack natural daylight due to a sunken area facing north. There appears to be an opportunity to bring these lower level rooms out into the patio area a little to allow rooflights in? This could also allow slightly bigger balconies above.
- Units 3, 4 and 5 have a very shallow roof that appears to compromise the efficiency of the proposed PV array, which is supported. A higher pitch with deeper overhanging eaves could serve to improve the proportions of the roof, make pvs more efficient (30% ideal) as well as provide solar shading for south facing windows.
- The arrangement of the public realm exactly follows the line of vehicle turning circles. There is no need to compromise the quality of the public realm by replicating these curves in the line of walls - the appearance of the scheme would be improved if the space required for vehicular movements is maintained whilst incorporating walls that are squared off to relate to the buildings and not to the highway.
- Cycle stores should be in areas of the curtilage of buildings adjacent to access road so that cycles can be moved easily. The undercroft areas of units 1 and 2 look like they could accommodate cycle stores.
- Where would rubbish be deposited for collection? Should not be on Upper Bristol Road unless appropriately contained.

LANDSCAPE OFFICER -No objection subject to conditions to secure a landscaping scheme.

The loss of allotment space is to be regretted and there does not appear to be any material public benefit in its place. This needs to be considered in the overall balance. I would not object to the terrace across the front of the site as this would generally appear as a continuation of the existing. However, I think the rear is very tight for three dwellings as well as turning and access.

The planted areas to the rear may need to be amended to allow for overrun especially in respect of spaces 3 and 4. Having said that, I would not object to the principle, but would want to see a high quality hard and soft landscape scheme. It will specifically need to address the public domain and very particularly the road frontage elements. The boundary wall must also be designed and built to the highest standards.

TREE OFFICER - NO OBJECTION

The trees on and adjacent to the site are protected by the conservation area status. The existing trees are predominantly fruit trees which collectively contribute towards the green infrastructure but are of limited arboricultural merit to support the making of a tree preservation order.

The layout results in a net loss of green infrastructure within the World Heritage Site. The Green Infrastructure Strategy includes a number of principles which include: 'Green infrastructure should be central to the design of new developments. Proposals should respect and enhance green infrastructure within the site and demonstrate strong links to the wider network.' No objection is raised on arboricultural grounds.

ARCHAEOLOGY - NO OBJECTION SUBJECT TO CONDITIONS.

The proposed development lies in close proximity to a number of Roman burials (HER: MBN4562) discovered when the area was developed in the 19th century, indicating a possible area Roman-British activity/occupation. I would therefore recommend that that conditions are attached to any planning consent, to ensure (1) a field evaluation of the site, (2) a subsequent programme of archaeological work or mitigation, and (3) publication of the results.

CONTAMINATED LAND OFFICER - NO OBJECTION SUBJECT TO CONDITIONS.

I have reviewed the planning application for the above referenced site. Due to the sensitive nature of the development (i.e. residential) and the potentially contaminative historical uses in the vicinity of the site (former gas works and depot to south), I advise that conditions are applied to any permission to secure a site investigation, reporting and remediation where necessary.

ECOLOGY - No objections subject to the submission of a Wildlife Protection and Enhancement Plan

A comprehensive ecological survey and assessment have been submitted. No further surveys are required prior to determination of this application. Recommendations, including recommended survey (and mitigation if applicable) for reptiles, are made, along with a range of measures to prevent harm to wildlife.

ENVIRONMENTAL PROTECTION (NOISE) - No objections subject to conditions detailing noise mitigation measures

The development is likely to be affected significantly from noise from traffic on the A4 Upper Bristol Road. We advised prior to the submission of the application the constructed building must meet the criteria within BS8233:1999. 'Sound insulation and noise reduction for buildings - Code of practice', which provides guidance upon appropriate design values for internal and external noise at residential properties.

It is anticipated after a review of the design and access statement that the applicable acoustic criteria will be readily achievable by way of noise control measures incorporated

into the site and building design. The principal method of mitigating noise will be by way of adequately specified sound insulating external building fabric, particularly the glazing and ventilation systems.

HEALTH AND SAFETY EXECUTIVE - The HSE does not advise, on safety grounds, against the granting of planning permission in this case.

EDUCATION - No objection subject to contributions of £20,307.23 being provided towards primary school and Youth Services provision.

PARKS OFFICER - No objection subject to contributions of £11,770.20 being provided towards the enhancement of public open space (Formal green space and natural green space) and allotment provision.

This quantum of development will result in a projected occupancy of 15no. persons who will generate demand for formal green space, natural green space and allotment provision of 225m², 225m² and 45m² respectively.

The Council's data shows that there is currently a surplus within the Kingsmead Ward in respect of formal green space, natural green space and allotment provision. As such, and in accordance with the Council's Planning Obligations SPD, the applicant would be required to make a capital contribution to the Council, to be used for the enhancement of existing facilities within the area.

POLICIES/LEGISLATION

Policies/Legislation:

NATIONAL PLANNING POLICY FRAMEWORK

The NPPF came into effect on the 27th March 2012 replacing all previous Planning Policy Statements (PPS's) and Guidance Notes (PPG's). The NPPF is of primary consideration in the determination of this application. Whilst the NPPF confirms at Para 214 that full weight can be given to relevant (local) Policies for a period of 12 months from the date of its publication, this is conditional on those policies having been made in accordance with the 2004 Planning and Compulsory Purchase Act. In the case of the B&NES Local Plan, although adopted in 2007 this was made in accordance with 1990 Town and Country Planning Act and therefore Para 215 of the NPPF is applicable where it is stated "due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)".

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

D.2: General design and public realm considerations

D.4: Townscape considerations
IMP.1: Planning obligations
CF.8 - Protection of Allotments
CF.3: Contributions from new development to community facilities
BH.2 - Listed buildings and their settings
BH.6 - Development within/ affecting Conservation Areas
BH.8 - Improvement work in Conservation Areas
BH.12 - Important archaeological remains
ES.2: Energy conservation and protection of environmental resources
ES.5: Foul and surface water drainage
ES.14: Unstable land
ES.15: Contaminated land
HG.1: Meeting the District housing requirement
HG.7: Minimum housing density
SR.3: Provision of recreational facilities to meet the needs of new developments
NE.1: Landscape character
NE.9: Locally important wildlife sites
NE.10: Nationally important species and habitats
NE.11: Locally important species and their habitats
NE.12: Natural features: retention, new provision and management
T.1: Overarching access policy
T.24: General development control and access policy
T.26: On-site parking and servicing provision

DRAFT CORE STRATEGY, MAY 2011

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

CP2: Sustainable construction
CP6: Environmental quality
CP9: Affordable housing
CP10: Housing mix

A green infrastructure strategy for Bath & North East Somerset - March 2013

OFFICER ASSESSMENT

Officer Assessment:

IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN PRINCIPLE?

HOUSING POLICY CONTEXT

The National Planning Policy Framework advises at paragraph 47:

"to boost significantly the supply of housing, local planning authorities should use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework; and identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land."

Paragraph 49 of the NPPF advises subsequently: "housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites."

The National Planning Policy Framework stresses a presumption in favour of sustainable development. "Where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific policies in this Framework indicate development should be restricted."

In 2010 the Council published the draft Core Strategy for consultation and latterly the document has been undergoing its Examination in Public. The Inspector assessing the Core Strategy has advised that the approach of the Core Strategy to assessing the housing requirement is unsound, leading to a requirement to make up a shortfall of 850 houses and to make provision for a 20% buffer to the 5 year housing land supply, and the Council has accepted that it is not currently able to demonstrate a 5-year housing land supply.

As a consequence, the Council accepts that a presumption in favour of Sustainable Development applies to housing proposals, and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework.

The site is located in a relatively accessible location, within walking distance of the city centre, and with good access to public transport and cycle infrastructure. Consequently, officers consider that the site is a sustainable location for residential development. However many residents have objected to the development of the site, and on the loss of benefits the site provides in terms of residents growing their own food, and this is considered to be the primary issue in the determination of the application, to be balanced against the benefits the development offers in terms of the delivery of additional housing.

LOSS OF EXISTING LAND USE

Policy Context

The National Planning Policy Framework (NPPF) advises at paragraph 74. "existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements; or the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision."

The NPPF does not specifically discuss allotments except to exclude them from the definition of Previously Developed Land, but at paragraph 70 the document advises that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should plan positively for the provision and use of shared space, community facilities and other local services to enhance the sustainability of communities and residential environments, and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

Local Plan policy CF.8 advises "Development resulting in the loss of land used for allotments will not be permitted unless:

- (i) the importance of the development outweighs the community value of the site as allotments and suitable, equivalent and accessible alternative provision is made; or
- (ii) the site is allocated for another use in the Local Plan and suitable, equivalent and accessible alternative provision is made. Development resulting in the loss of vacant land last used for allotments will not be permitted unless the existing and foreseeable local demand for allotments can be met by existing suitable and accessible sites. New allotments will be permitted provided that they are accessible to the area they are intended to serve and suitable for productive use."

Whilst the Adopted Local Plan pre-dates the NPPF, policy CF.8 (which safeguards allotments unless equivalent replacement provision is made), is in full compliance with the NPPF and can be afforded significant weight in assessing the application.

The Core Strategy identifies the lack of allotments as a strategic issue and emphasises the role allotments can play as Green Infrastructure, and residents correctly identify a shortage of allotments in the Bath area. It is clear from the planning history of the site that at the time of the historical applications (1957 - 1964) the land was designated as allotments, however the land carried no such designation in the 1997 Adopted Local Plan, and additionally was not identified as allotments in the 2007 Green Space Strategy.

Status of Existing Use

Current Appearance and Use

At the time of writing, the site has the appearance of allotments, with vegetables planted in strips on either side of a central walkway, extensive areas of fruit trees at the southern end of the site, plus compost bins and several large greenhouses and sheds. At the time of the Officer site visit, there was an occupied bee hive site on the land and the majority of

the land evidently had been in active cultivation, though was starting to become overgrown. It is however of note that there are no obvious signs of separate plots being set out within the land, such as plot numbers or individual small sheds being erected on individual plots.

The applicants confirm that between 2003 - 2013 the site has been privately let to a local resident as a private garden, and have submitted a copy of the tenancy agreement covering this period, which confirms that the whole site was rented to an individual person. In a telephone conversation on 16th July 2013, the tenant confirmed these arrangements. Between 2003 - 2013 he was the sole tenant of the land, with clauses on the lease to prevent him sub-letting the land, but due to ill health he allowed family, friends and adjoining residents to assist him in cultivating the land, with them taking a share of the produce as compensation.

Surrounding residents dispute the applicant's description of the use, some residents commenting that the land was divided up into individual plots, others commenting that they helped the tenant tending the plot, taking produce as compensation for their assistance. No documentary evidence has been produced to substantiate that the land was sub-divided and rented out in the normal manner of allotments, for instance rent receipts or allotment agreements.

Subsequently the applicants have written to challenge objectors assertion that the land was used as allotments, and confirming that any community use of the land was without their consent.

Past Use of the Land

The applicant states that the land was owned by two brothers and used for vegetable growing until 2000 when he bought the site. Officers have undertaken an analysis of aerial photographs of the site in 2009, 2006, 2005 and 1999. Additionally residents have sent in additional aerial photographs from 2000. In all of these photographs, the majority of the site appears to be in cultivation, with the same basic layout as appears today. Several residents have suggested that the site has been consistently cultivated for a substantial period of time, since 1960, 1950 or even back to the second world war, and this is consistent with the information available within the planning office.

Legal Status of Land

The land is privately owned and is not controlled by the Council as a Statutory Allotment. A letter has been received from the applicant's solicitor stating that the land is a private garden rather than an allotment, and that therefore the use is not protected by policy. The solicitors also submitted a copy of the tenancy agreement covering the period 2003 - 2013. The key points from the letter and tenancy agreement are as follows:

- The site has been rented to an individual tenant
- The tenancy describes the land as a private garden rather than an allotment, and makes no mention of the Allotment Acts
- Clauses on the lease prohibited the tenant from assigning, underletting or parting with possession of any part of the premises, or permitting trespass on the land, and there was no evidence of the land being subdivided or sub-letted to form individual plots.

- An allotment is commonly meant to be a plot let out to an individual within a larger allotment field. The land doesn't fall within this description and therefore isn't an allotment in the legal sense of the word
- The land has no community value, in that it has been let to a single person only, the tenancy of the land has been terminated and the owner cannot be compelled to let his land.

Officers have sought a legal opinion on the weight to be given to the tenancy agreement, to the community use of the land, and the robustness of a possible recommendation to refuse consent for the development. The legal opinion advised the following:

- 1) The fact that there is tenancy agreement in itself is not conclusive as to the planning use of the land but it is material factor in its establishment.
- 2) Whether the site is an allotment is a matter of interpretation. The law requires the policy to be interpreted objectively in accordance with the language used and read in its proper context.

The relevant policy appears to be written under the local plan chapter concerning community facilities and services. Chapter B3.40 of the local plan itself states there are a few allotments in private ownership pre-supposing the majority of allotments whether statutory or non-statutory are publicly controlled in the context of the policy. The site is evidently privately owned without any apparent public rights or valid sub-letting to individuals of the community akin to an allotment. The context of the policy states allotments are an important leisure resource bringing in the community value aspect of the underpinning policy objective.

I could not find that the site was assessed as an 'allotment' in the Council's Green Space Strategy to which paragraph B3.41 of the local plan refers. The community value point seems to underpin the policy and in my view this is important. Objectively it appears there is a limited basis to support that the site is a proper allotment in the context of the policy and even less of a basis to uphold that the site is a valid community facility. Overall on the available information you now have, I consider that the Council would have to adopt a very wide approach as a matter of interpretation to bring the site within the meaning of an allotment in terms of the policy.

Also importantly it appears a refusal would not result in the use (if there is an allotment use in terms of the policy) being continued.

So far as material to the application and considering the information made available to me I do not consider that, on balance, the site should be considered an 'allotment' under the policy, however, the exercise of that judgment/decision is a planning one.

I would comment that the applicant's lawyer's letter dated 23 July 2013 seems a fair representation of the position when summarising definitions of allotments.

- 3) In terms of the desirability of retaining an existing use as a material consideration in Westminster City Council v British Waterways Board Lord Bridge expressed the view that it was necessary to show as 'a balance of probability' that a refusal would result in the preferred use being continued. In London Residuary Body v Lambeth London Borough Council the House of Lords held that, even where it has been shown that there is a need for and desirability for preserving the existing use and there is no need or desirability for the proposed change of use, it was still open to the Secretary of State to determine that

the planning objections were not of sufficient importance to overcome the presumption in favour of granting permission.

The key facts that emerge from this, and which are central to the determination of the application are as follows:

- The land is in private ownership, with clauses in the lease covering a 10-year period preventing trespass on the land and sub-letting of the land. Whilst not conclusive in determining the planning use of the land, the tenancy is material in establishing the established use of the land.
- Despite the tenancy agreement, the land has community value for adjoining residents and has had a degree of community use over the last 5/6 years, however it appears that this community use/access was informal and was not officially sanctioned by the owner of the land.
- Whilst safeguarded for allotment use in previous Development Plans, the land is not designated as allotments in the Adopted Development Plan.
- As the land does not form a statutory allotment, and is privately owned, irrespective of this planning decision there is no planning mechanism through which the Council can "force" the owner of the land to rent it out to the community. Therefore whilst the land has had a degree of community use and access, this access (and the community value of the land) was not secure.
- It is within the rights of the landowner to erect a 2 metre fence around the land to prevent access, for which planning permission would not be required.

In conclusion, whilst the land has the appearance of an allotment, it is not designated as such in the Adopted Local Plan, and appears not to have been managed as an organised allotment. Whilst the land has had a community use by some surrounding residents, the use was informal and the community value correspondingly insecure.

Officers consider the deciding factor is that even were the application to be refused, the current use of the site (and the community access to the land) would be very unlikely to be continued, and there is no planning mechanism through which the Council could force the land to be rented out to surrounding residents.

As a consequence in assessing the balance between the benefits delivered by additional housing and the harms resulting from the development, lesser weight can be given to the loss of the existing use and the "loss" of community access to the land.

ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THEIR IMPACT ON THE CHARACTER AND APPEARANCE OF THE CONSERVATION AREA, THE SETTING OF THE WORLD HERITAGE SITE AND ADJOINING LISTED BUILDINGS?

Front Terrace and Works to Form Vehicular Access

To the east of the site lies a Grade II Listed Georgian terrace. The proposals feature a pair of semi-detached dwellings adjoining this terrace, faced in dressed stone, with a slate

roof and a double valley gutter roof. The design and form of the property would relate well to that of the adjoining terrace and the height of the building at eaves and ridgeline would match that of the adjoining listed terrace. The addition of chimneys would further improve the appearance of the development and add articulation to the roof design, but the proposals are not considered to be unacceptable because of this.

Plot 2 would be accessed on foot via a flight of steps set at a right angle to the pavement in the same way as the other properties on Lark Place. Plot 1 would be accessed via a flight of steps coming off the vehicular opening into the site. Whilst this differs in design from the way the adjoining listed buildings are accessed, officers do not consider that this would detract from the setting of the adjoining listed buildings or the Conservation Area.

Overall this building and the associated works at the front would preserve the setting of the Conservation Area, would not detract from the setting of the adjoining Listed Buildings or that of the World Heritage Site.

Proposed Dwellings at Rear and Landscaping

The dwellings at the rear (units 3 - 5) would be faced in dressed stone at ground floor level, render at first floor level with a pantile roof, and in general is modern in appearance. The building appears to have been designed to minimise its height and its impact on adjoining residents and therefore the roof is low in pitch. This roof-form does contrast with that of other buildings in the vicinity, but relates well to the modern design and appearance of the building. The rear building is located in a backland location, would be dug into the site, and would not be viewed prominently within the streetscene. Therefore it is not considered to detract from the character or appearance of the Conservation Area, or the setting of the World Heritage Site.

Concerns have been raised about the layout of the public realm within the development, the layout of which follows the tracking movements of vehicles turning within the site. It is correct that the shape of external spaces is defined by vehicle tracking, and this could be amended, however this would necessitate the private gardens of the properties being reduced in size. Given the confined nature of the site, it seems preferable to leave the layout as submitted, and maximise the amount of private garden space provided.

Re-location of Mile-Marker

In order to create the vehicular access it would be necessary to re-locate the milestone set into the front boundary wall. The Mile marker and the stone backing plinth would be removed and re-set into the new wall, bedded in lime putty mortar. The new location of the mile-marker would be 14.1 metres to the east of its existing location. Whilst the re-location would affect the accuracy of the mile measurement, this would be unnoticeable, and officers do not consider that the relocation of the mile marker this would affect the significance of this heritage asset.

However, as the mile-marker is individually listed, Listed Building consent would need to be sought for the re-location of the marker before these works can go ahead and no such application has been lodged.

IS THE PROPOSED DEVELOPMENT ACCEPTABLE IN TERMS OF ITS IMPACT ON THE AMENITY OF SURROUNDING RESIDENTS AND AMENITY LEVELS IN THE PROPOSED DWELLINGS?

Adjoining residents have objected to the impact the development would have in terms of loss of privacy and loss of light to their properties.

Overlooking

Given the relationship between plots 1 and 2 (on the site frontage) and the adjoining properties, it is not considered that these proposed dwellings would have any significant impact on the amenity of the adjoining residents, and there would be an acceptable facing distance (21 metres) between plots 1 - 2 and 3 - 5.

Regarding plots 3 - 5, these dwellings would be designed with windows in the front and rear elevations and obscure glazed bathroom windows in the side elevations at first floor level, as a consequence no overlooking issues would arise properties overlooking the site from Coronation Road and Cork Street to the east and west. The facing distance between plots 3 - 5 and the rear elevation of the properties in Tennyson Road is a minimum of 18.5 metres. From the proposed sections submitted with the application, these rear plots would be dug substantially into the site approximately a storey height below the external ground level in the gardens to the north. Taking these factors into account, proposed plots 3 - 5 would not overlook the adjoining properties to the north.

Overshadowing

The most significant potential overshadowing impact would arise between the gable end of plot 3 and numbers 3 - 6 Coronation Road. Given the size of the gardens of these properties, and the distance between the properties themselves and plots 3 - 5, the development would not unacceptably harm the amenity of these residents by virtue of overshadowing.

Quality of Dwellings

The proposed dwellings would offer a good standard of amenity for future residents. Concerns have been raised about limited light levels within the dwellings, due to their being dug into the hillside. Light levels at the rear of the proposed dwellings at ground floor level would be restricted by the terraced land to their rear, and in the case of plot 3 by the retaining wall next to the plot, however all the properties have large full height openings on their rear elevations, and plots 1 and 2 are open plan on the ground floor, and this would compensate for the overshadowing experienced. The rear ground floor windows of plot 3, which would have the most potential to be overshadowed by the adjoining retaining wall, do not fail the 45 rule test, indicating that these rooms will receive sufficient daylight.

ARE THE PROPOSALS ACCEPTABLE IN TERMS OF HIGHWAY SAFETY AND PARKING CONSIDERATIONS?

The Councils transport team advise that the proposed development would not generate a significant amount of additional traffic and that there are no objections to the proposals from a highway safety or transport perspective, subject to contributions being provided towards strategic transport measures and subject to a "Grampian" condition being applied to require a Traffic Regulation order to be processed to secure changes to the road markings.

The proposals show that an 8.5 metre stretch of existing on-street parking would have to be lost in order to make room for the access, but this would be compensated by changes to the road layout (agreed through the Traffic Regulation Order) to provide additional on-street parking space to the east.

In total the development would result in the loss of approximately 1 metre of on road parking. Transport officers raise no objection to this, and it would be unlikely to make any noticeable difference to the parking available for the adjoining rank of shops, and therefore the viability of the rank of shops. The application proposes 1 parking space per dwelling, a level of parking provision which is considered to be appropriate given the relatively accessible location of the site in the city and the availability of public transport.

ARE THE PROPOSALS ACCEPTABLE IN TERMS OF THEIR IMPACT ON ECOLOGY AND WILDLIFE?

As advised by the Council's ecologist, the proposals are considered to be acceptable in terms of ecology impacts.

ARE THE PROPOSALS ACCEPTABLE IN TERMS OF SUSTAINABLE DESIGN AND CONSTRUCTION CONSIDERATIONS?

Core Strategy Policy CP2 requires sustainable design and construction to be integral to new development in Bath & North East Somerset. All planning applications are to address the following issues:

- Maximising energy efficiency and integrating the use of renewable and low-carbon energy;
- Minimisation of waste and recycling during construction and in operation;
- Conserving water resources and minimising vulnerability to flooding;
- Efficiency in materials use, including the type, life cycle and source of materials to be used;
- Flexibility and adaptability, allowing future modification of use or layout, facilitating future refurbishment and retrofitting;
- Consideration of climate change adaptation.

In this case, the proposals would incorporate the following features:

- Roof mounted photo-voltaic cells
- Air source heat pumps to provide heating and recovery of heat from waste air
- Development to be highly insulated with air tightness maximized, exceeding 2013 Building Regulations
- Use of water saving fittings

- Incorporation of grey water system, harvesting rain water to use in watering landscaping, washing cars etcetera.
- Inclusion of permeable paving and on site infiltration to minimise discharges to sewers.

The proposals are in accordance with draft Core Strategy policy CP2.

CONCLUSION:

The site is in a sustainable position, within walking distance of the city centre, with good access to public transport provision. The proposals would preserve the setting of the adjoining Listed Terrace and the character and appearance of the Conservation Area. The Council's transport team advise that the proposals are acceptable in terms of highway safety. There are likewise no objections on ecology or noise grounds.

The determining issue for the application is whether the value of the land to the local community outweighs the benefits of housing delivery. Whilst it is evident that the land has had a degree of community use and community value, this community use is insecure and apparently without the owner's permission, and even were the application to be refused, there would be no guarantee of the current use being continued, or continued community access to the land being allowed.

The Council accepts that there is a significant need for additional housing in Bath, and at present the Council is unable to demonstrate a 5-year housing land supply. As a result of the policy situation, with no up-to-date Local Plan and no Adopted Core Strategy, National Planning guidance advises that in such situations planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework.

Against this test, it is not considered that the benefits of the proposed development would be significantly and demonstrably outweighed by the adverse impacts of consent being granted. Therefore the application is recommended for approval.

RECOMMENDATION

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

CONDITIONS

A. Authorise the Planning and Environmental Law Manager to enter into a Section 106 Agreement to secure:

1. Education

Contributions £20,307.23 to fund the need for primary school places and Youth Services provision places arising from the development. The agreed contributions shall be provided prior to the commencement of development.

2. Open Space and Recreational Facilities

Contributions of £11,770.20 to fund the enhancement of Formal green space and natural green space and allotments off-site to serve the population. The agreed contributions shall be paid prior to the occupation of the development.

3. Transport

Contributions of

- £17,648.40 towards the implementation of strategic transport measures.
- £6500 towards the cost of the Traffic Regulation Order and installation of parking restrictions on Upper Bristol Road.
- £1500 towards the introduction of the 'Keep Clear' marking on the Upper Bristol Road

B. Subject to the prior completion of the above agreement, authorise the Development Manager to PERMIT subject to the following conditions (or such conditions as she may determine):

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

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

2 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall include hours of operation, details of the management of deliveries (including storage arrangements and timings), contractor parking, traffic management and wheel washes. The development shall be carried out in full accordance with the agreed construction management plan.

Reason: To ensure the safe operation of the highway and protect the amenity of surrounding residents.

3 Sample panels of all the external materials and finishes and demonstrating coursing, jointing and pointing to the masonry and all hard paved surfaces (including roads and footpaths) are to be erected on site and shall be approved in writing by the Local Planning Authority before the relevant parts of the work are commenced. The development shall be completed in full accordance with the approved details and sample panels.

Reason: To ensure that the external appearance of the development is satisfactory in order to protect the character and appearance of the Conservation Area, the setting of adjoining Listed Buildings and the setting of the World Heritage Site.

4 Drawings to a minimum 1:10 scale (also indicating materials, treatments and finishes) of the following items shall be submitted to and approved in writing by the Local Planning Authority before the relevant part of the work is begun, unless otherwise agreed in writing by the Local Planning Authority:

- Windows - to include types, sections and method of opening (including lintol detailing and wall returns), materials, colour and finishes and surrounds
- External doors - to include joinery details, materials, colour and finishes and external architraves and margin lights (if any)
- porch canopies
- Rainwater goods

All details shall show relationship to adjoining materials in plan and section. The development shall be carried out in accordance with the approved details.

Reason: To ensure that the external appearance of the development is satisfactory in order to protect the character and appearance of the Conservation Area, the setting of adjoining Listed Buildings and the setting of the World Heritage Site.

5 No development shall commence until on-street parking along the site frontage has been revised in accord with the details shown on the approved layout plan, secured through the successful delivery of a Traffic Regulation Order.

Reason: To ensure the introduction of a safe access.

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

Reason: In the interests of amenity and highway safety.

7 The area allocated for cycle parking on the submitted plan shall be kept clear of obstruction. These areas shall be secure, sheltered and shall not be used other than for the parking of cycles in connection with the development hereby permitted, and shall be provided prior to the first occupation of the development and thereafter retained.

Reason: In the interests of sustainable development.

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

Reason: In the interests of sustainable development.

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

competent person and completed in accordance with the approved written scheme of investigation.

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

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

Reason: The site is within an area of potential archaeological interest and the Council will wish record and protect any archaeological remains.

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

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

12

A Desk Study and Site Reconnaissance (walkover) survey shall be undertaken to develop a conceptual site model and preliminary risk assessment of the site. The Desk Study shall also be submitted to and approved in writing by the Local Planning Authority. Should the Desk Study identify the likely presence of contamination on the site, whether or not it originates on the site, then full characterisation (site investigation) shall be undertaken in accordance with a methodology which shall previously have been agreed in writing by the Local Planning Authority. Where remediation is necessary, it shall be undertaken in accordance with a remediation scheme which is subject to the approval in writing of the Local Planning Authority and a remediation validation report submitted for the approval of the Local Planning Authority.

Reason: To ensure that risks from land contamination to the current and future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

13

In the event that contamination is found at any time when carrying out the approved development, work must be ceased and it must be reported in writing immediately to the Local Planning Authority. The Local Planning Authority Contaminated Land Department shall be consulted to provide advice regarding any further works required. Unexpected

contamination may be indicated by unusual colour, odour, texture or containing unexpected foreign material.

Reason: To ensure that risks from land contamination to the current and future users of the land and neighbouring land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

14

On completion of the works but prior to any occupation of the approved residential development, the applicant shall submit to and have approved in writing by the Local Planning Authority, an assessment from a competent person to demonstrate that the development has been constructed to provide sound attenuation against external noise in accordance with BS8233:1999. The following levels shall be achieved: Maximum internal noise levels of 30dB_LA_{eq,T} for living rooms and bedrooms. For bedrooms at night individual noise events (measured with F time-weighting) shall not exceed 45dB_LA_{max}. The completed development shall not be occupied until sound attenuation has been installed to achieve these standards, to the written satisfaction of the Local Planning Authority.

Reason: In the interests of ensuring that the development offers an acceptable living environment for future residents, and that adequate mitigation is in place to limit noise levels to an acceptable level.

15 No development shall take place until full details of a Wildlife Protection and Enhancement Scheme, in accordance with the recommendations of the approved ecological report entitled Extended Phase 1 Survey dated May 2013, have been submitted to and approved in writing by the local planning authority. These details shall include:

Reptile survey findings and mitigation proposals as applicable

All other measures for the protection of wildlife

All other proposed ecological enhancements as applicable

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

Reason: To ensure that adequate provision is made for habitat provision and wildlife protection within the development.

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

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

17 All hard and/or soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with other trees or plants of a species and size to be first approved in writing by the Local Planning Authority. All hard landscape works shall be permanently retained in accordance with the approved details.

Reason: To ensure that the landscape scheme is implemented and maintained.

18 No development shall commence until details of refuse storage have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the refuse storage has been provided in accordance with the details so approved, and thereafter shall be retained solely for this purpose. No refuse shall be stored outside the buildings other than in the approved refuse stores.

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

PLANS LIST:

1 This decision relates to drawing nos

DRAWING CL 463-1 / 100 LOCATION PLAN
DRAWING 1000 SURVEY AS EXISTING - SITE PLAN
DRAWING 1001 SURVEY AS EXISTING - SITE SECTIONS
DRAWING 1002 EXISTING SEWER OVERLAY PLAN
DRAWING 3000 SITE PLAN AS PROPOSED
DRAWING 3001 SITE SECTIONS AS PROPOSED
DRAWING 3002 PROPOSED UNITS 1 AND 2
DRAWING 3003 PROPOSED UNITS 3,4 AND 5
DRAWING 3004 PROPOSED CYCLE STORE
DRAWING 463-1 DESIGN AND ACCESS STATEMENT
ARBORICULTURAL REPORT
EXTENDED PHASE 1 SURVEY
NOISE ON CONSTRUCTION SITES - CODE OF PRACTICE

2 FURTHER LISTED BUILDING CONSENT REQUIRED

Listed Building Consent is required for the relocation of the Listed Milestone on the site frontage onto the Upper Bristol Road. No works affecting the milestone should be begin ahead of Listed Building Consent being obtained.

3 LICENCE REQUIRED FOR VEHICULAR CROSSING

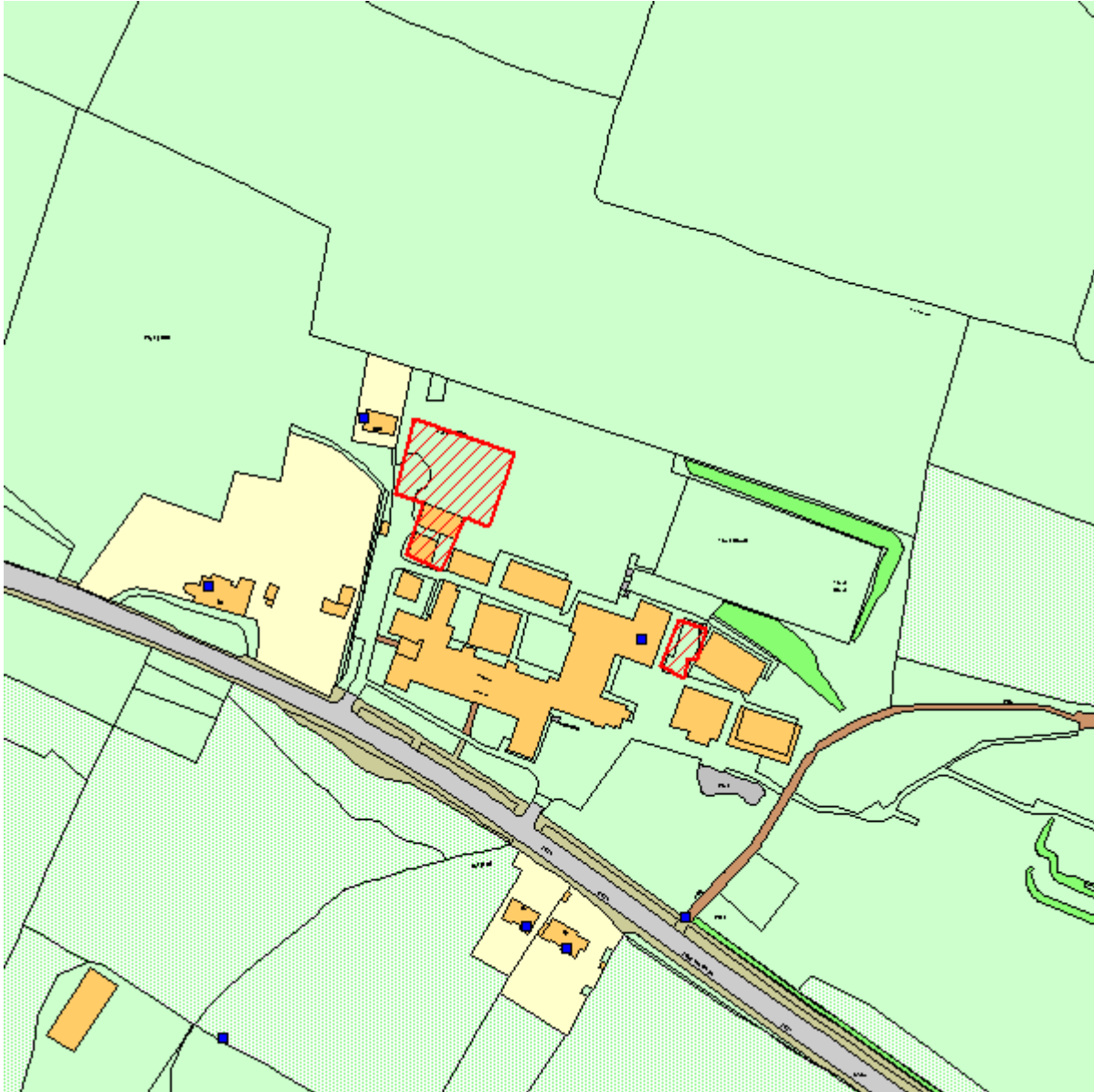
The applicant should be advised to contact the Highway Maintenance Team on 01225 394337 with regard to securing a licence under Section 184 of the Highways Act 1980 for the construction of a vehicular crossing. The access shall not be brought into use until the details of the access have been approved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

4 o No materials arising from the demolition of any existing structures, the construction of new buildings nor any material from incidental and landscaping works shall be burnt on the site.

o The developer shall comply with the BRE Code of Practice to control dust from construction and demolition activities (ISBN No. 1860816126). The requirements of the Code shall apply to all work on the site, access roads and adjacent roads.

o The requirements of the Council's Code of Practice to Control noise from construction sites shall be fully complied with during demolition and construction of the new buildings.

Item No: 002
Application No: 13/02302/FUL
Site Location: Oldfield School Kelston Road Newbridge Bath Bath And North East Somerset



Ward: Newbridge **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor L Morgan-Brinkhurst Councillor C M L Roberts
Application Type: Full Application
Proposal: Relocation of existing temporary classroom building within the school campus, erection of new single storey Drama Block on the current site, reintroduction of grassed area and removal of existing lighting columns to current temporary car-park at rear of site
Constraints: Agric Land Class 1,2,3a, Forest of Avon, Greenbelt, Hotspring Protection, Major Existing Dev Site, World Heritage Site,
Applicant: Oldfield School

Expiry Date:	13th August 2013
Case Officer:	Victoria Griffin

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

This application is being referred to Committee on the basis of a Member request (Councillor Roberts) which refers to the overbearing effect on the neighbouring property, 130 Kelston Road and concerns raised which refer to the over development of the site. Furthermore, unauthorised works are currently taking place on site, specifically footings for one of the new buildings is underway prior to the grant of any planning permission.

A decision on this application was deferred at the last meeting of the Committee to allow Members to visit the site.

DESCRIPTION OF SITE AND APPLICATION

The application relates to:

- the relocation of an existing temporary classroom building within the school campus,
- erection of new single storey Drama Block on the current site which includes 2 no. classrooms, staff work room and a drama studio, and
- the reintroduction of grassed area and removal of existing lighting columns to an existing temporary car-park at the rear of site.

The site falls outside of the Conservation Area but is situated within the Green Belt, Forest of Avon, Hotspring Protection Zone and the World Heritage Site. It is also identified as a Major Existing Development Site within the Green Belt. The land to the south, north and west of the site is located within an Area of Outstanding Natural Beauty.

The application is supported by a number of documents including:

- Design & Access Report
- Flood Risk Assessment
- Planning Statement
- Sustainable Construction Checklist
- Travel Plan (School)
- Archaeological Desktop Study (ARUP)
- Ecological Report & Bat Study (ARUP)

It is noted that some of the documents include omissions related to new development within the site, namely the sports hall building situated to the front of the site. The site location plan submitted with the proposal however is an up to date survey of buildings contained on the site and includes this building. Furthermore a revised Archaeological Desktop study has been received which reflects the listing of 130 Kelston Road which shares a western boundary with the school.

RELEVANT PLANNING HISTORY:

DC - 11/00436/REG03 - Permission - 12 May 2011 - Erection of a new external stair link, uniting three existing stair cores

DC - 11/02504/FUL - Permission - 29 September 2011 - Erection of a new 4 court sports hall incorporating changing rooms, car park, multi use game area, associated external works and landscaping

DC - 11/02952/FUL - Permission - 21 September 2011 - Installation of solar panels on the roof and electrical inverters.

DC - 12/00322/FUL - Permission - 29 March 2012 - Erection of two teaching blocks to replace existing temporary classroom buildings.

DC - 12/01279/FUL - Withdrawn - 27 July 2012 - Installation of temporary construction access to facilitate delivery of construction materials for proposed Muga Pitch (Retrospective)

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highways: On the basis that the existing Drama Studio would not be brought back into any use, there would be no increase in teaching space, and it is recommended that no highway objection is raised subject to the following condition being attached to any permission granted:-

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

Reason: To ensure the safe operation of the highway.

Heritage Officer: No objection, it is not felt that the proposed development would adversely impact the setting of either of the listed properties (Penn Hill House and 130 Kelston Road).

Penn Hill House is some distance to the west of the application sites and between it and the sites to be development lies a tree /shrub belt and also additional modern school buildings.

The site for the new Drama school lies closer to 130 Kelston Road but between it and the listed building is also a tree/shrub belt, the new development also appears to be in part set down into the site, with higher ground level to the north to reduce its visual impact. Although acknowledging the new Drama block is larger than the existing two class room blocks, there are buildings already on the application site, as well as also directly to the east, south east, and south.

Views over to the site from the large garden of 130 Kelston Road will no doubt to a degree become more open in the winter months, when the trees/shrubs are not in leaf, and due to the larger building on the school site, on balance, it may be appropriate to consider additional timber fencing at the boundary, and if possible additional planting to reinforce it?

The scale of the Drama building when seen from the west, and facing the boundary to 130 Kelston Road, has to a degree been broken down by changes in height and elevation treatment, this should also help reduce its impact. It also follows a design theme established by other recent modern buildings on the site in the use of render and external timber cladding. It may also be appropriate for the building to have a sedum roof, as already used in the larger modern building adjacent to it, and directly to the east. When viewed from higher ground to the north this has the effect of softening the large expanse of the flat roof and adding interest.

Archaeology: No archaeological investigation or conditions are required.

Ecology: No objection subject to condition:

Prior to the commencement of development or removal of buildings a "toolbox talk" on bats and wildlife issues shall be given to site workers by a suitably experienced ecologist. The development shall thereafter be carried out only in accordance with all necessary ecological precautionary measures and good practice methods. Reason: to safeguard wildlife and protected species.

Arboricultural officer: No objection

Representations: 2 main letters of objections (summarised) from the neighbour at the nearest residential premises, 130 Kelston Road which is a grade II listed building and shares a western boundary with the site.

- Concern over the cumulative impact of new buildings due to their size and height including the impact upon views from neighbouring listed property
- Extremely visible from listed property
- Detrimental impact upon the setting of a grade II listed building
- Overlooking of listed status of Halfway House as no reference to this listed building within supporting documents
- Poor design of proposed building with no architectural merit
- Cumulative impact of works including sports hall have had an adverse impact on the Green Belt and AONB
- Support reinstatement of grassed area
- Information fails to show sports hall
- Size of plans unhelpful to members of the public without printing facilities
- Concern over the noise impact of the drama studio on residential amenity
- There is lack of information and evidence within the submission of more recent developments within the school site
- Works have already commenced on site
- Concern over wider community use outside of school hours as has been the case with the sports hall
- Adverse impact upon highway safety caused by an increase in traffic generation
- Unclear about use of building for large audiences or groups visiting the site

- Light pollution impact upon neighbouring property caused by drama studio
- Re-use of existing areas that have been developed within the site should be utilised away from sensitive premises

Other letters and pictures have been received from the neighbour which supplement original objections raised and also document unauthorised works taking place by the applicant on the site.

POLICIES/LEGISLATION

The following policies are a material consideration:

- D.2 - General Design and Public Realm Consideration
- D.4 - Townscape Consideration
- NE.4 - Trees and Woodland Conservation
- GB.1 - Control of Development in the Green Belt
- GB.2 - Visual Amenities of the Green Belt
- GB.3 - Major Existing Development Sites
- BH.1 - World Heritage Site
- BH.2 - Listed Buildings and Their Settings
- BH.9 - Parks and Gardens of Special Historic Interest
- BH.12 - Important Archaeological Remains
- SR.1A - Protection of Playing Fields and Recreational Open Space
- SR.4 - New Sports and Recreational Facilities
- T.24 - General Development Control and Access Policy
- T.26 - On-site Parking and Servicing Provision

of the Bath & North East Somerset Local Plan Including Minerals and Waste Policies Adopted for October 2007

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

The following policies should be considered:

- CP6 - Environmental quality
- CP8 - Green Belt
- DW1- District-wide spatial 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 limited 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 BH.1, D.2, D.4, GB.1, GB.2 of the local plan are proposed as saved policies within the submission core strategy.

OFFICER ASSESSMENT

GREEN BELT CONSIDERATIONS

GREEN BELT AND MAJOR EXISTING DEVELOPMENT SITE: The main issues in this case are considered to be:-

- Whether the proposal amounts to inappropriate development in the Green Belt,
- Whether there would be any impact on the openness of the Green Belt and the effect of the proposal on the character and appearance of the area
- Any benefits of the proposal and, if it amounts to inappropriate development in the Green Belt, whether these benefits would clearly outweigh any harm to the Green Belt and any other harm, so as to amount to very special circumstances.

It is recommended that as a matter of logic, the decision-taker should follow a sequential approach to deciding whether planning permission can be granted. The approach may satisfy the judgement of the case as a whole in terms of its impact on the Green Belt. With this in mind a number of questions need to be considered;

WHETHER THE PROPOSAL IS INAPPROPRIATE DEVELOPMENT IN THE GREEN BELT: The NPPF states that a local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this include:

limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

Saved Local Plan policy GB.3 referred to major existing developed sites (MEDS) which may be in continuing use. The preamble to policy GB.3 recognises Oldfield School as a recognised MEDS within the Local Plan where limited infilling for educational purposes will be permitted unless;

- (i) It has a greater impact on the purposes of including land in the Green Belt than the existing development; or
- (ii) It exceeds the height of the existing buildings; or
- (iii) It leads to a major increase in the developed proportion of the site.

The proposal involves the erection of a single storey drama block to the western side of the site and the re-siting of an existing temporary classroom building within the school campus to be placed between two existing school buildings located quite centrally. Other minor works include the reintroduction of a grassed area to the north of the site and removal of existing lighting columns to an existing temporary car-park. When viewed from within the site and from the open views to the north and from Kelston Road the proposed buildings would be viewed against the backdrop of the existing school buildings and would not lead to a significant increase in the developed part of the site. Therefore it is not considered to represent a conflict to the purposes of including land in the Green Belt.

Furthermore both proposals are for school buildings and are not of a domestic scale, the roof line of the proposed buildings would not exceed the height of the immediate existing buildings that surround it and will not project above the existing roof lines. The proposed buildings would utilise an area of the site currently occupied by a temporary building and a small area of ground between two existing buildings.

It is concluded that due to the siting, design and scale of the proposed drama studio and resited building would not lead to a major increase in the developed proportion of the site. The site falls within a MEDS and the proposal is considered to represent limited infilling within the site for educational purposes in compliance with GB.3 and the NPPF. The proposal is therefore not regarded as inappropriate development within the Green Belt.

VISUAL AMENITY OF THE GREEN BELT/CHARACTER AND APPEARANCE OF THE AREA: The proposal would be visible from parts of the site to the north, east and west. It would not be visually prominent within the site and in part utilises an area of the site that is currently developed. It is considered that the proposal would not raise significant harm to the special landscape qualities of the Green Belt or AONB that surrounds the site.

HISTORIC ENVIRONMENT: The Heritage officer considers that the proposed development would not adversely impact the setting of either of the listed properties situated in close proximity to the application proposal (Penn Hill House and 130 Kelston Road).

Penn Hill House is separated from the main part of the site which is some distance to the west and between it lies a tree/shrub belt and also additional modern school buildings. By reason of the distance between the proposed development and Penn Hill House it is considered that the proposed development would not adversely impact on its setting. The drama building is however in close proximity to the residential boundary shared with no. 130 Kelston Road to the west of the school site, which is a grade II listed building and is situated within established grounds.

Between the site and the listed building are established trees and shrubs, that although provides some screening during the summer months although it would be visible to a degree when the trees/shrubs are not in leaf in the winter. It is considered however that the existing buildings already on the application site have some visual impact and it is not considered that this proposal would result in additional harm to the historic setting.

The applicants has been asked to consider the introduction of a sedum roof and additional planting to the western boundary, however this is not regarded as essential insofar that without it the application would be regarded as unacceptable. Nevertheless it would be a desirable feature and Members will be advised if a revised proposal is to include these elements.

RESIDENTIAL AMENITY: Objections received have referred to potential amenity issues that may arise as a result of the use of the drama building close to the boundary with no.130 Kelston Road. The proposed building would be situated approximately 10m from the shared boundary (measured off plan). The existing buildings to be replaced provide technology and languages blocks which are within the operations and function of the school. The proposal is not considered to lead to any significant changes to how this part of the site is operated within the parameters of a school site. It is considered therefore that the proposal would not raise a significant increase in harm to residential amenity over what currently exists on this part of the site.

TREES AND LANDSCAPE: There are no trees affected by the proposals whilst the resited building is proposed on an area of open space situated between two existing school buildings. This area has previously been used as a grass verge and walk through

to the adjacent school building however more recently has been adapted to accommodate unauthorised works progressing on site.

A condition is attached however for planting and landscaping details to be submitted in respect of the western boundary.

ECOLOGY: The Ecological officer is satisfied that the ecological assessment submission demonstrates that no adverse impact would be caused to protected species however it is identified that there may be potential for animals to be concealed beneath buildings, and a toolbox talk to contractors is recommended. The condition put forward however would not satisfy the '6' tests set out as the general criteria for the validity of planning conditions (Circular 11/95: Use of conditions in planning permission) and accordingly can not be applied to this recommendation.

OFFICER ASSESSMENT OF HIGHWAY ISSUES: The highways officer has raised no objection to the proposal on the basis that the proposal does not seek to bring back into use the existing drama studio and that a construction management plan is submitted to manage the works undertaken on the site. It is not considered that the new buildings would justify a highways objection in this respect.

Members are advised that an objector has raised additional concerns related to the increase in pupils at the school, which would impact upon highway safety which is not covered here. Further comments are currently awaited from the highways team and will be reported in an update to committee.

ARCHAEOLOGY: No objections or additional comments are raised in respect of archaeological issues on the site.

The proposal is acceptable and can be granted permission, subject to conditions..

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

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

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

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

Reason: To ensure the safe operation of the highway.

3 No development shall be commenced until a soft landscape scheme for the new drama studio has been first submitted to and approved in writing by the Local Planning Authority,

such a scheme shall include details of trees, hedgerows and other planting which are to be retained and a planting specification to include numbers, density, size, species and positions of all new trees and shrubs

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

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 relates to the following plans/documents:

Drawing ref. 2102 issue A, 2040 issue A, 2100 issue A, 2001 issue A, Travel Plan, Archaeological Desk study, Ecological Walkover Assessment, 2050 issue A, 2103 issue A, 2302 issue A, 2101 issue A, 2060 issue A, Planning Statement, Design & Access Statement, 001D, Site Map, Flood Risk Assessment date received 31/05/13

Drawing ref 2300 issue B, 2052 issue A, 2301 issue B, 2051 issue A date received 18/06/13

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 Policy Framework. For the reasons given, a positive view of the submitted proposals was taken and permission was recommended.