

BATH AND NORTH EAST SOMERSET COUNCIL

Development Control Committee

20th November 2013

**OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN
AGENDA**

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
04	13/03194/REG03	Car Park Newbridge Park & Ride Car Park Newbridge Bath

THIRD PARTY CONTRIBUTIONS

Additional points made by local resident:-

Has made an application to have a footpath designated as a Public Footpath on 3 September 2011. No progress has been made with the application because the footpath runs across the proposed Newbridge Park and Ride extension area. The Council has a legal duty to properly designate all Public Footpaths. The Council appears to have broken the law in order to favour its application and this should be raised as a point of order. The planning application should be adjourned until such as time as the prior application has been determined using due process. The application could have been taken to the Minister but this would have involved residents as ratepayers in extra expense and this should have been taken into account when the Council was assessing footpaths.

OFFICER RESPONSE (Senior Rights of Way Officer/Planning Officer)

In 2011 Bath and North East Somerset Council, in its capacity as the Surveying Authority, received an application to record a public footpath on the Definitive Map and Statement. The route runs from a junction with public footpath BC15/2 and continues in a generally southeasterly direction to the north of the existing Newbridge Park and Ride site to a junction with Newbridge Road ("the Application Route"); a section of the Application Route runs through the site which is proposed for the extension of the Park and Ride. The application has not yet been determined and consequently the Surveying Authority has not yet decided whether the Application Route is indeed a public footpath. The Application Route appears to be physically retrained within the new development and therefore, if the Application Route is subsequently found to be a public footpath, the public would be able to continue to exercise their rights. The access to the expanded Park and Ride, which would be across this public footpath, should it be included on the Definitive Map,

would not prevent public use of this right of way and not detract from their enjoyment of the same.

In light of the above, since the planning application for the extension to the Park and Ride is not regarded to have any material affect upon the claimed public right of way it would not be appropriate to adjourn the application.

RECOMMENDATION

As per officer report.

Item No.	Application No.	Address
12	13/02651/FUL	Little Willows Day Nursery Powlett Road Bathwick Bath BA2 6QH

This update report includes additional representations and information received following the publication of the Committee report.

Additional objections from neighbour at no.18A Powlett Road (summarised):

- The proposal conflicts with Local Plan policies T.24 and T.26
- Safety of children, pedestrians and cyclists is compromised by the vehicles using the access to the site and parking in the area
- Information requested by the highways officer has not been provided in support of the application
- It is not considered that the 'Parking Availability Survey' satisfies a high standard of highway safety
- Evidence is provided to contradict the information submitted by the applicant in the 'Parking Availability Survey'

The highways officer has raised no further comment in respect of the additional objections received.

Conclusion:

Further to the additional representations and consultation with the Highways officer it is recommended that the officer assessment remains as the committee report.

Members are advised that the initial comments provided by the Highways officer raised a number of requests for further details to be submitted as it was understood an increase in the number of children at the nursery was proposed. This is not the case and is not proposed within this application. Relevant conditions are attached to ensure that no further increase in the number of children at the nursery is undertaken which is considered to be acceptable in highway terms.

Agenda Item No. 11

Application to vary S106 agreement relating to planning ref 12/03764/VAR

‘Primary School Places Financial Contribution’; means the sum of thirty one thousand four hundred and five pounds and twenty eight pence (£31,495.28) to be paid by the Owner and the Developer to the Council for or towards the provision of primary school places with the Vicinity.

‘Youth Services Provision Financial Contribution’ means the sum of one thousand six hundred pounds (£1600.00) to be paid by the Owner or Developer to the Council for or towards the provision of youth services within the Vicinity

Consultation Response

Schools Capital & Organisation Team

Their comments can be summarised as follows:

It appears that one of the reasons the allocation for primary school places is being targeted is because this is for ‘educational purposes’ and the interpretation centre is deemed to have an educational function. This link is tenuous and ignores the purpose of the deed, which is ‘for or towards the provision of primary school places within the vicinity’. The interpretation centre/visitor centre/community space does not meet this need.

Has an evaluation been done of the scope for savings on the construction costs? This would be standard practice on school construction projects where there was a budget problem. The fitting out of the interpretation centre includes items like website design and educational materials which it could be argued are not capital costs.

The scope for fund raising could be explored by the Trust.

There is reference to a covenant requiring a payment. Is there any flexibility in its use? Could it be reduced to fund the shortfall?

Schedule 4 (1.1) of the deed states that *‘where any contribution referred to in this Deed is stated to be payable for a particular purpose for it will not be used otherwise than towards that purpose’*. This indicates that education contribution can only be used for pupil places and is not available for another purpose regardless of the current difficulty.

The S106 are relatively small but they are also relatively small in the context of the costs of the overall development and there is a matter of principle here. Primary school places in Bath are under pressure with most schools full or projected to fill. The Department for Education provide partial funding for growth in pupil numbers due to population growth but expect places arising from developments to be funded from S.106. In addition the Council is potentially facing a major shortfall in funding of primary school places from some of the major development sites such as the MOD

sites where new schools are required but may not be fully funded through S.106/CIL.
The primary school places contribution if lost, will add to that shortfall.