

# Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **15th January 2014**

AGENDA  
ITEM  
NUMBER

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.

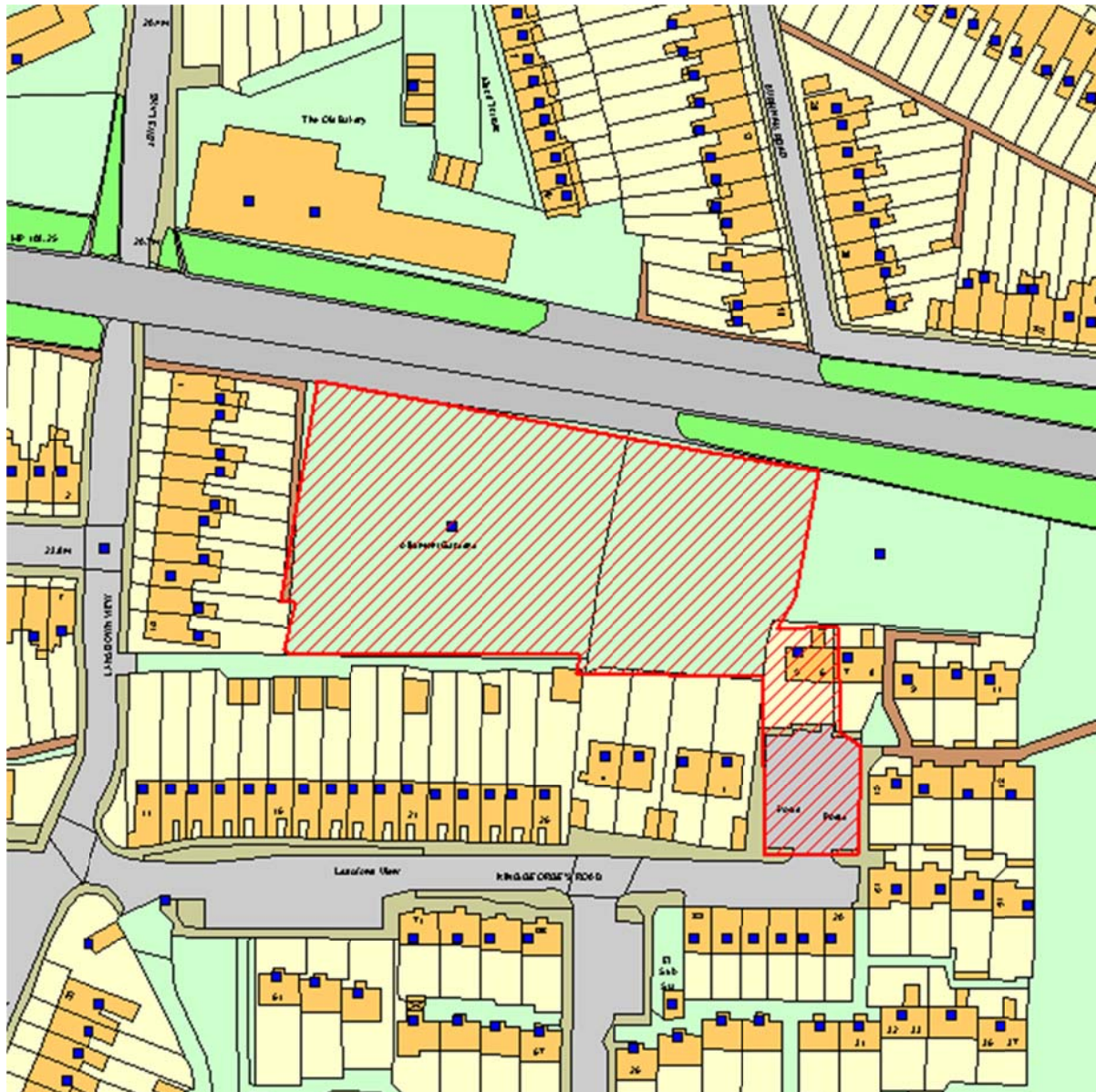
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting 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.

## INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	13/03835/FUL 19 December 2013	Curo Places Ltd. Proposed Development Site, King George's Road, Twerton, Bath, Erection of 11 houses and 10 flats following the demolition of half of an existing apartment building.	Westmoreland	Mike Muston	Delegate to PERMIT

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

**Item No:** 001  
**Application No:** 13/03835/FUL  
**Site Location:** Proposed Development Site King George's Road Twerton Bath



**Ward:** Westmoreland      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor S Ball      Councillor June Player  
**Application Type:** Full Application  
**Proposal:** Erection of 11 houses and 10 flats following the demolition of half of an existing apartment building.  
**Constraints:** Agric Land Class 3b,4,5, Allotments, Forest of Avon, Hotspring Protection, World Heritage Site,  
**Applicant:** Curo Places Ltd.

<b>Expiry Date:</b>	19th December 2013
<b>Case Officer:</b>	Mike Muston

## **REPORT**

### Reason for Reporting to Committee

This application is being reported to Committee because of the level of public interest and a request from a Ward Councillor.

This application was deferred from the last Committee meeting so that Members could undertake a site visit on the 8th January.

### Site and Proposal

The site comprises approximately 0.41 hectare of open land within the urban area and the World Heritage Site, but outside the Conservation Area. It is located immediately to the south of the main line railway and currently has no vehicular access. The site also includes 5 and 6 King George's Road, which are proposed to be demolished in order to provide access to the site. To the west of the site are the terrace comprising 1-10 Lansdown View. To the south and south-west of the site is the terrace comprising 11-26 Lansdown View and the two pairs of semi-detached properties comprising 1-4 King George's Road. To the east of the site are actively used allotments and the other half of the semi-detached pair proposed to be demolished (7-8 King George's Road).

The eastern part of the site is owned by this Council and is currently laid to grass. It is not used cultivated as allotments but is apparently used by users of the allotments to allow their children to play. The western part of the site is privately owned and is covered by what appear to be self-seeded trees, shrubs and undergrowth.

The proposal is to provide 10 one bedroomed flats, 8 two bedroomed houses and 3 three bedroomed houses. These would be arranged in three terraces. One, containing the 10 flats and 4 two bedroomed houses, would be located across the site in an east-west direction, with their rear gardens backing onto the railway. The other two terraces, comprising 4 two bedroomed houses and the 3 three bedroomed houses, would be located at right angles, backing onto 1-10 Lansdown View. The two terraces would be separated by a small gap, and would read as a single terrace.

The new vehicular access would entail a ramp being constructed from turning head in King George's Road, through the site of the demolished 5 and 6 King George's Road, into the main part of the site. All the trees on the site would need to be felled, although the revised plans show the planting of a number of trees and shrubs on the site. The revised plans show that 31 parking spaces would be provided, of which 3 would be disabled spaces. The access road would be a shared space.

The houses would be two storeys high, of a modern design, but traditional proportions and would be constructed of reconstituted Bath stone, with grey tiles.

### Relevant Planning History

Application 04/03382/OUT, for residential development and access (in outline, with only means of access determined at this stage) via a demolished 10 Lansdown View, was refused in March 2005 for reasons of the principle of developing the area allocated as open space and allotments, and two reasons relating to the then proposed access.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Environment Agency - No objections subject to conditions

Archaeology - No objections subject to a condition

Highways

Confirm that the principle of a residential development on the site is acceptable, but seek clarification of certain matters relating to the allocation of parking spaces, the amount of road to be adopted, how services will be accommodated, more details about paving materials and retaining walls, how turning movements will be accommodated and how rear pedestrian accesses will be formed. Subject to this, requests contributions towards sustainable transport and parking restrictions to improve visibility at the junction with Lansdown View.

Raises no objections to the revised plans.

Urban Design

Would have preferred to see the whole of the apartment block at the entrance demolished rather than half of it; the resulting exposed flank wall was not intended to be a principal elevation and will detract from the scheme. The additional access to the allotments will be stepped and therefore not available for all users.

In principle, the two terrace layout is logical and responds to topography and existing site constraints. It does not impose on harm to existing residents and provides a direct relationship with the frontage space. However, consider that the units closest to the railway could be moved forward to provide additional rear gardens.

The cluster of housing is distinct and in an area of mixed residential character. The scale and design of the houses and flats is appropriate. It is positive to see a more contemporary approach.

The shared space approach is supported in principle. However, concern is expressed re the amount of parking proposed and the use of paving materials. Landscaping and boundary treatment also need to be of sufficient stature.

Parks/Open Space

The open space shown on site is not of sufficient size to perform as useable open space. Therefore require contributions:

Formal green space provision:

Land purchase: £3,044.25  
Construction costs: £24,231.00  
Annual maintenance: £26,008.35

Natural green space provision:  
Land purchase: £3,044.25  
Construction costs: £4,446.45  
Annual maintenance: £7,349.25 (

Allotment provision:  
Land purchase: £608.85  
Construction costs: £1,062.72  
Annual maintenance: £1,227.54

Highways Drainage - no objections subject to conditions

### Ecology

Originally objected to the proposal. In response to revised plans and additional information, recommends a condition. Overall still considers the proposal ecologically unacceptable due to the lack of provision of green space within the development which also fails for this reason to provide sufficient compensatory habitat. Would recommend therefore that if the proposal is permitted that further off-site ecological measures are secured to provide appropriate ecological compensation for the loss of green space and habitat. This could form part of a s106 agreement and could comprise implementation of or funding of specific ecological enhancements on nearby / connective land and habitats.

### Landscape

In response to the original proposal, commented that if the site is allocated as allotment then it must remain so. If the site can be released, then would not object to the principle of development, but think there are currently too many houses shown for this particular site. I conclude that the scheme is therefore unacceptable in its current format.

No response received to additional/revised information.

### Environmental Protection

Before any approval is issued, the applicant should be required to submit an assessment from a competent person to determine into which Noise Exposure Category in PPG24 the development falls. Aware that PPG24 has been withdrawn however in the absence of alternative guidance, would request that the noise exposure categories within PPG24 be used to classify the development in relation to noise exposure. If the assessment shows that the site falls into NEC C or D then would be recommending refusal of the application on the grounds of excessive exposure to External Noise. If it is determined that for other planning reasons that this development should be granted planning permission and the assessment determines the site to be NEC C only, then would advise that then the following must

be imposed as planning conditions to ensure a commensurate level of protection against noise.

Education - would seek contributions as follows:

Total for Early Years provision £28,109.40

Total for school places £11,901.05

Youth Services provision places - 1.65 places at a cost of £2,201.10

Total for Youth provision £2,201.10

Therefore a total contribution sought of £42,211.55

Contaminated land - would recommend conditions to deal with remediation of the contaminated site.

Arboriculture

Objected to the original application; makes comments in relation to the revised plans/additional information. Notes that the application includes an Arboricultural Impact Assessment and Tree Protection Plan. It is accepted that the majority of trees are unlikely to be good individuals worthy of a B or A category, however on mass they contribute towards the green infrastructure. The proposed development results in the loss of all on site trees.

Councillor June Player

OBJECTING to this proposal due to finding it contrary to Policies D.2 & D.4: T.24 & T.26 and CF.8 of the Bath & North East Somerset Local Plan including minerals and waste policies adopted October 2007. Considers it WILL cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reason of light, increased overlooking, noise, smell, traffic and other disturbances. It will also adversely impact on the character of the area.

The proposal will generate much extra traffic which will cause congestion and adversely impact on a large number of local residents. The area is already used as a rat run and when a situation is bad it does not take much to tip the situation over the edge. Since the opening of the Two Tunnels route the number of cyclists in the area has increased considerably. The additional traffic generated by this proposal will harm their safety. There is insufficient parking provided for the number and size of units proposed.

The Council agreed to safeguard this land for allotments in 2003. Not aware that the developers are proposing suitable alternative allotments elsewhere within 1000 metres as required.

Proposal will lead to new residents congregating in central area and generating noise. Also location of rubbish bins is unneighbourly. Both factors will impact adversely on existing residents.

To conclude, due to this proposal trying to shoe-horn in a development which size-wise is too dense for this landlocked site: cannot provide the suitable infrastructure

to be able to safely serve it and the surrounding area as well as contravening the Council's own agreement to protect the private and statutory allotments: will not benefit the area but instead cause extra traffic problems, extra pollution, extra noise, extra litter and spoil the lives of all those already living and passing through it, gives me no choice but to ask that you refuse this application.

Councillor Sharon Ball

Raises an objection on the grounds of over development of the site as believe that there are too many houses being crammed into a very small site. Been through the National Policy Framework quite closely and it is clear that development is normally permitted in these sort of schemes as most of our planning policies are set aside at the moment the guidelines of the NPPF apply as we do not have a current adopted local plan. Would still however ask you to take into account the small site that is close to a railway track that by the looks of the layout has at least 5 too many properties on the site making it overdeveloped.

The affects on the junction with Lansdown view would also have highway concerns and should not be permitted without works being carried to mitigate the extra traffic that is being created.

Letters of objection received from 60 households, raising the following main points:

Will cause traffic chaos

Too near the main line railway

Loss of allotment space

Building on green space

Unnecessary - no more new houses needed

Overdevelopment to put this many properties on this site

Impact on wildlife on and around the site

Heavy traffic will have to do a detour to reach the site because of the nearby low bridge

Unnecessary destruction of two flats

Position of refuse bins

There is a waiting list for allotments

Will add to existing pollution levels

Steps do not provide an acceptable access to the allotments

Proposal is badly designed

Insufficient car parking - where are all the cars going to park?

Danger to cyclists accessing the Two Tunnels route

Boundary treatment for the allotments is unacceptable

The green space provides an area for children to play whilst parents work the allotments

Other brownfield sites would be more suitable

The access to the site would be very narrow

Potential for subsidence of existing houses

Impact on neighbours near the access road from fumes and noise

Impact of attempting to re mediate the contaminated land

Permission was refused here previously and should be again

Already impossible to get onto Lower Bristol Road during morning peak hours



Too close to existing properties  
 Belief that existing allotments will be lost  
 At the Local Plan Inquiry, the Council agreed to safeguard the land as designated for allotments  
 Water supply insufficient to cope with this extra development  
 Access not good enough for emergency vehicles  
 Noise during construction and once occupied  
 Strain on local schools  
 Incline on access road will be a problem in winter with ice and snow  
 May be human remains on site from WW2 bombing  
 Too modern a design for a traditional area with Bath stone properties around  
 Construction will cause infestation of rodents  
 Safety of school children who pass through area would be compromised  
 Clash with movements to and from Lidl  
 Cutting down all the trees on the site is ridiculous  
 Will cause problems accessing the retained allotments  
 The allotments on this site are not used because the landowner prevented them from being used  
 Low ecological value of the site is because of the actions of the landowner  
 How can you have a membrane two feet down and new trees\_  
 Possible impact on existing right of access  
 No prior consultation with allotment holders  
 Against Government policy to provide new allotments

## **POLICIES/LEGISLATION**

### **LOCAL PLAN**

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

D.2	General Design and public realm considerations
D.4	Townscape considerations
HG.1	Housing Requirements
HG.4	Residential Development in Urban Areas
HG.5	Affordable Housing
HG.7	Minimum Residential Density
T.24	General development control and access policy
T.26	On-site parking and servicing provision
NE.4	Trees and Woodlands
NE.12	Natural Features
BH.1	World Heritage Site
CF.8	Allotments

### **CORE STRATEGY**

The Council has prepared a draft Core Strategy, which has been the subject of an Examination in Public. A letter has been received from the Planning Inspectorate (PINS), indicating that the Strategy cannot be found sound in its current form. This reduces the weight that can be attached to the Strategy. However, the following policies are relevant:-

DW1	District-wide Spatial Strategy
B1	Bath Spatial Strategy
B4	World Heritage Site
CP6	Environmental Quality
CP9	Affordable Housing
CP10	Housing Mix

## NATIONAL PLANNING POLICY FRAMEWORK

The National Planning Policy Framework (the Framework) was published in March 2012 and superseded much previous Government guidance. It contains a number of paragraphs that are relevant to the application and these are summarised below:-

### Presumption in favour of sustainable development

The Framework introduces a presumption in favour of sustainable development. This is defined as being made up from economic, social and environmental elements. It says that, when taking decisions on applications, this presumption means approving development proposals that accord with the development plan without delay. Where the development plan is absent, silent or relevant policies are out of date, it means granting permission 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 where specific policies in this Framework indicate development should be restricted.

### Core Planning Principles

Amongst the core planning principles set out in the Framework are that planning should:-

proactively drive and support sustainable economic development to deliver the homes, business and industrial units, infrastructure and thriving local places that the country needs always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings

### Economic Growth

Paragraph 19 of the Framework helps explain the importance the Government places on securing economic growth. This states that the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

### Providing Housing

The Framework places particular emphasis on the provision of an adequate quantity of housing. It says that local planning authorities should aim to boost the supply of housing and housing land. It says that 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 Council cannot currently demonstrate a five year supply of housing land. This means that limited weight can be attached to the urban area boundaries.

## Good Design

The Framework continues the theme from previous Government guidance that good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.

It says that planning decisions should aim to ensure that developments:- will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit optimise the potential of the site to accommodate development, create and sustain an appropriate mix of uses (including incorporation of green and other public space as part of developments) and support local facilities and transport networks respond to local character and history, and reflect the identity of local surroundings and materials, while not preventing or discouraging appropriate innovation are visually attractive as a result of good architecture and appropriate landscaping

The Framework goes on to say that decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It is, however, proper to seek to promote or reinforce local distinctiveness.

## **OFFICER ASSESSMENT**

The main issues in this case are considered to be the following:-

- The loss of the land designated for allotment use
- The effect on the character and appearance of the area
- The effect on the living conditions of nearby residential occupiers
- The effect on highway safety
- The effect of noise from the railway on future occupants of the proposal
- The effect on ecology
- The benefits of the scheme, including the provision of affordable housing and housing in general

## Loss of allotments

The application site is allocated in the Local Plan as allotments and is covered by Policy CF.8 This states that development resulting in the loss of land used for allotments will not be permitted unless the importance of the development outweighs the community value of the site as allotments and suitable, equivalent and accessible provision is made. It goes on to say that 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. The supporting text in paragraph B3.43 defines accessible locations as within 1000 metres of the majority of their potential users.

The land to the east of the site provides 8 allotments, all of which are in use. The application site consists of land owned by the Council (eastern part) and land in private ownership (western part). The private land has a history of allotment use up until 1999. The applicants have submitted evidence of diminishing demand over a period of approximately 30 years, which resulted in the eventual sale of the western part of the land to the present owners. There does not appear to be any evidence of the Council owned land having been cultivated as allotments for many decades. For the purposes of Policy CF.8, the site therefore should be treated as vacant land last used for allotments. The 2013 SHLAA suggests that the site could accommodate 17 allotments.

In this case, site investigations have been undertaken by the Council, notably soil testing, which indicated that the land was contaminated and not currently suitable for allotment use without remediation. More recent ground investigations undertaken by specialist consultants have also revealed significant evidence of contamination, notably high levels of arsenic. Unconfirmed reports and anecdotal evidence suggest this is as a result of bomb damage material disposed of during WW2.

The Council has recently concluded that the land was unsuitable for extra allotments. To become suitable, there would be the requirement to undertake remediation works. However, this would be a costly exercise, leading to the Council's conclusion that this would not be a viable option. Residential Development of the site provides an opportunity to undertake remediation, where the potential returns may cover the cost of the works.

There is a current waiting list for the existing 8-plot allotment site on King George's Road. However, the Council has noted that there are currently 20 vacant plots at the Monksdale Road allotment site, which are being offered to those expressing an interest in the King Georges Road site. The two sites are within 800 metres of one another, which is within the 1000 metres walking distance set out within the Local Plan.

It is also worth noting that under the Allotments Act 1925, the Council's disposal of the land is permitted on the grounds that the use of the land as allotments is "not reasonably practical". Under this Act, and the Small Holdings & Allotments Act 1908 s32, the disposal of the land by the local authority brings conditions on the proceeds of sale, stating that they must be spent on "acquiring, adapting, and improving other land for allotments". This Council has not, at this present time, any specific plans on what the potential funding will be spent on, but a number of initiatives which could benefit from the funding have been identified. The SHLAA (November 2013) did indicate the possibility that some of the funds from the sale of the allotment land could be used to provide new allotments on the recreation ground to the south of the site.

The reality of the situation is that the site is not going to be used again as allotments, primarily because of the localised contamination on part of the site, for which funding does not exist to remediate. There are more vacant plots available at an alternative site, which is within the 1000 metre walking distance, than the application site could

accommodate. As a result, it is considered that the local demand for the application site as allotments can be met by an existing suitable and accessible site. The proposal is therefore in accordance with Policy CF.8 and the loss of potential allotment land is therefore acceptable.

### Character and Appearance

This part of Bath is characterised by two storey terraced development, of varying age, at a density of approximately 50 dwellings per hectare. The proposal is for a modern interpretation of similar development, providing further 2 storey terraces at a density of approximately 51 dwellings per hectare. The new development would be largely hidden from wider public views but from viewpoints where it could be seen, would appear as an acceptable addition to the existing urban fabric. The design and proposed materials are considered to be acceptable.

Unfortunately, developing this site in an efficient manner for relatively high density housing will necessitate the removal of all the existing trees on site. The applicants have submitted a revised landscaping scheme, showing an increase in tree and shrub planting. Whilst these will take a while to mature, this should ensure that, once they have, they will aid in softening the appearance of the scheme.

The proposed development will of course result in a very significant change in the appearance of the site, and it is entirely understandable that the many residents who live in close proximity to this site will oppose this change. However, the Council needs to find additional housing land and this cannot be achieved at the scale required without building on land that is currently open and/or undeveloped. It is considered that the proposal would not have an unacceptably adverse effect on the character and appearance of the area, and would comply with Policies D.2 and D.4 of the Local Plan in this respect.

### Living conditions of neighbours

As set out above, local residents that surround the site will be very aware of a change in outlook to the rear of their properties. However, a loss of view in this way is not a reason to refuse the application. The residents that will be most affected are the occupiers of 1-10 Lansdown View, whose houses back on to the western part of the site. The two closely connected terraces whose rears would face towards these houses would be 20 - 22 metres from the rear elevations of the rear extensions to these houses. It is considered that these distances, which are similar to others that exist in the area, are sufficient to prevent unacceptable mutual overlooking and/or any overbearing impact.

The new access road to the site will necessitate the construction of a ramp down into the site, through the site of the demolished buildings. This will be adjacent to the front garden of the retained dwellings but is not considered to be unacceptable. In addition, the construction of these dwellings is bound to lead to a period of noise and disturbance in the area. However, if this was used as a reason for refusal, few buildings would ever be constructed in urban residential areas. It is not considered that any additional noise that might result from the occupation of the site once constructed would be unacceptable.

Some residents have objected on the basis of the location of the communal bin store. This has been positioned some 17 metres from the nearest properties (both existing and new). It is considered that this location is acceptable. It is concluded that there would be no unacceptable adverse effect on the living conditions of nearby residents and that the proposal would comply with Policy D.2 in this respect.

### Highway safety

A number of local residents have expressed concerns in respect to the existing roads' capacity. However, it is considered that the urban nature of the road infrastructure and the comparative size of the dwellings will not have a substantial impact on road traffic. The sustainable location of the site could mean that daily traffic movements can be discouraged through the accessibility of employment, services and facilities by foot, bicycle, public transport and rail. The NPPF states: "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe". Whilst it is inevitable that the development will result in an increase in traffic movements in the vicinity, the urban infrastructure and the relatively sustainable location of the development should mean that this increase will not be unduly significant, and will fall short of the NPPF's test of severe.

In line with the NPPF, the applicants are proposing a series of highway improvements to the Lansdown View/King Georges Road junction. Details of these improvements will form part of a Section 106 Legal Agreement. Currently, the proposal is to introduce a new pedestrian crossing and to formalise parking restrictions in this location. These measures will improve the road infrastructure, whilst also improving the safety of the roads not only for future residents but also the existing pedestrians and motorists who currently make use of this route.

The proposed provision of parking is supported by Highways. 31 parking bays, including 3 disabled bays, are provided within the development site for use by the 10x1-bed flats and 11 houses (an increase of 1 space from the original submission). The location of these bays within the relatively enclosed site should ensure that there is no requirement for future residents to park within the existing residents' parking areas. The proposed parking provision balances need against the desire to promote sustainable modes of transport. The application site is in close proximity to local services and facilities accessible by foot or bicycle and to a number of key local bus routes and rail services, with Oldfield Park train station being within 500 metres. There is no indication that the proposed development would result in an increase in on-street parking outside of the application site, and the intention is to ensure that those residing within the proposed dwellings park only within those spaces allocated to them.

There have been a number of comments expressed in relation to highway safety issues. These concerns do not relate to the site itself, but to the perceived risk associated with the increase in road traffic in the area. However, it is considered that the existing road capacity is capable of accommodating the proposed scale of development, and there will be improvements to road safety associated with the works to be secured via a S106 Agreement. It is considered that the proposal would

not have an unacceptably adverse effect on highway safety, and would comply with Policies T.24 and T.26 of the Local Plan.

## Noise

The Environmental Health officer noted concern in respect to the noise from the railway. However, the submitted Rail Noise Assessment indicates that the site falls into NEC C, and thus in line with the comments the Environmental Health Officer raised. It is recommended that a condition is attached to the permission that prior to occupation a further survey is undertaken to established the internal noise levels are appropriate for residential occupation.

## Ecology

The applicant's two Ecological Appraisals have both indicated that the site has a "low ecological value". However, the Council's Ecologist has expressed concerns regarding ecology. Further additional ecological information has been submitted by the applicant's ecologist including bat surveys of the buildings to be demolished which highlights that no evidence of bats was found.

Whilst it is accepted that any green space will have an inherent ecological value, blanket protection from development does not conform with the NPPF, which states that "distinctions should be made between the hierarchy of designated sites so that protection is commensurate with their status and gives appropriate weight to their importance and contribution that they make to wider ecological networks" (para 113). The site is not designated. Whilst it retains an allotment land designation, this is not a designation which is afforded protection on ecological grounds. The site is therefore an undesignated site in ecological terms and its protection must be commensurate to this status. The ecological test set out in the NPPF for development in these circumstances is "if significant harm resulting from a development cannot be avoided, adequately mitigated or, as a last resort, compensated for then planning permission should be refused" (para 118). The development would not cause significant harm to the natural environment or protected species, and through the identified mitigation measures and an appropriate landscaping scheme, any harm will be adequately mitigated.

Local Plan Policy NE.12 allows for the loss of such sites where it is unavoidable "because the reasons for the development outweigh the need to retain the features". The benefits of the development will be considered below. It is concluded that the proposal would not have an unacceptable adverse effect on ecology and would comply with Local Plan Policies NE.4 and NE.12.

## Benefits of the Scheme and Conclusions

The applicants are proposing to provide 100% affordable housing on this site. Meeting affordable housing need is a key objective of the emerging Core Strategy and NPPF, and is afforded significant weight in planning decisions both locally and nationally. Whilst the detailed examination of this Council's housing needs are on-going, it is evident that affordable housing need between the period of 2011-2031 is

significant. There is a need to increase previous rates of delivery of affordable housing.

Delivery of affordable units within market schemes has been challenging in the recent economic downturn and the development of small-infill affordable housing schemes now provides a significant delivery mechanism under which to achieve the Council's affordable housing targets. The emerging Core Strategy notes providing sufficient affordable housing can be achieved through "enabling housing associations to upgrade/intensify their stock, and allow small scale infilling within existing neighbourhoods".

As well as the need for affordable housing, members will be well aware of the shortfall of housing permissions in general that exists at present, and that the Council cannot currently demonstrate a 5 year supply of housing land. The NPPF states that, in these circumstances, the Council's policies on the location of housing should be considered as out of date (paragraph 49). In such circumstances, the NPPF in paragraph 14 states that "where the development plan is absent, silent or relevant policies are out of date", the decision maker should grant permission 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".

The application scheme is perceived locally as unacceptable and there will be some adverse impacts. However, these are not considered to be of sufficient significance to warrant a reason for refusal. Given that the scheme would provide 21 units of much need housing, and specifically affordable housing, it is not considered that the identified adverse impacts "would significantly and demonstrably outweigh the benefits", as set out within the NPPF. Permission should therefore be granted.

#### Recommendation

The applicants are proposing that these units are all for affordable housing and are proposing to fund highway improvements. Both of these will need to be the subject of a Section 106 agreement. In addition, the need for contributions towards education and open space are set out in the consultation section of this report. It is therefore recommended that authority be granted by Committee to the Development Manager to PERMIT this application, once a Section 106 agreement dealing with these matters has been signed, and subject to the conditions set out below.

#### **RECOMMENDATION**

Authorise the Development Manager of Planning and Transport Development to PERMIT subject to 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 A schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, shall be submitted to and approved in writing by the Local Planning Authority, prior to any construction involving those materials or finishes. The development shall thereafter be carried out only in accordance with the details so approved.

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

3 No development shall take place within the site, other than above ground demolition and site clearance works, 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 been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during ground works on the site, with provision for excavation of any significant deposits or features encountered, and shall be carried out by a competent person(s) and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of significant archaeological interest and the Council will wish to examine and record items of interest discovered.

4 Provision shall be made within the site for the disposal of surface water, details of which shall be submitted to and approved in writing by the Local Planning Authority prior to its construction.

Reason: In the interests of highway safety.

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

Reason: To protect residential amenity.

6 A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

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

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

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

8 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 6, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 7.

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

9 A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period to be agreed with the Local Planning Authority and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried

out safely without unacceptable risks to workers, neighbours and other offsite receptors.

10 No development approved by this permission, other than above ground demolition and site clearance works, shall be commenced until a scheme for prevention of pollution during the construction phase has been approved by the Local Planning Authority. The scheme should include details of the following:

1. Site security.
2. Fuel oil storage, bunding, delivery and use.
3. How both minor and major spillage will be dealt with.
4. Containment of silt/soil contaminated run-off.
5. Disposal of contaminated drainage, including water pumped from excavations.
6. Site induction for workforce highlighting pollution prevention and awareness.

Reason: To prevent pollution of the water environment.

11 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.

12 No dwelling hereby permitted shall be occupied until the acoustic fence shown on Drawing LP(90)004 Rev A has been erected. The fence shown shall be maintained as such thereafter.

Reason: In the interests of the living conditions of occupiers of the dwellings hereby permitted.

13 The dwellings shall not be occupied until space has been laid out within the site in accordance with the approved plans for the parking and turning of vehicles, and such areas shall not thereafter be used for any purpose other than the parking and turning of vehicles associated with the development, in accordance with the details of the approved drawings.

Reason: In the interests of highway safety.

14 The development of the site shall take place only in full accordance with the Arboricultural Impact Assessment and Tree Protection Plan Revised and Updated November 2013.

Reason: In the interests of the trees to be retained around the site.

15 No site works or clearance shall be commenced until protective fences which conform to British Standard 5837:2005 have been erected around any existing trees and other existing or proposed landscape areas in positions indicated on the approved plans. Until the development has been completed these fences shall not be removed and the protected areas are to be kept clear of any building, plant, material, debris and trenching, with the existing ground levels maintained, and there shall be no entry to those areas except for approved arboricultural or landscape works.

Reason: To safeguard the areas to be landscaped and the existing trees and planting to be retained within the site.

16 Prior to the commencement of any form of site works or clearance the Local Planning Authority shall be given not less than two weeks notice in writing of these works to ensure that appropriate measures of landscape protection required under condition have been implemented in accordance with the approved plans or conditions.

Reason: To ensure that adequate protection is given to the areas to be landscaped and the existing trees and planting to be retained within the site.

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

- (i) Further badger survey and assessment and details of proposed mitigation for impacts on badgers and their setts, including confirmation of licence requirements and proposals for replacement foraging habitat; provision of badger proof fencing where applicable; provision of any necessary exclusion zones and proposals for pre-commencement update surveys
- (ii) Further assessment and mitigation package to avoid harm to reptiles
- (iii) Details of proposed precautionary measures for bats
- (iv) Details proposed external lighting demonstrating no light spill onto adjacent habitats
- (v) Details of measures to protect nesting birds
- (vi) Details of all other wildlife mitigation and compensation as appropriate

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

Reason: In the interests of the ecology of the area.

18 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 Drawings LP(90)002 Rev C, 0033 Rev A and 004 Rev A, received 22 November 2013

Drawings P(00)001, 003, 004 Rev B, and 006, LP(90)001, IMA-13-017/009 Rev C, 010 Rev A, received 6 September 2013.

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

2 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.

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.

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 (available at: [http://www.bathnes.gov.uk/sites/default/files/siteimages/Environment/Pollution/construction\\_sites\\_-\\_code\\_of\\_practice.pdf](http://www.bathnes.gov.uk/sites/default/files/siteimages/Environment/Pollution/construction_sites_-_code_of_practice.pdf).)

There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct to watercourses, ponds or lakes, or via soakaways/ditches. The foul drainage should be kept separate from the clean surface and roof water, and connected to the public sewerage system as indicated within the planning application.