

Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **15th January 2014**

AGENDA
ITEM
NUMBER

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

TITLE: **APPLICATIONS FOR PLANNING PERMISSION**

WARDS: ALL

BACKGROUND PAPERS:

AN OPEN PUBLIC ITEM

BACKGROUND PAPERS

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

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

The following notes are for information only:-

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

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

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

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

Item No: 01
Application No: 13/04239/FUL
Site Location: Cross Keys Inn Midford Road Odd Down Bath Bath And North East Somerset



Ward: Combe Down **Parish:** N/A **LB Grade:**
Ward Members: Councillor Cherry Beath Councillor R A Symonds
Application Type: Full Application
Proposal: Erection of single-storey single dwelling incorporating the conversion of existing listed outbuilding, boundary walls, parking and garden.
Constraints: Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, World Heritage Site,

Applicant:	And Design (Bath) Ltd
Expiry Date:	16th December 2013
Case Officer:	Jonathan Fletcher

REPORT

REASON FOR REPORTING THE APPLICATION TO COMMITTEE:

An objection has been received from South Stoke Parish Council which is contrary to the Case Officer's recommendation. The application has therefore been referred to the Chairman who has agreed for the application to be determined by the Development Control Committee due to the contemporary design of the development.

DESCRIPTION OF SITE AND APPLICATION:

The application relates to a grade II listed public house located within the Bath World Heritage Site. The site forms a corner plot between two rows of residential development. The proposal relates to the land to the rear of the public house and includes a curtilage listed outbuilding which is proposed to be converted in connection with the development of a new single storey dwelling. The new dwelling would be comprised of a new contemporary flat roof structure which would be connected to the converted outbuilding. The north part of the site would be separated off to form the curtilage for the new dwelling. The development would be served by a vehicular access from Southstoke Road.

RELEVANT HISTORY:

13/04240/LBA - Pending - Internal and external alterations to existing listed outbuilding as part of development of self-build single-storey single dwelling.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Arboricultural Officer: No objection has been raised to the application.

Conservation Officer: It is recommended that the related LBA is approved.

Ecologist: An ecological survey has been submitted and no objection has been raised subject to the recommendations within the ecology report being secured by condition.

Highway Development Officer: Formal comments are expected prior to the committee meeting and will be reported as an update.

Highway Drainage Officer: No objection has been raised subject to a condition to secure surface water drainage.

South Stoke Parish Council: The Parish Council accepts the principle of residential development on this site but is concerned in relation to the use of materials and the arrangements for waste management for the public house.

Third Parties: One letter has been received which requests that the height is restricted to single storey and the materials are changed to match the outbuilding.

POLICIES/LEGISLATION

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

The following policies are relevant in this case:

D.2: General design and public realm considerations

D.4: Townscape considerations

BH.1: Impact of development on World Heritage Site of Bath or its setting

BH.2: Listed buildings and their settings

HG.4: Residential development in the urban areas and R.1 settlements

T.24: General development control and access policy

T.26: On-site parking provision

NE.4: Trees and woodland conservation

NE.10: Nationally important species and habitats

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

Bath and North East Somerset Submission Core Strategy (May 2011) as amended by the Schedule of Proposed Changes to the Submitted Core Strategy (March 2013).

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 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. The following policies are relevant:

B4: The World Heritage Site and its Setting

CP3: Renewable Energy

CP6: Environmental Quality

National Planning Policy Framework - March 2012

The NPPF guidance in respect of the issues which this particular application raises does not conflict with the Local Plan policies set out above.

OFFICER ASSESSMENT

INTRODUCTION:

The primary issues to consider when determining this application are the principle of new residential development, the setting of the listed building, the visual impact with the wider street scene, residential amenity, highway safety and ecology.

PRINCIPLE OF THE DEVELOPMENT:

The site lies within the built up area of Bath where policy HG.4 confirms that new residential development is acceptable in principle. The development could be implemented without conflicting with the continued operation of the public house.

IMPACT ON LISTED BUILDINGS:

The Council's Conservation Officer has submitted the following assessment:

'The nearest part of the new house is 10 metres away from the listed building. Such a gap provides adequate protection to the setting of the public house, accepting that its context has changed from that of an open rural setting to that of urban edge, characterised by more tightly knit built form. The single storey form proposed also respects the setting, introducing subservient form as illustrated in the street view (plan no. 57-110). I do not therefore consider that the proposal causes any harm to the setting or appearance of the historic building. It will improve the appearance of this part of the building's curtilage and enables a future use for the stone outbuilding.

The outbuilding has low architectural or historic significance but makes a positive contribution in group terms to the setting of the Cross Keys Inn. It has previously been altered, including re-roofing. The chamfered stone columns appear to have been re-used from elsewhere and are later inserts. Moving them again is not therefore considered to cause harm. Its elevation facing the listed building retains the stone walling, with no change in appearance.

I welcome the use of contemporary architecture and am satisfied with details as submitted. I understand it is now proposed to use ashlar stone on the front elevation with render on the return wall and would request inclusion of a condition as below. Details of the new boundary walls are also required.'

The comments from the Council's Conservation Officer have been noted and it is recommended that the development would preserve the special interest and setting of the listed buildings. The new building would be constructed with natural Bath stone ashlar to the front elevation and also the south side elevation which would be readily visible from the highway. This use of stone, in addition to the timber cladding and through colour render would be appropriate in this context. The conditions recommended in relation to the details of the materials and boundary treatments will ensure that an appropriate finish is achieved. It is also noted that any additional outbuildings or fences could not be erected within the site under permitted development rights as they would fall within the curtilage of a listed building. A further condition to remove permitted development rights would not therefore be necessary.

VISUAL IMPACT:

The design of the proposed development is considered to preserve the character and appearance of the street scene. The scale of the development could be successfully accommodated within the curtilage proposed for the dwelling. As noted above, the contemporary design of the development is supported in this context and it is considered this would form an appropriate transition between the listed buildings and the mixture of residential development on Southstoke Road. The change from render to natural Bath stone ashlar to the elevations facing the highway would be coherent with the contemporary design of the dwelling and would ensure that the development is successfully integrated within the street scene.

RESIDENTIAL AMENITY:

The proposal would maintain the residential amenity of adjacent occupiers. The limitation of the height of the dwelling to single storey would ensure that the development does not overshadow the adjacent property to the north boundary. In response to the comments from the adjacent occupier, it should be noted that any further increase in the height of the building would require planning permission and could therefore be assessed through an application. The outlook from the side elevations of the dwelling and converted barn would be contained within the boundary treatments and would not therefore cause an increased level of overlooking.

The development would provide an acceptable level of residential amenity for future occupiers of the site. The outlook from the adjacent property would not overlook the living areas of the new dwelling. An area of outdoor amenity space would be provided to serve the development. The public house is an established business operating within a residential area. Its current opening hours extend until 11pm Sunday to Thursday and 12am on Saturdays and Sundays. The proposed development would not create a substantially different relationship to that which exists for existing occupiers adjacent to the north boundary. The development has been designed to prevent disturbance through the siting of windows in less sensitive areas, the incorporation of double glazing and the use of mechanical ventilation to remove the need to open windows.

HIGHWAY SAFETY:

The Council's Highway Development Officer has been consulted and comments are expected to be received prior to the committee meeting which will be reported as an update. As this point it is noted that the area to the front of the site would provide two off-street parking spaces which would be sufficient to serve the development. In response to the comments from South Stoke Parish Council, the applicants have confirmed that refuse storage areas will be provided for the new dwelling and the public house. These areas are specified on the submitted plans. There would be no loss of parking for the pub as a consequence of this development.

ECOLOGY:

An ecological survey has been submitted to support the application which confirms that there is no evidence of protected species at the site. There are a number of recommendations which the Council's Ecologist has requested are secured by a condition if planning permission is granted. Such a condition is not however considered to be necessary in this case with regards to the conclusions of the survey which confirm there is no evidence of protected species at the site. A landscape condition is recommended to provide an acceptable setting for the development but also to contribute to maintaining habitats for species in the area.

CONCLUSION:

In light of the points raised above the proposal is considered to be acceptable and is recommended for permission subject to the conditions set out below.

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 No development shall commence until samples of all external walling and roofing materials have been provided for inspection on site and approved in writing by the Local Planning Authority. Thereafter, the development shall be carried out strictly in accordance with the approved details and the samples shall be kept on site for inspection until the development is completed.

Reason: In the interest of the appearance of the development and the setting of the adjacent listed buildings.

3 No development shall commence until details of the treatment for the junction between the ashlar and rendered elevations have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out strictly in accordance with the approved details.

Reason: In the interest of the appearance of the development and the setting of the adjacent listed buildings.

4 No development shall commence until details of the proposed new stone boundary walls on the road frontage and between the listed building and the new dwelling have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out strictly in accordance with the approved details.

Reason: In the interest of the appearance of the development and the setting of the adjacent listed buildings.

6 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.

7 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.

8 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:

1 101, 102, 103, 104, 105, 106, 107A, 108, 109, 110B, 111A, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122

Item No: 02
Application No: 13/04240/LBA
Site Location: Cross Keys Inn Midford Road Odd Down Bath Bath And North East Somerset



Ward: Combe Down

Parish: N/A

LB Grade:

Ward Members: Councillor Cherry Beath Councillor R A Symonds

Application Type: Listed Building Consent (Alts/exts)

Proposal: Internal and external alterations to existing listed outbuilding as part of development of self-build single-storey single dwelling.

Constraints: Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, World Heritage Site,

Applicant: And Design (Bath) Ltd

Expiry Date: 16th December 2013

Case Officer: Jonathan Fletcher

REPORT

REASON FOR REPORTING THE APPLICATION TO COMMITTEE:

An objection has been received from South Stoke Parish Council which is contrary to the Case Officer's recommendation. The application has therefore been referred to the Chairman who has agreed for the application to be determined by the Development Control Committee due to the contemporary design of the new dwelling.

DESCRIPTION OF SITE AND APPLICATION:

The application relates to a grade II listed public house located within the Bath World Heritage Site. The site forms a corner plot between two rows of residential development. The proposal relates to the land to the rear of the public house and includes a curtilage listed outbuilding which is proposed to be converted in connection with the development of a new single storey dwelling. The new dwelling would be comprised of a new contemporary flat roof structure which would be constructed adjacent to the converted outbuilding.

RELEVANT HISTORY:

97/00949/LBD - Refused - 17 December 1997 - Demolition of outbuildings

13/04239/FUL - Pending - Erection of single-storey single dwelling incorporating the conversion of existing listed outbuilding, boundary walls, parking and garden.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Conservation Officer: It is recommended that this application is approved.

South Stoke Parish Council: The Parish Council accepts the principle of residential development on this site but is concerned in relation to the use of materials and the arrangements for waste management for the public house.

Third Parties: One letter has been received which requests that the height is restricted to single storey and the materials are changed to match the outbuilding.

POLICIES/LEGISLATION

The primary consideration is the duty placed on the Council under Section 16 of Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

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

If the Council is minded to grant consent there is no requirement to notify the Secretary of State before a decision is issued.

OFFICER ASSESSMENT

INTRODUCTION:

The primary issue to consider when determining this application is the impact on the special interest of the curtilage listed outbuilding.

IMPACT ON LISTED BUILDINGS:

The Council's Conservation Officer has submitted the following assessment in relation to the works to the listed outbuilding which are required to convert the outbuilding to residential accommodation:

'The outbuilding has low architectural or historic significance but makes a positive contribution in group terms to the setting of the Cross Keys Inn. It has previously been altered, including re-roofing. The chamfered stone columns appear to have been re-used from elsewhere and are later inserts. Moving them again is not therefore considered to cause harm. Its elevation facing the listed building retains the stone walling, with no change in appearance.'

The comments from the Council's Conservation Officer have been noted and it is recommended that, with regards to the low significance of the building and the previous alterations, the development would preserve the special interest of the listed building. The conversion could be implemented using the existing openings with a small increase in the size of one of the openings to the north elevation. The internal layout of the building would be largely unchanged other than the installation of a sliding screen. A condition is attached to the related full application to confirm the details of the external walling and roofing materials and therefore this does not need to be replicated on the listed building application.

CONCLUSION:

In light of the points set out above the application is recommended for consent subject to the conditions set out below.

RECOMMENDATION

CONSENT with condition(s)

CONDITIONS

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

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

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

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

PLANS LIST:

1 101, 102, 103, 104, 105, 106, 107A, 108, 109, 110B, 111A, 112, 113, 114, 115, 116,
117, 118, 119, 120, 121, 122

Item No: 03
Application No: 13/04349/FUL
Site Location: Church Hall School Lane Batheaston Bath Bath And North East Somerset



Ward: Bathavon North **Parish:** Batheaston **LB Grade:** N/A
Ward Members: Councillor M Veal Councillor Gabriel Batt Councillor Geoff Ward

Application Type: Full Application

Proposal: Erection of a new single storey village hall building including multi-use main hall, activity rooms, kitchen, toilets and stores and associated external works to provide accessible access to the hall and fields following demolition of the existing Church Hall. (Resubmission)

Constraints: Agric Land Class 3b,4,5, Conservation Area, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas,

Applicant:	Batheaston New Village Hall
Expiry Date:	10th December 2013
Case Officer:	Rachel Tadman

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The application has been brought to Development Control Committee as the Development Manager considers that the application should be considered by Committee.

PROPOSAL: Erection of a new single storey village hall building including multi-use main hall, activity rooms, kitchen, toilets and stores and associated external works to provide accessible access to the hall and fields following demolition of the existing Church Hall.

DESCRIPTION OF SITE AND APPLICATION:

The application relates to the site of the existing Church Hall and an area of land surrounding it. The site is located on School Lane between the existing Youth Club to the west and an area of open space to the east. The site is within Batheaston Conservation Area but is not within the Green Belt. Members are therefore reminded that special attention should be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.

The proposal is for the erection of a Village Hall to replace the existing Church Hall. The proposed building has been designed as a number of elements using a combination of pitched and flat roofs. The building would be single storey in size under mainly flat roofs with the exception of the pitched roof over the main hall.

It would be constructed of natural Bath rubble stone and timber cladding to the walls. A mixture of natural slate, sedum and membrane would be used on the flat roof areas. Externally the building would have level access at the front with two disabled parking spaces. To the side, fronting the adjoining area of open space, would be a stepped access to a side entrance.

The existing building is currently made up of a main hall with fixed stage, two activity rooms, a small kitchen and toilets. It is currently operated with a maximum capacity of 130 people, although it could accommodate approx. 168 people. The building has an inflexible internal layout meaning that it can only be used by one single group/user at a time. The fixed stage also severely compromises the useable floor space within the main hall. (Useable floor space in this context means actual rooms i.e. the main hall and smaller activity/meeting rooms, but not toilets, corridors, kitchens etc)

The existing hall has a gross internal floor area of approx. 241 m² with a useable internal floor area of approx. 168 m² (including the fixed main stage and the rear activity room/store) meaning that 70% of the existing building is useable floor space.

The proposed building would have a gross internal floor area approx. 347 m² with a useable internal floor area of approx. 192 m² meaning that 55% of the proposed building is useable floor space.

In comparison with the existing building, the overall floor area of the proposed building will increase by approx. 106 m2 with an increase of 'useable' floorspace of approx. 24 m2.

The new building provides a larger hall but also includes improved ancillary facilities such as additional toilets, larger kitchen, storage areas and corridors to allow access around the building without interrupting other users. The building would not have a fixed raised stage but would use raked seating, that fold away against a wall when not in use, for talks or performances that may otherwise have required a stage.

PLANNING HISTORY:

Members will recall considering a proposal for the erection of a new single storey village hall building at this site on 5 June 2013 (ref: 12/04653/FUL). At that time Members resolved to Permit the proposal and planning permission was duly granted subject to conditions.

However, the Council then received a claim for Judicial Review from a local resident challenging the permission on a number of grounds. On considering this the Council was of the view that the challenge was likely to succeed on some, but not all, of the grounds. Specifically, the Council accepted that one of the conditions discriminated on the basis of age and therefore breached the Equality Act 2010 and that this condition, along with another were not enforceable, not sufficiently precise and unnecessary. The Council therefore agreed to the quashing of the planning permission and confirmation has now been received that the decision is quashed.

The proposal has now been resubmitted to be considered again. Whilst some parts of the following report will be similar to the previous report, Members are assured that Officers have considered the proposal afresh.

DC - 12/04654/CA - CONSENT - 21 June 2013 - Demolition of the existing Church Hall

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS DEVELOPMENT:

The proposal involves the replacement of the existing Church Hall with a new and larger village hall. The current Church Hall is of 215 sq m and the proposed hall would provide 350 sq m of space. The size of the proposed hall (within the building) is similar to that which exists, but it is being proposed without a fixed stage, to maximise the space for a variety of uses.

The proposed layout formalises the existing use of the existing vehicular access off School Lane to just disabled parking and emergency access, providing more controls than currently exists and allowing vehicles to turn and enter and exit in forward gear. Cycle parking has been indicated on the submitted plan, and provides for two cycle hoops accommodating 4 cycles, which is to an acceptable standard.

The main objections relating to highway matters received from the general public to the original planning application were on the grounds of:

- _ Road safety
- _ Congestion
- _ The lack of parking facilities

The objections are based on the increase in footprint and usage of the hall, particularly in the late evenings and the transport problems this would create, together with the inadequate control.

Bearing in mind the size of the development proposed, which is a replacement of an existing facility, and the main impact of the proposed development is likely to be outside the peak hours of 8-9am and 5-6pm, the traffic impact on the surrounding road network is considered to be below the threshold needed for a transport assessment or transport statement.

The site lies in the centre of the village with good pedestrian access and although the surrounding highway network is not ideal, vehicle speeds are calmed by the narrowness of the streets and presence of on street parking. In the last 5 full calendar years (2008 - 2012) there has been no recorded personal injury road casualty in the immediate vicinity of the site.

There is no indication that the replacement of the existing Church Hall will result in an increase in road accident casualties or add significantly to existing traffic delays, as it is considered that most of the increased travel demand will take place outside of the peak hours.

One of the main concerns put forward by objectors of the development is local performances by Encore. The applicants have submitted a travel survey of a production of a pantomime by Encore in February of this year to identify the availability of on-street parking during the performance, with cast and crew being requested to park more remotely from the site. The survey identified a number of available parking spaces in Northend during these times.

However the potential for increased pressure on existing on-street parking facilities is an issue. It is noted that an information leaflet is proposed to be issued to all users of the new hall to advise them of the limited parking availability. For larger events, it is proposed that details of the intended management of transport arrangements be submitted and approved by trustees of the hall. In practice these arrangements carry little weight because they cannot properly be the subject of planning conditions. Therefore the lack of control over parking demand for larger events remains a concern. However, in practice the number of large events which take place in the new facility is likely to be limited by the lack of parking facilities on the site.

On balance, given that this is a local facility and there is already an existing Church Hall on the site, the overall highway impact of increasing the size of the Church Hall in terms of an adverse impact on road safety, congestion and parking is not considered to be sufficiently severe to raise an objection on highway grounds.

I therefore recommend that no highway objection is raised subject to the following conditions being attached to any permission granted.

ENVIRONMENTAL HEALTH: Concerns and objections were initially raised due to a lack of a noise assessment and a lack of detail to assess whether an extraction system to the kitchen is required. However a further explanation was provided and Environmental Health revised their comments stating that, as the application does not propose any 'plant' or kitchen extraction units and potential noise issues are being dealt with through the design of the building and the design and access statement there are no objections subject to informatives in relation to asbestos and construction noise/dust.

CONSERVATION OFFICER: I have visited the site and assessed the impact of the proposed development on the character, appearance and setting of the local heritage assets (ie conservation area and listed buildings). I would have expected there to be a comprehensive design brief for this important corner site location in the conservation area to indicate how treatment of any future replacement Youth Centre would be designed to positively contribute to local character and harmonise with the new village hall development. Notwithstanding this observation, my comments are as follows:

Local historic character

The character of this part of the conservation area is semi-rural, located on the edge of the built area with the green backdrop setting of the field and mature trees to the east of the Church hall. Several listed buildings are in close proximity, forming attractive groupings of built form with other local heritage assets.

The site abuts the green space and is set at a lower level than the adjoining Youth Centre, respecting the topography of this part of Batheaston where the land levels drop away to the east. The existing building to be demolished is unattractive and has a negative effect on local historic character. Its demolition provides opportunity for improvement and enhancement.

The settings of listed buildings close to the site are currently harmed by the poor quality design of the existing Youth Centre and Village Hall. Replacing the existing hall as proposed is considered to improve these settings, and these would be further improved by a new Youth Centre or other replacement building, designed to respect the visually important corner site location.

Views

Impact on established views is important to consider. The apex of the roof is about 1.5m higher than the Youth Centre so this section of roof would be visible in views across the site from the higher level at Northend. However, such small protrusion is not considered to cause harm. Other longer distance views of the building from the conservation area street scene would be partly restricted by its set back positioning from the lane frontage, and short-distance views will be improved by removing the existing building and its replacement by new development. It is therefore considered that the proposed building would not cause any harm, significant or otherwise to local views or to the appearance and character of this part of the conservation area, and would create improvements.

Trees

Loss of mature trees is regretted as they make a significant contribution to the appearance of the conservation area. It should therefore be ensured that a robust planting scheme accompanies any permission to ensure respect for and improvement of local character. I

would suggest that this could include appropriately scaled planting on the lane frontage as well as within the site itself to contribute to spatial enclosure and local character.

Architecture

The contemporary design of the building reads visually as a community type of facility which is welcomed. The forms are clearly articulated, reflecting traditional built form and assisting in visually reducing bulk. Use of traditional and natural materials reflects the local vernacular without mimicking or resorting to pastiche. Timber cladding in this semi-rural location would also be appropriate. A minor point, the roof lights on the tiled roof slope will be visually prominent and should be of the 'conservation' type rather than the bulkier Velux type proposed. I would suggest this is covered by a condition.

Conclusion

From the heritage aspect it is considered that removing the existing unsightly prominent building and replacing it with a good quality new design this will result in significant improvement to local built character and the appearance of this part of the conservation area. It is recommended that if the application is to be permitted that conditions are included to cover use of 'conservation' roof lights and a significant tree planting schedule to respect the local character.

ECOLOGY: No objections subject to Conditions. A completed bat survey comprising a close inspection of the affected building has been submitted (Simecology, Dec 2013).

The survey is thorough and concludes that there is negligible to low bat roosting potential at the building. A watching brief is recommended during stripping of the roof ridge tiles. No further survey is considered necessary.

The recommendations of the report should be implemented and this can be secured by condition. Subject to this I have no objection.

HIGHWAYS DRAINAGE: No objections subject to conditions.

ARBORICULTURE: No objections subject to Conditions:

The application includes a tree survey, arboricultural impact assessment, results of trial trenches, a preliminary arboricultural method statement and revised tree protection plan. The contents of these have been noted and are supported. Mitigation is possible for the proposed loss of three trees.

The application is considered to demonstrate due consideration of retained policy NE.4 Trees and Woodlands.

BATHEASTON PARISH COUNCIL: Objects for the following reasons:

1 In the Development Plan the existing church hall is in an area where existing uses are expected to remain undisturbed. However, given that there is no alteration from the original application in the sitting and design of the building and - whilst Batheaston undoubtedly requires a modern village hall - the site of the existing parish church hall is the wrong location.

2 Caution is necessary in looking at the Local Plan provisions where the parking requirement at p224 cites church halls as a Class D1 Use. That is an insertion by BNES in formulating the Local Plan and is not an exemplary use quoted in DPMO Circular 3/2005 as a non-residential institution. Continued references to a D1 use in both applications appear incorrect.

3 On the assumption based on case law in *Iddenden v Hants County Council* 1972 that demolition of a building extinguishes the use rather does it appear that the mixed-use building as now proposed falls more appropriately in Use Class D2.

Whereas a church hall carries an implication about its primary use, a point that Circular 5/2005 raises, a village hall is different in its intended multi use function. Therefore the proposed building would be a successor rather than a replacement. A recommendation on the current application should be made against that context as a Class D2 use.

4 The Batheaston Parish Council (BPC) offers no comment on the detailed design.

5 However, on the question of the scope of the facilities proposed there is a need for a hall which would be inclusive of a normal and customary range of activities appropriate to the scale and needs of the village community.

6 It should be borne in mind that the Highways Department's view on the original application was that it would be unacceptable unless it were qualified by the imposition of a Green Travel Plan. The Green Travel Plan remains in the BPC's view unworkable, is clearly unenforceable, and is wholly inappropriate for this kind of development. Furthermore, it is obviously not acceptable to approve a Plan that is no more than aspirational at best. That being so, the repeat application should fail.

7 Reference to bus services in Appendix 4 of the OPS as proposed to be distributed to hirers for issue to users is of scant use and in some respects misleading in relation to evening events. Route 13 operates on a 30 minute frequency only and other routes are either very sparse indeed or non-existent after 7 pm. As for the larger-attended funerals in the daytime there can be no practical way of disseminating such parking information.

8 The resubmitted documents do not address the lack of dedicated parking to service the development in accordance with Local Plan Policy T24, T26.

9 The revised illustrative drawings indicate the scale and size of the proposed building to be some 25% to 30% bigger than that previously shown. The new drawings show trees to be cut down still in full leaf and therefore even these drawings are inaccurate and misrepresent the real impact on the conservation area and heritage assets. The proposal does not comply with Local Plan Policy BH6 and BH15.

10 The new drawings and supporting documents do not show how irreversible harm can be prevented to offsite trees in the Conservation Area, as will arise from construction and excavation and placing of foundations for the new building. The proposal contravenes Local Plan Policy NE4 and NE12.

11 The proposal will result in loss of amenity to local residents as it does not address late night noise, and disturbance from users and traffic and contravenes Local Plan Policy D2 and ES.12.

12 The existing Church Hall use is an ancillary use to St John's Church and falls under the category of D1 Non residential institution use, which covers 'non resident social services'. Case law has determined this use will be extinguished as and when the existing building is demolished. The operating policy states the hall is to be used for 'entertainment events, concert and performances' as well as for dance and sport. These activities, in circular 03/2005 are classified as D2 assembly and leisure use. The proposal, is not a replacement building, and must be evaluated on its merit against all relevant development plan policies specifically D2, ES12, NE4, NE12, BH6, BH15, T24, T25 and T26.

13 The Travel Plan is not complimentary and does not explicitly relate to a Transport Assessment or follow the guidelines published by the Dept. of Transport, 'Delivering Travel Plans through the Planning process ' The guidelines state travel plans cannot be used as a justification for unacceptable development and as presented is not sustainable or enforceable. The proposal as submitted does not satisfy Local Plan Policies T24, T25 and T26.

14 Summary of the relevant policies which this Application contravenes: -

Page 28 D2(f) excessive parking, noise, general disturbance

Page 54 CF2A not well related to surroundings on grounds of lack of parking

Page 180 BH6(v) loss of trees in Conservation Area. See re Para 3.48 below

Page 182 C3.48 Are any of the affected trees subject to TPOs?

Page 204 T1(5) Submitted Travel Plan does not achieve this objective

Page 207 T6 Submitted Travel Plan does not provide appropriately

Page 213 T14/15 Residential/Rural areas traffic management: submitted Travel Plan does not provide effective control

Page 219 T24(vii) Does not avoid increase in on-street parking

Page 221 T26 Requisite on-site parking not provided and Green Travel plan defective

For typical uses in a Class D2 building of less than 1000m sq floor space the Policy Parking Schedule requires one on-site parking space per 5 seats though discretion may allow account to be taken of (iii) the environmental capacity the site and its surroundings to accept parking and (viii) the availability of public parking in the vicinity of the site ES 12 and T24 might also apply.

A further letter of objection was received from Batheaston Parish Council which, among other things, reiterates some of the concerns made above.

OTHER REPRESENTATIONS / THIRD PARTIES

Representations have been received from a total of 71 addresses, of these 42 raised objections and 4 made general comments. The following concerns were raised:

1. The proposed building is too large for the site, would represent overdevelopment and encroaches on open space outside the red line plan.
2. The development would result in increased traffic, lack of on street and/or off street parking and impact on Highway Safety within an already congested area. Access by emergency vehicles would be compromised and events at the adjacent School already cause unacceptable levels of congestion.
3. The submitted Operation and Transport Statement is unworkable and unenforceable.
4. Detrimental impact on residential amenity as a result of the use of the hall including light pollution, noise and disturbance and overlooking, particularly late at night and from people leaving the hall.
5. Loss of trees and hedgerow, unacceptable impact on the retained trees and local wildlife.
6. Detrimental impact on the setting of the adjacent Grade II listed property.
7. Detrimental impact on Batheaston Conservation Area.
8. The proposal constitutes a change of use to Use Class D2, in particular a theatre.
9. The actual maximum capacity of the hall would be 300 people, which significantly exceeds the 155 people stated.

10. The development is not a replacement but a new development

Finally representations from 25 addresses have been received supporting the proposal.

POLICIES/LEGISLATION

Bath & North East Somerset Local Plan including minerals & waste policies adopted 2007.

D2 General Design and public realm considerations

D4 Townscape considerations

BH.2 Listed buildings and their settings

BH.6 Conservation Areas

BH.7 Demolition in the Conservation Area

BH.15 Visually important open spaces

CF.2 Community facilities

ES.2 Energy consumption

ES.5 Foul and surface water drainage

ES.9 Pollution and nuisance

ES12 Noise and vibration

NE.1 Landscape Character

NE.4 Trees and Woodland Conservation

NE.10 Nationally Important Species and Habitats

NE12 Natural Features

T1 Over-arching access policy

T5 Cycling Strategy: improved facilities

T6 Cycling Strategy

T24 General development control and access policy

T25 Transport assessment and travel plans

T26 On-site parking and servicing provision

Bath and North East Somerset Submission Core Strategy (May 2011) as amended by the Schedule of Proposed Changes to the Submitted Core Strategy (March 2013). 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 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.

The following policy is relevant:

RA3 - Community facilities and shops

DP6 - Environmental Quality

National Planning Policy Framework - March 2012

OFFICER ASSESSMENT

PRINCIPLE OF THE PROPOSED USE:

The application proposes to replace the existing Church/Village Hall with a larger, more modern building offering a flexible community facility primarily for the use of the residents of the Parishes of Batheaston and St Catherine.

The current building was constructed in the 1950's and is now coming to the end of its life and is in a poor state of repair. Due to this, and its inflexible layout, the building is not being used to its full capacity with significantly reduced bookings compared to historic levels when the building was in better condition. Due to the age of the building there are currently no planning conditions controlling the hours of use or capacity and it is on this basis that the application is considered.

It appears that the existing building has historically been used as a traditional Church Hall for activities/events that were provided as part of the wider Church activities in the village. It is now proposed to erect a Village Hall in its place. Regardless of what the resulting building will be called it is understood that the existing building provides a space for general community uses similar to most other Village/Church Halls located within villages and towns throughout the UK. It is also the case that an existing number of users may use the proposed hall for similar purposes.

In this regard the supporting information has stated that the building would continue within its existing Use Class D1 general community use offering a high quality and flexible space for users. The use of the building would be very similar, if not the same, as the existing hall with spaces suitable for meetings, workshops and activities such as dance classes, children's sporting activities along with health and well-being activities such as aerobics etc, theatre productions and other events. It is also intended that the building would be used for larger events such as parties, including weddings and civil partnership, celebrations, or theatre events although, at the present time, it is not proposed that civil marriage or civil partnership ceremonies would take place at the venue. The way in which the building is proposed to be used indicates that it will be a Village Hall falling within Use Class D1.

For clarity, the Town and Country Planning (Use Classes) Order 1987 (as amended) identifies Use Class D1 as Non-residential institutions including Clinics, health centres, crèches, day nurseries, day centres, schools, art galleries (other than for sale or hire), museums, libraries, halls, places of worship, church halls, law court. Non residential education and training centres.

In addition Circular 03/2005 clarifies that the Non-residential institutions class groups together buildings visited by the public for a wide range of purposes on a non-residential basis.

In this regard Officers are clear that both the existing and proposed use of the site would fall within Use Class D1.

Nevertheless objectors have raised concerns that the development would provide a 'multi use' hall and auditorium space with raked seating allowing it to be used as a theatre and

for sports uses, thereby triggering a material change of use to Use Class D2 - Assembly and Leisure or a sui generis use (meaning a use in its own class).

The Town and Country Planning (Use Classes) Order 1987 (as amended) identifies Use Class D2 as assembly and leisure uses including cinemas, music and concert halls, bingo and dance halls (but not night clubs), swimming baths, skating rinks, gymnasiums or area for indoor or outdoor sports and recreations.

Theatres are specifically excluded from Use Class D2 and are sui generis but it is important to note that the 1976 Theatres Trust Act defines a theatre as 'any building or part of a building constructed wholly or mainly for the public performance of plays'.

In this case the existing and proposed use encompasses a wide range of community uses, including various entertainment and sports uses. However as the primary, and overriding use, remains as a building available for hire for local community purposes, there is little room for suggesting that the proposal is anything else but a D1 use.

Furthermore, and for these reasons, it is clear that whilst it is intended that theatre productions will be held within the building, it cannot properly be described as a theatre. It will not be a building that has been constructed wholly or mainly for the public performance of plays and the performance of plays is one of a number of uses which will take place there. The provision of raked seating within the building is not considered to imply that its overriding use would be for the holding of theatre productions as they could be used for numerous other uses not falling within the description of a theatre use. As a matter of fact and degree, officers do not consider that the proposal will be a theatre.

Overall the proposed development this is considered to be in line with Policy CF.2 of the Local Plan which seeks to permit the development of community facilities within a settlement such as Batheaston.

With regard to the consideration of the proposal as a 'Village Hall to replace the existing', Batheaston Parish Council and another objector have stated that reference to the building as a 'replacement' is incorrect because the new building would be larger than the existing building. Furthermore they are of the view that, as the proposal will not only redevelop the site of the existing building but will also encroach onto the adjoining open space, which is land in different ownerships, that the proposal is new development and not a replacement. It is argued that, with the demolition of the existing building, the use would be extinguished meaning the new building could not be referred to as a 'replacement'.

Having considered these concerns, whilst it is correct that the proposed building will be larger, and will encroach onto the adjoining open space, it is a matter of fact that the proposed building would replace an existing building and a material change of use of this land will not occur given that, at times, it is used in conjunction with the hall as well as an area of open space in its own right. The presence of the current building and its associated use represents a fall-back position and a material consideration in the determination of the application. The proposal for a building within a community use on this site, within the centre of the village, in this case Use Class D1, is considered to comply with Policy CF.2 of the Local Plan and is therefore acceptable in principle.

INCREASED USE AND CAPACITY OF THE PROPOSED BUILDING:

The redevelopment of the site with a high quality, flexible community space will inevitably mean that it is more attractive to users and is likely to result in it being used on a more regular basis in comparison with the existing situation.

The application has attracted a high level of objection from neighbouring residents and Batheaston Parish Council, as well as expressions of public support. Objections include concerns that the increased size of the building, the number of events, the flexibility of the space and the attractiveness of the new facility will result in an intensification of the use.

Intensification of use is an issue that has to be considered very carefully, however, in this case, Officers are clear that any intensification of the use would be in relation to the building being used on a more frequent basis, and at times, by a higher number of people when compared with the existing situation. Therefore Officers are satisfied that any intensification of the use would only be within its existing use as a Village Hall and would be very unlikely to constitute a material change of use.

Nevertheless the increase in size and capacity of the building needs to be carefully considered, particularly in terms of the impact on the residential amenity of neighbouring occupiers and highway safety. However, importantly any impact also needs to be balanced against the historic use of the building when it was in better condition, and in more frequent use. Furthermore it is the case that the existing building could be refurbished and modernised, possibly without requiring planning permission, thereby once again providing an attractive space that has the potential to increase the level of its use to one more comparable with other Village Halls of its size. There are currently no controls over the existing hall in terms of capacity, hours of use etc although it is managed on the basis of a maximum capacity of 130 people, although it could accommodate up to approx. 168 persons.

Notwithstanding this, in order to provide additional information on the use and operation of the building, an Operation and Travel Statement has been submitted that includes information on the intended hiring policy for the Hall and management of bookings. In summary the document states that:

- o The building is primarily for the use of residents of the village of Batheaston but will also serve the interests of people living within the 'Area of Benefit' i.e. the Parishes of Batheaston and St Catherine and surrounding area, priority will be given to bookings for activities of direct potential benefit to these residents.
- o Hirings will not normally be permitted on schooldays for events starting before 9.30am or between 2.45 and 3.30pm unless events are intended for parents and children to coincide with dropping off or collecting children from school.
- o Activities will not start before 8am and will normally end by 11pm (10.30pm on Sundays and Bank Holiday Mondays)
- o A maximum of 26 late night events per annum will end at 12am.
- o Wedding or civil partnership celebrations will be limited to 12 per annum for organisers who are located outside of the 'area of benefit', and if ending at 12am will be included in the 26 late night events above.
- o Concerts and performances will be limited to a capacity of 155 people.

o The use of the adjoining field in conjunction with the hall will be required to cease by dusk or 9.30pm whichever is the earlier.

The above information shows an intention that the applicants seek to ensure that bookings are managed in an acceptable way having regard to the amenities of neighbouring occupiers and also highway safety. However it is also clear that, unless the above measures can be sufficiently controlled by conditions that meet the requirements of Para 206 of the NPPF, such intentions can only be given very limited, if any, weight because any planning permission will run with the land and a future operator may take a different approach. For clarification Para 206 of the NPPF states:

'Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.'

The previous planning permission (12/04653/FUL) for this site had conditions attached requiring compliance with the Operating Policy and Green Travel Plan. However these conditions formed part of the grounds of challenge in the Judicial Review for the reason that the documents were not sufficiently precise and were unenforceable. This was accepted by the Council as part of the agreement to the quashing of the planning permission.

Having considered this further it is clear that both the Operating Policy and Green Travel Plan also included elements that did not need to be controlled through the planning process. In retrospect it is considered that the condition requiring compliance with the full terms of each document was unlawful because it was unreasonably restrictive and went beyond that which was necessary to control in planning terms.

Officers have therefore carefully assessed all possible conditions that could be attached, particularly where they involve the control of the management and use of the resulting development.

In this regard it is considered that an all-encompassing condition requiring compliance with the Operation and Travel Statement cannot be attached as the statement includes a number of measures which are unenforceable. Therefore Officers are of the view that the Operation and Travel Statement can only be given very limited, if any, weight.

With specific regard to the capacity of the existing building, it is managed on the basis of a 130 person capacity, and the proposed building would, it is claimed, be managed on the basis of a 155 person capacity. However as the capacity of the building would be very difficult for the LPA to control a maximum capacity condition is considered to fail to meet the tests outlined in Para 206 of the NPPF..

Objectors have claimed that, based on the floor area, the proposed building could potentially have a capacity of approx 300 people. Clarification of the accuracy of this statement has been requested from the Applicant, as has confirmation of the maximum capacity of the existing building to allow an accurate comparison to be made. The applicant has confirmed that they have calculated that the main hall of the proposed building would have a maximum theoretical occupancy of approx. 224 people for an event such as a disco/dance. (The figure is theoretical as the final occupancy will be determined

by the Fire Officer and Building Regulations) This is compared with a maximum capacity of the existing hall of 168 people, although to accommodate this amount of people the fixed stage would need to be removed.

However, the the Applicant, in providing this information, has again reiterated that whilst the building may be able to accommodate a maximum of approx 224 people it is still their intention to limit the capacity to 155 people.

Based on the above calculations the potential increase in capacity could be around only 56 people with a maximum capacity of approx 224 people which is still in excess of the 155 capacity stated within the submitted documents. In spite of this it is considered that the occasions on which an event of this size, or larger, would happen would not be very often. This view is based on general experience of similar uses within the district where Halls such as this are, on occasion, used for large events but are few and far between and have to be balanced against the times, in the main, that the hall would be in use by fewer people. Furthermore these types of events are likely to occur outside of peak hours.

In this particular case it is considered that the lack of on-site parking facilities would self limit the capacity of the venue making it relatively unattractive to those wishing to hold a large event with an attendance significantly in excess of the intended capacity of 155 people. Those wishing to hold such an event would be more likely to look for a site with greater parking facilities. Furthermore, if it were a village or community event, then those attending would be aware that houses in the vicinity could be affected and, hopefully, act accordingly.

Finally suitably worded conditions to ensure compliance with other proposed policies included within the Operation and Transport Statement, such as limiting events starting before 9.30am or between 2.45 and 3.30pm in school term time and limiting the number of wedding or civil partnership celebrations per annum, have also been considered but it has been concluded that conditions in this regard would be unenforceable so are not appropriate. In concluding this it is acknowledged that the planning permission would not control the number of weddings or civil partnership celebrations that could be held at the Hall.

It is therefore on the basis of the above that the impact of the development, particularly on residential amenity and highway safety, is considered.

IMPACT ON RESIDENTIAL AMENITY:

The site is located close to existing residential properties, sharing a boundary with one dwelling and with other dwellings located across School Lane and Northend. As the proposal would replace an existing hall it is assumed that the neighbouring residents may already experience some level of noise and disturbance from its use and also as a result of their close proximity to the existing adjacent Youth Club. It is therefore expected that such noise and disturbance would be experienced both as a result of the use of the buildings but also the coming and going of users, sometimes late at night.

Nevertheless objectors are now significantly concerned that the proposed building will exacerbate these problems due to its larger size, design and (possible) potential capacity

of approx. 300 persons. The concerns also relate to the increased numbers of people using the adjacent open space and leaving the building, particularly late at night.

The submitted Operation and Travel Statement, as detailed above, has outlined the intended hiring policy for the Hall, including the management of its use and bookings, which, if implemented fully, would adequately manage any additional impact of noise and disturbance on residential amenity to an acceptable degree.

Furthermore, it is the case that the previous permission on this site (12/04653/FUL), now quashed, in considering that the impact on residential amenity was acceptable, relied to some extent on a condition requiring compliance with the submitted Operating Policy.

However, as has already been explained, Officers are of the view that a condition requiring compliance with the document cannot now be attached to this permission and the impact on residential amenity has been re-assessed on this basis.

Nevertheless, whilst the replacement building would be larger and therefore accommodate an increased number of people, the existing fallback position is a material consideration. Therefore the impact of this development on the residential amenity of neighbouring occupiers has to be considered with this in mind and it is the increase in noise and disturbance as a result, over and above that already experienced, that is under specific consideration.

As has been explained above it has to be assumed that the building could potentially have a maximum capacity in excess of the 155 capacity stated within the submitted documents.

In light of this Officers are of the view that there is the potential for noise and disturbance to be experienced due to increased numbers using the external areas of the site i.e. as a result of users entering and leaving the building, traffic movements etc, in comparison with the existing situation. It is further considered that the more intrusive and unacceptable impact would be most likely experienced late at night and early in the morning.

Therefore in order to limit the impact to an acceptable degree it is proposed that a condition is attached limiting the hours of use of the Hall to:

Monday to Saturday and including Bank Holidays	8am - midnight
Sundays	8am - 10.30pm
New Year's Eve into New Year's Day	0800 to 1.00am

This differs from the Applicant's suggested times of use which sought opening hours of 0800 to midnight on up to a combined total of 26 Fridays or Saturdays a calendar year. However having considered the issues of limiting the hours of use with regard to Para 206 of the NPPF i.e. ability to enforce, it has been concluded that a simple condition such as that suggested is more appropriate and will allow sufficient control over the use of the building to safeguard residential amenity.

This will effectively allow the building to be used until midnight 6 days a week which is more than the applicants have asked for and in excess of the proposed policy within the

Operation and Travel Statement to limit the number of late night events to maximum of 26 per annum.

However this is not considered to be unreasonable, even considering its close proximity to residential dwellings and increased capacity especially considering the design features included to limit noise. It is also material that the existing building has no control over hours of operation.

Furthermore the site is within a central location in Batheaston village, at the heart of the community and surrounded by the Church, Youth Club and School where some noise and disturbance from traffic movements and people leaving events, potentially late at night, is to be expected. However this view is also taken based on experience and a reasonable assumption that, in all likelihood, the building will, in the main, be used in such a way that any noise and disturbance experienced will not be so significant as to justify the refusal of the application for this reason.

With regards to noise and disturbance from the proposed building, it has been stated that the existing building has a very poor acoustic performance which is one of the reasons why a replacement is being proposed. This issue appears to have caused significant levels of disturbance to neighbours in the past and, although there are no planning conditions controlling hours of use or noise, has led to a reduction of late night bookings in order to accommodate resident's concerns and reduce complaints.

In terms of the design of the proposed building, it has a number of measures included specifically to minimise any potential impact from noise and disturbance in order to prevent such problems reoccurring but also to provide a development that would not have an unacceptable detrimental impact on residential amenity over and above that already experienced.

In particular the building has been designed to ensure that all noise from the main hall is contained within the envelope of the building by proposing that the main hall has no opening windows. Furthermore the building has buffer zones of doors and spaces between the main hall and the external space to prevent noise escaping. An acoustically attenuated natural ventilation system is also proposed. Whilst the activity rooms and kitchen will have opening windows it is unlikely that noise from these rooms would be significant enough, given their distance from the boundaries with neighbouring dwellings, to have a detrimental impact on the residential amenity of neighbouring occupiers.

The Environmental Health Officer initially raised objections that the scheme was not accompanied by a background noise assessment and that one was required, so that, from its findings, an appropriate condition to mitigate potential noise nuisance from installed plant could be suggested. Furthermore he also raised concerns on a lack of clarity of whether or not an extraction system would be employed. However following confirmation that the application does not propose any plant or kitchen extraction units and that potential noise issues are being dealt with through the design of the building and the design and access statement, the Environmental Health Officer updated his comments to confirm that his previous concerns and objections have been overcome.

It is therefore considered that the levels of noise and disturbance from the use of the building itself, even with an increased, and uncontrolled, capacity, would be unlikely to

reach levels that would be so detrimental to the residential amenity of neighbouring occupiers as to justify refusal of the application on this point. Furthermore, when the existing situation is also taken into consideration, Officers are of the view that the building would result in a reduction in levels of noise and disturbance, particularly from within the building itself.

With regard to concerns that the proposal will lead to increased numbers using the adjacent open space late at night, it is important to note that the open space is not within the application site. Furthermore there are currently no controls over the use of this space. Therefore, whilst there is the potential that the open space may be used in conjunction with the new hall, by potentially large numbers of people, this could happen at the present time, and it cannot reasonably be controlled by this application and certainly does not justify refusal of this application on that basis.

Turning to concerns received in relation to overlooking, the building has also been designed to ensure that neighbouring properties would not be adversely affected. The majority of windows are at ground floor level which would have no impact on residential amenity. The high level windows at the rear of the hall would face a neighbouring garden but, as they are at a high level would not cause overlooking, but nevertheless would be obscure glazed and fixed shut.

Finally the location and design of the building is not considered to give rise to any overbearing impact on any neighbouring dwellings or their gardens.

In conclusion, the previous permission (12/04653/FUL, now quashed) relied, to some extent, on a condition requiring compliance with the submitted Operating Policy, in considering that the impact on residential amenity was acceptable. In considering the application afresh, Officers are of the view that the proposed development would not result in significant harm to the amenities of existing occupiers of neighbouring residential properties and is therefore in accordance with Policy D2 of the Local Plan.

PLANNING OFFICER ASSESSMENT OF HIGHWAY ISSUES:

The site lies in the centre of the village with good pedestrian access where vehicle speeds are naturally calmed by the narrowness of the streets and presence of on street parking. The proposed layout including 2no parking spaces for disabled visitors allows vehicles to turn, enter and exit in a forward gear. Cycle parking has also been indicated on the submitted plan, and provides for two cycle hoops accommodating 4 cycles.

As explained above the application has been accompanied by an Operation and Travel Statement which includes a number of measures to manage the hall and bookings to reduce the impact of the development on the surrounding highway network and off street parking situation.

As above, it is the case that the previous permission on this site (12/04653/FUL), now quashed, in considering that the impact on highway safety was acceptable, relied, to some extent, on a condition requiring compliance with the submitted Green Travel Plan and Operating Policy.

However, for reasons explained above, Officers are of the view that a condition requiring compliance with either of these documents cannot now be attached to this permission and, therefore only very limited, if any, weight can be given to these documents. The impact of the proposed development on highway safety has therefore been re-assessed on this basis. Para 32 of the NPPF advises that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The application has been subject to a significant level of objection from local residents and the Parish Council in relation to the impact of the development on highway safety. The representations have raised concerns in relation to the lack of on-site parking provision, the content of the Operation and Travel Statement, along with the impact that the development would have on existing on street parking provision and the adjoining highway network. In order to back up the objections being made a Transport report, commissioned by an objector, has been submitted. Objections have also questioned the lack of a Transport Statement.

Throughout this process it has always been recognised by Officers that the highway network surrounding the site is narrow with a high level of on street parking that is far from ideal to serve the proposal, and that a replacement village hall, with better facilities, would be more attractive to users and likely to generate more interest in its use.

Concerns have also been expressed by objectors that access by emergency vehicles is very difficult at present and will only get worse as a result of the application. Again, it is acknowledged that the existing situation is far from ideal but it is unlikely that this scheme will prevent access by emergency vehicles any more than at present due to existing parking restrictions and the nature of the proposed development.

Nevertheless it is considered, as has been stated throughout this report, that any increase resulting from the proposed building needs to be carefully balanced against the lawful use of the existing building, the potential for the building to be refurbished and modernised, thereby increasing the frequency of use, and the lack of conditions to control its use at present.

A travel survey of a production of a pantomime by Encore, the local theatre group that uses the existing building, in February of this year was carried out to identify the availability of on-street parking during the performance. The document states that the cast and crew were requested to park more remotely from the site and the survey identified a number of available parking spaces in Northend during these times.

Therefore, although the travel survey is relatively basic, and can only be given limited weight, the data does indicate that spare capacity for on-street parking could be available during one of the times of the hall's more intensive uses.

In conclusion, it is the case that the previous permission (12/04653/FUL now quashed), relied on conditions requiring compliance with the submitted Operating Policy and Green Travel Plan in considering that the impact on highway safety was acceptable.

However, in considering the proposal afresh, given that this a local facility, and with full consideration of the existing, uncontrolled, situation it is the Officer's view that the larger

proposed building, even with its increased use and capacity taken into account, would not have a significant detrimental impact on highway safety. This is because officers are of the view that the limited parking facilities will make travelling to the new hall by car a relatively unattractive proposition and will prompt users to consider other modes of travel.

In considering the tests within Para 32 of the NPPF, the residual cumulative impacts of the development are not considered to be severe, therefore, it is felt that refusal of the application for this reason is not justified.

This is perhaps the key issue in the consideration of this application and Members can be assured that all the concerns and objections received, including the submitted Transport report, have been considered very carefully but also have been viewed against the existing situation.

SIZE, DESIGN AND IMPACT ON THE BATHEASTON CONSERVATION AREA, LISTED BUILDINGS AND STREET SCENE:

The character of this part of the conservation area is semi-rural, located on the edge of the built area with the green backdrop setting of the field and mature trees to the east of the village hall. Several listed buildings are in close proximity, forming attractive groupings of built form with other local heritage assets. The site abuts the green space and is set at a lower level than the adjoining Youth Centre, respecting the topography of this part of Batheaston where the land levels drop away to the east. The existing building, due to its deteriorating condition and 1950's design, is unattractive and has a negative impact on the character of this part of the Batheaston Conservation Area and street scene.

The proposed building is of a contemporary design that has the appearance of a community type facility meaning that its use and function within the street scene will be clear to all. The building uses both natural Bath stone and timber cladding to the walls and a mixture of flat and pitched roofs. The use of traditional and natural materials reflects the local vernacular and timber cladding in this semi-rural location is appropriate. The use of flat roofs has reduced the overall bulk of the building and the overall height of the single pitched roof has been kept to a minimum in order to reduce its impact on the street scene and Conservation Area. Although the ridge height of the single pitched roof exceeds that of the existing building, and the neighbouring Youth Club, the ridge is central to the site meaning that the impact from the street scene is lessened. Nevertheless the building would occupy a larger footprint, resulting in a larger building overall, but this, due to its overall design and location, is not considered to be harmful to the street scene or surrounding area.

When viewed from public viewpoints, from School Lane, as well as from the adjacent recreational field, the proposed building, specifically the ridge of the roof, would be visible in views across the site from the higher level at Northend. However, such a small protrusion is not considered to cause harm. Other longer distance views of the building from the Conservation Area street scene would be partly restricted by its set-back positioning from the lane frontage, and short distance views will be improved by removing the existing building and its replacement by the proposed high quality building.

It is therefore considered that the proposed building would not cause any harm, significant or otherwise to local views and would enhance the character and appearance of this part

of the Batheaston Conservation Area. The proposed building is considered to be of a high quality design that would fit well within the street scene and, whilst the majority of buildings adjoining the site are of a more traditional or historic form and design, the introduction of a contemporary community building in this location is considered to be acceptable.

Turning to the impact of the development on the Grade II listed building, at the rear the height of the building has been kept to a minimum in order to reduce any impact. The Conservation Officer has specifically considered this point and is of the view that the settings of the surrounding listed buildings are currently harmed by the poor quality design of the existing Youth Centre and Village Hall. The replacement of the existing hall is considered to improve this situation and therefore the setting of the listed buildings will not be harmed by the proposed development.

IMPACT ON TREES:

The application has been accompanied by information that has assessed the impact of the development on existing trees including a tree survey, arboricultural impact assessment. These documents also include the results of trial trenches, a preliminary arboricultural method statement and tree protection plan.

The proposal will result in the loss of 3 existing trees (False Acacia trees) and the location of the rear elevation of the building, and its foundations, will also affect a number of other trees, specifically 4 trees located outside the site boundary and within a neighbouring garden. In particular the development would impact on the root protection area of a large Copper Beech, located in the neighbouring garden. Objections to the proposal have been received in this regard.

The submitted information confirms, as far as possible, that the development can be constructed without having a significant adverse impact on the neighbouring trees. Whilst the development is in close proximity to existing trees, and will in parts impinge on the root protection areas shown on the plans, the Arboricultural Officer, having regard to the results of the trial trenches, and the influence which existing buildings, ground levels and other structures have on root growth, is confident that the existing trees will not be harmed to an unacceptable degree.

Replacement planting as mitigation for the loss of 3 trees has been requested by the Arboricultural Officer and will be included as part of a condition attached to the permission.

With specific regard to the impact of the development on the neighbouring trees, the Arboricultural Officer is clear that the root protection areas shown on the submitted plans follow the basic guidance contained within BS 5837:2012 Trees in relation to design, demolition and construction. This means that the root protection areas shown on the plans have taken a standard approach, are not site specific and do not take into account the influence which existing buildings, ground levels and other structures will exert on root growth from adjacent trees into the site. On this site the ground conditions are considered to heavily influence the direction and depth of root growth of the surrounding trees meaning that, although the development does encroach into the identified root protection area, the actual impact would be significantly lower allowing a departure from the 'standard' approach.

With regard to the construction phase, the information submitted confirms that precautionary measures are achievable to ensure that the trees are not also harmed by the actual construction of the building. If deemed necessary, shuttering or other solutions can be used to ensure that no excavations for ground works extend beyond the location of the trial trenches referred to in the Arboricultural Impact Assessment. This is particularly relevant in the north western most corner of the proposed building where the ground level alterations are the most significant. The final details will form part of an Arboricultural Method Statement to be submitted by condition.

The Conservation Officer has commented that a robust planting scheme should be provided to ensure respect for and improvement of local character, however, whilst these comments are appreciated, the potential for additional planting within the site, and along the frontage is severely limited but nevertheless additional tree planting could be accommodated and will be required as a condition..

Overall it is considered that the applicant has provided all information which it can reasonably be asked to satisfy previous arboricultural concerns regarding the impact on adjacent trees and, having fully considered all the information submitted, in conjunction with objections made, the proposed development is considered to be acceptable subject to conditions.

ECOLOGY:

At the request of the Ecologist a bat survey has been carried out which included the close inspection of the existing Church Hall building.

The survey concluded that there is negligible to low bat roosting potential at the building and although a watching brief is recommended during stripping of the roof ridge tiles, no further survey is considered necessary. On this basis the Ecologist has raised no objections to the proposed development subject to an appropriately worded condition which is attached.

ENVIRONMENTAL IMPACT ASSESSMENT

The proposed development has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011. The site is considered to be an urban development project under paragraph 10b of Schedule 2 of the Regulations but as the site is not within a sensitive area and falls below the 0.5 hectare development a negative Environmental Impact Assessment screening opinion has been adopted.

EQUALITY IMPACT ASSESSMENT

An equality impact assessment pursuant to the Equality Act 2010 has been undertaken and there were no adverse findings.

CONCLUSION:

The application seeks to replace an existing inflexible and outdated 1950's Church Hall that is in poor condition with a modern Village Hall that will offer enhanced facilities and a flexible space for the use of the community.

The proposed building is of a high quality design using mainly natural materials that would sit well within the existing street scene and would not have a detrimental impact on this part of the Batheaston Conservation area or surrounding area.

The proposal would not result in a change of use of the site which is a material consideration that should be given significant weight.

Nevertheless objections have been received from local residents and third party representatives in relation to the impact of the development, and the intensification of the use, on off street parking and highway safety and also on the residential amenity of neighbouring occupiers. However a significant number of letters of support have also been received.

It has been explained above that, whilst an Operation and Travel Statement has been submitted that shows an intention to ensure that bookings are managed in an acceptable way having particular regard to the amenities of neighbouring occupiers and also highway safety, it is considered that an all-encompassing condition requiring compliance with the Operation and Travel Statement cannot be attached as the statement includes a number of measures which are unenforceable, not sufficiently precise and unnecessary. Therefore Officers are of the view that the Operation and Travel Statement can only be given very limited, if any, weight. The application has therefore been considered by Officers on the basis that the measures outlined in the statement cannot be secured through the planning process, however, notwithstanding this, the development has been considered acceptable for the above reasons.

However objectors have claimed that, based on the floor area, the proposed building could potentially have a capacity of approx 300 people. The Applicant has since confirmed that they have calculated that the main hall of the proposed building would have a maximum theoretical occupancy of approx. 224 people for an event such as a disco/dance. (The figure is theoretical as the final occupancy will be determined by the Fire Officer and Building Regulations) This is compared with a maximum capacity of the existing hall of 168 people. However, the Applicant, in providing this information, has again reiterated that whilst the building may be able to accommodate a maximum of approx 224 people it is still their intention to limit the capacity to 155 people and it is on this basis that the fire plan for escape routes etc as part of the Building Regulations application will be designed.

Nevertheless it has to be assumed that the building could potentially have a maximum capacity far in excess of the 155 capacity stated within the submitted documents. In spite of this it is considered that, based on general experience of similar uses within the district, the occasions on which an event of this size would happen is likely to be infrequent and based on Officer's professional opinion, if and when this does occur, in this village centre location this would not cause significant harm to the residential amenity of neighbouring occupiers.

With regard to residential amenity, it is concluded that the proposed building would not have a detrimental impact either through noise and disturbance or overlooking. .

However Officers are of the view that there is the potential for increased noise and disturbance to be experienced external to the building in comparison with the existing situation. In order to address this a condition limiting the hours of use of the hall has been attached, the hours of which are not considered to be unreasonable for a community building. Furthermore the site is centrally located within Batheaston village, at the heart of the community and surrounded by the Church, Youth Club and School where some noise and disturbance from traffic movements and people leaving events, potentially late at night, are to be expected.

It is therefore considered that the development would not result in any increased detrimental impact on the residential amenity of neighbouring occupiers that would be at a level that could justify the refusal of the application, especially given the existing use of the site.

In relation to Highway Safety, the development has again attracted a high level of objection, however these comments and objections have to be considered against the fall back position of the existing use of the site.

Therefore, given that this a local facility and there is already an existing Church Hall on the site, the Highways Development Officer is of the view that the overall highway impact of increasing the size of the Church Hall is not considered to be sufficient to raise an objection on highway grounds.

The proposed building is in close proximity to a number of trees, and the development would result in the loss of 3 trees. However, the Arboricultural Officer is of the view that the loss of 3 trees is acceptable and that the impact on the existing trees would not be significant.

Overall, the proposed development is considered to be acceptable and the recommendation is to Permit subject to relevant 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 The building shall not be used for any purpose outside of the following hours, save for works to clean the building;

Monday to Saturday and Bank Holidays	8am - midnight
Sundays	8am - 10.30pm

New Year's Eve into New Year's Day

8am - 1.00am

Reason: In the interests of residential amenity.

3 No ground preparation, demolition or construction activities shall take place until a Detailed Arboricultural Method Statement with scaled Tree Protection Plan has been submitted to and approved in writing by the Local Planning Authority. It should include the following details:

- o Provisional programme of works;
- o Supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion.
- o Details of the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning,
- o Location of any site office
- o Service run locations including soakaway locations and movement of people and machinery.
- o Details of the method of tree removal to avoid the use of herbicides on tree stumps to avoid any transfer to adjacent trees
- o Construction details to ensure that no ground works extend beyond the position of the tree root trial trenches.

The development shall thereafter be carried out in strict accordance with the approved details.

Reason: To ensure that the protected trees to be retained are not adversely affected by the development proposals.

4 The local planning authority is to be notified in writing two weeks prior to development commencing of the fact that the tree protection measures as required are in place and available for inspection.

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

5 No development shall be commenced on site until a soft landscape scheme has been first submitted to and approved in writing by the Local Planning Authority to include a planting specification to include numbers, density, size, species and positions of all new shrubs and replacement tree planting and a programme of implementation.

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

6 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.

7 The area allocated for parking for disabled persons on the submitted plans shall be provided in accordance with the approved details and prior to the building being first brought into use. The disabled parking shall thereafter be kept clear of obstruction and shall not be used for any other purpose.

Reason: In the interests of amenity and highway safety.

8 The cycle parking shown on the submitted plans shall be provided prior to the building being first brought into use. Details of the cycle hoops to be used in the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of sustainable travel.

9 Prior to the first occupation of the approved development the high level windows (i.e. those above ground floor level) to the main hall on the north elevation shall be obscure glazed and fixed shut and shall remain so in perpetuity.

Reason: In the interests of residential amenity.

10 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 commencement of construction. The development shall then be carried out in accordance with the approved details and maintained as such.

Reason: To prevent flood risk to the site and to third parties.

11 The development hereby permitted shall be carried out only in accordance with the recommendations of the approved Bat Search Survey dated December 2013.

Reason: to ensure adequate ecological and bat protection measures during works

12 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 drawing nos 6186 D 0001 A, 6186 D 0101 A, 6186 D 0102 D, 6186 D 0104 F, 6186 D 0105 A, 6186 D 0201 A, 6186 D 0301 E, 6186 D 0302 E, 6186 D 0303, 130307-BVH-TPP-Rev B-LI&AM

2 INFORMATIVE:

Information regarding Condition 10: Surface water from the proposed redevelopment should be discharged via SUDS features. Due to the close proximity of an ordinary watercourse, we would encourage surface water discharge into that watercourse. The Applicant would need to apply for a Land Drainage Consent from this office in order to do this.

The Applicant has indicated that surface water will be disposed of via soakaways. Infiltration testing to BRE Digest 365 should be carried out to ensure a suitable soakaway design is possible (the test results should be submitted to support the discharge of the above condition).

Discharge to the main sewer is the least favourable method of surface water discharge and should be considered as the last resort. A confirmation from Wessex Water would be required to confirm that they are happy with the applicant proposal and that there is a sufficient capacity within their network to accept the additional flows.

The developer should be mindful of the presence of asbestos and ensure that the removal and disposal of this hazardous substance is contained according to the Control of Asbestos Regulations 2012 and to protect the health of site workers and future occupiers of the site.

Consideration should be given to proofing any roof/flat surfaces against gulls nests and guidance notes on this can be found on the Council's website.

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.

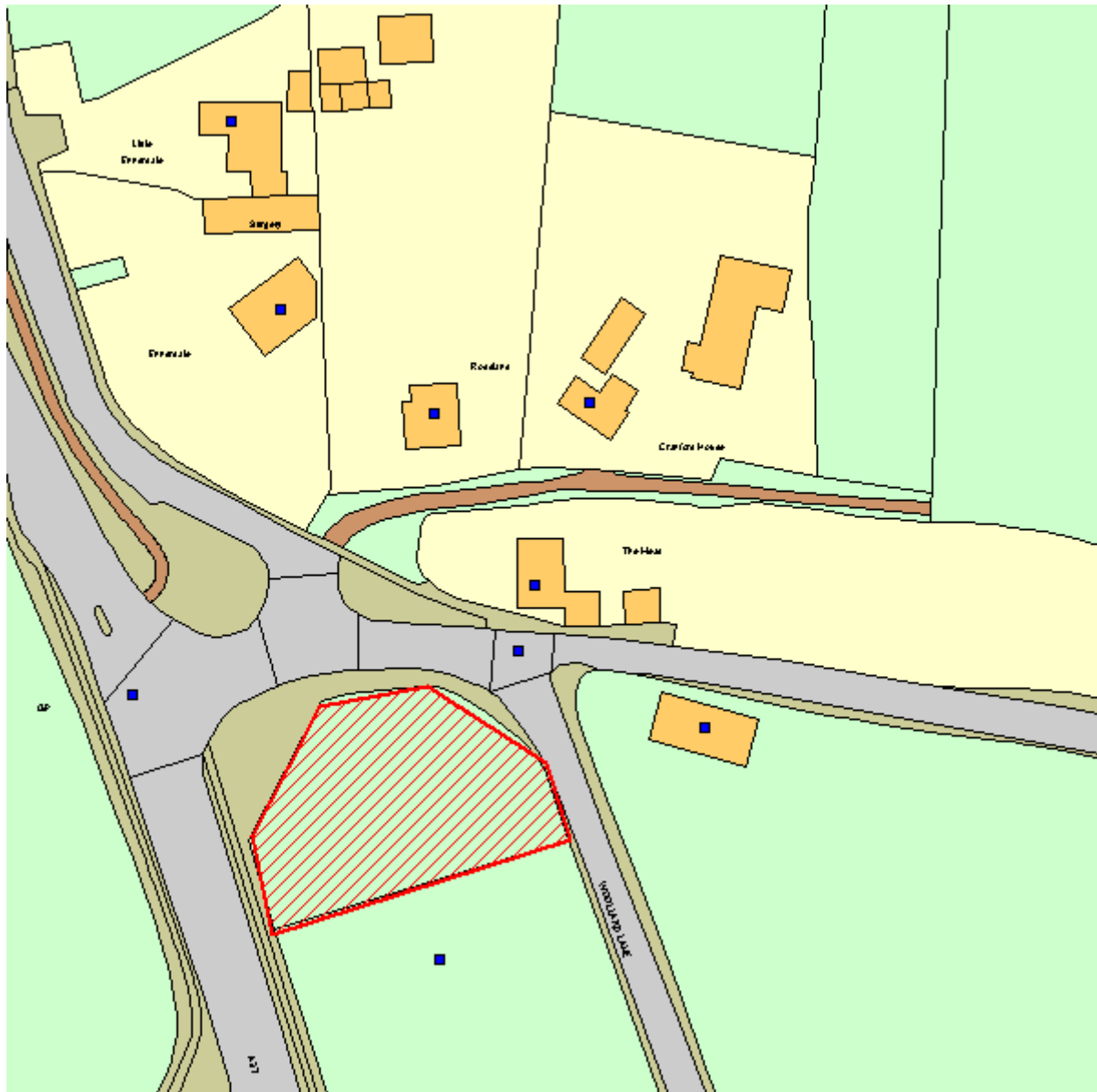
The developer shall comply with the BRE Code of Practice to control dust from construction and demolition activities (ISBN No. 1860816126). The requirements of the Code shall apply to all work on the site, access roads and adjacent roads.

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, a copy of which can be found on the Council's website.

3 Decision Making Statement:

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Policy Framework. The application has undergone extensive consultation and consideration has been given to all the submissions from consultees, local residents and other representations. Furthermore due consideration has been given to all material considerations and as a result the development has been found to be, on the whole acceptable, and where concerns do remain it has been found that these do not outweigh the overall benefits of the scheme and are not so significant as to justify the refusal of planning permission.

Item No: 04
Application No: 13/03640/VAR
Site Location: Parcel 7100 Woollard Lane Whitchurch Bristol Bath And North East Somerset



Ward: Publow And Whitchurch

Parish: Whitchurch

LB Grade: N/A

Ward Members: Councillor P M Edwards

Application Type: Application for Variation of Condition

Proposal: Removal of condition 1 and variation of condition 2 attached to planning permission 10/03798/FUL (Change of use of land (Retrospective) to a small private gypsy site to site 1no mobile home, 1no touring caravan and associated ancillary development including the construction of a new access)

Constraints: Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt,

Applicant:	Mr J Jones
Expiry Date:	17th October 2013
Case Officer:	Kay Mann

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: Request by Councillor Edwards. The application has been referred to the Chair of the Development Committee who has agreed that the application should be considered at Committee.

PROPOSAL: Removal of Condition 1 attached to planning permission 10/03798/FUL (Change of Use of land to a small private gypsy site to site 1 no mobile home, 1 no touring caravan and associated ancillary development including construction of new access).

In the interests of clarity it is important to note that the applicant on submission sought to vary conditions 1 and 2. However, on 4 November 2013 the applicant requested that the variation of condition 2 be deleted from the proposals. Therefore this application is now only concerned with the removal of condition 1.

Conditions 1 of permission 10/03798/FUL states:

This permission shall expire on 30 November 2015 and the use hereby permitted shall be discontinued and the land reinstated in accordance with a scheme of works and a programme of implementation which shall first have been submitted for approval by the Local Planning Authority.

Reason: The Council is preparing a Development Plan Document allocating sites for gypsies and travellers and the use of this site as proposed is only appropriate for a temporary period until that document has been finalised and alternative sites made available.

Condition 2 is set out below for information.

The use hereby approved shall enure for the benefit only of Mr John Jones and his immediate family in accordance with the details set out in the submissions in support of this planning application.

Reason: The proposed development would provide a site that would help to satisfy the national, regional and local need for such sites, and would assist in providing for the applicant family's medical and educational needs. It would provide an acceptable access to the site and would result in a reduced level of built form/mobile structures on the site compared to earlier submissions. These benefits when allied to a grant of temporary permission for 5 years would clearly outweigh the harm to the Green Belt and loss of openness inherent in the proposals, so as to amount to very special circumstances.

The application site comprises an area of predominantly flat land just south of the village of Whitchurch. The A37 runs along the western boundary of the site, whilst the eastern boundary of the site is defined by Woollard Lane. The site is divided into two parcels of land. The southern parcel of land comprises a track and access point onto Woollard Lane. On the northern, smaller parcel is located a large mobile home, a touring caravan, a

dayroom and a storage container. Hedge planting was required under Condition 3 of permission 10/03798/FUL. This was in terms of closing the then existing access and then introducing planting to provide additional screening for the site. This work has only been partially carried out. The applicant's agent has highlighted that the planting is planned to be carried out in the next few weeks.

It should be noted that the storage container does not form part of the application and appropriate enquiries are being pursued in this respect. The storage container is partially visible from the road and although separate enquiries are being pursued it should be noted that the additional planting would in fact address this issue.

The application has been submitted by, Mr John Jones, a Romany gypsy, and his wife and four children aged 15, 14, and twins aged 2. The site is considered to be their family home and is used as such.

In summary the purpose of the application as put forward by the applicant is as follows:

-The removal of the time limit condition would allow the applicant and his family to enjoy a secure settled base.

-The removal the condition is appropriate as the site has been identified as one which is suitable.

The application cites personal circumstances in favour of permitting the application. This amounts to the on-going health problems of Mrs Lorna Jones and the educational needs of the two children and the twins. It should also be noted that information has been submitted regarding the health of one of the twins which is in an early stage of investigation by the medical authorities.

RELEVANT PLANNING HISTORY:

10/03798/FUL - Planning permission was granted for the change of use of land to a small private gypsy site to 1no mobile home, 1no touring caravan and associated ancillary development to include the construction of new access. The applicant sought planning permission on a permanent basis and was granted by Committee a personal temporary permission to 30 November 2015.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS - No objection. This application will make the previously consented arrangement permanent. The access introduced for the site has not resulted in any injury-accidents, which gives no suggestion that its continued use will do so. There is therefore no highway objection to the proposed development.

WHITCHURCH PARISH COUNCIL

Objection. The application is considered to be premature for two reasons. First is that the original application does not expire until 30 November 2015. Second, temporary permission was granted to allow the Council to prepare a development Plan Document allocating sites for gypsies and travellers. The document is still to be completed in 2014. Comments were also raised that information regarding special circumstances was not made available for the Parish Council to view therefore an informed decision cannot be

made (pertaining it is believed to the personal information on the very special circumstances).

COMPTON DANDO PARISH COUNCIL

Objection. Special circumstances are not sufficient to warrant development on the Green Belt.

PUBLOW AND PENSFORD PARISH COUNCIL

Objection. The proposed Highway changes should be advertised. The application is premature. The Council are currently considering their Gypsy & Traveller DPD and the timetable details adoption of the DPD in the Winter 2014, some 11 months before the expiration of the temporary permission. The land is Green Belt and development of gypsy travellers sites are inappropriate development in Green Belt unless there are very special circumstances. Very special circumstances are not demonstrated within the application. A confidential document detailing potential very special circumstances has no basis in planning law. If the very special circumstances relate to the immediate family of the applicant then there is no reason to vary Condition 2 which would allow individuals without the very special circumstances of access to medical and educational facilities to reside there. The Emerging Core Strategy may need to be given some weight in relation to the policies for appropriate locations of Gypsy Traveller sites. The agent refers to the Council's DPD which was published in April 2012. There can be little reliance on the original DPD as it was found to be deeply flawed whereby the Council amended the selection criteria in line with the National Planning Policy Framework and the Planning Policy for Travellers (March 2012).

A total of 18 objections were received to the application. These relate to;

- no information on applicant's special circumstances being provided;
- the health and wellbeing of neighbours should be taken into account;
- the application site is within the Green Belt;
- impact is unacceptable;
- buildings on site can be seen from the road;
- access is dangerous; traffic implications for A37;
- safety due to highways; local schools and medical are oversubscribed;
- proposed development does not improve the approach to the village;
- BANES should find sites that are not within the Green Belt;
- human rights of neighbours have not been taken into account;
- application is premature as the Gypsy and Travellers site allocation DPD has not been finalised;
- temporary permission runs to November 2015 therefore is premature;
- Gypsy and Traveller sites are not appropriate development in the Green Belt;
- Condition 2 of the proposals should not be removed as the applicant is putting forward very special circumstances which only relate to them;
- the ministerial statement on Gypsy sites in the Green Belt that seeks to stop applications such as these.

MATTERS RAISED BY THIRD PARTIES AND PARISH COUNCIL IN RESPECT OF THE APPLICATION PROCESS

Site Notice - A number of comments have been submitted regarding there being no site notice. Given the size of the development, the location in terms of designations and the location there was no requirement for a site notice to be placed at the site, therefore it was not placed on site. The correct procedure was followed and the view was taken once this issue had been raised that third parties were not disadvantaged by a site notice not being erected.

Advertising - A number of residents have highlighted that an advertisement in the Bath Chronicle was insufficient advertising of application. Advertising in the Bath Chronicle is standard procedure and is considered the appropriate to advertise. The correct procedure was followed and the view was taken once this issue had been raised that third parties were not disadvantaged in any way.

Neighbour notifications - A total of 7 neighbour notifications were sent out. These relate to the immediate neighbouring properties to the development site. Again there is no requirement to advertise beyond neighbouring properties. The correct procedure was followed and the view was taken once this issue had been raised that third parties outside the immediate proposal site were not disadvantaged.

It should also be noted that the date which the neighbour notifications were received did not correspond to the response date. For this reason the response date was extended to 17th October and additional month after the response deadline.

Red Line Plan - A number of third parties raised that no redline plan was included within the proposals. DCLG document Guidance on Information Requirements and Validation March 2010 sets out requirements of applications this being a Section 73 application. Paragraph 7 is clear that "The applicant will need to provide sufficient information to enable the local planning authority to identify the previous grant of planning permission and the associated condition(s) which the applicant is seeking to vary.

The description of development clearly states the planning permission 10/03798/FUL to which the Conditions relate. Full details of this application are publically available and include a redline plan. The correct procedure was followed and the view was taken once this issue was raised that third parties were not disadvantaged by a redline plan not being included in the proposal details as clear reference was made to permission 10/03798/FUL.

In summary, although a number of issues were raised by third parties it is not considered that any third parties were placed at a disadvantage in responding to the application.

POLICIES/LEGISLATION

National Planning Policy

National Planning Policy Framework (NPPF) - March 2012

Planning Policy for Traveller Sites (PPfTS) - March 2012

Ministerial Statement on Green Belt issued on 1st July 2013

Local Planning Policy

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

The following policies are relevant:-

Policy GB.1	Development in the Green Belt
Policy GB.2	Visual effect on the Green Belt
Policy NE.1	Landscape Character
Policy NE.2	Landscape character
Policy HG.16	Gypsy and Traveller Sites
Policy D.2	General design and public realm considerations
Policy D.4	Townscape considerations
Policy T.24	General Development Control and access policy

Bath and North East Somerset Submission Core Strategy (May 2011) as amended by the Schedule of Proposed Changes to the Submitted Core Strategy (March 2013). 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 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.

Relevant policies in this regard include:

CP8	Green Belt
CP11	Gypsies, Travellers and Travelling Showpeople

Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD) - Preferred Options 2012. This is intended to be adopted in December 2016.

The Council, in conjunction with Bristol City Council, North Somerset Council and South Gloucestershire Council, commissioned a Gypsy and Traveller Accommodation Assessment (GTAA) (published in October 2007) which informed the RSS process. This document was updated in 2012 and the report was published as part of the background papers to the Proposed Changes to the Submitted Core Strategy in March 2013.

OFFICER ASSESSMENT

MAIN PLANNING ISSUES

The main planning issues are:

- Green Belt;
- assessment of the site according to Policy HG.16 and CP11;
- highways and access;
- the circumstances of the applicant and his family;
- the need for Gypsy and Traveller sites;
- the ability of the site to sit in harmony with the existing community.

MATERIAL CHANGE IN CIRCUMSTANCES

A temporary planning permission was granted in 2010 (Application Reference: 10/03798/FUL) and expires in November 2015 (it should be borne in mind that that application 10/03798/FUL sought a planning permission in perpetuity rather than a temporary one). Since the time of that application material planning changes have occurred. These are listed below.

1. Proposed Changes to the Bath & North East Somerset Core Strategy March 2013.
2. The review of the Local Scheme of Development to Cabinet 13 November 2013.
3. The publication of the National Planning Policy Framework in 2012.
4. Planning Policy for Traveller Sites (PPfTS) - March 2012
5. The publication of Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD) - Preferred Options 2012.
6. The updated Gypsy and Traveller Accommodation Assessment (GTAA) 2012.
7. Ministerial statement on the Green Belt - June 2013.
8. Additions to Mr Jones family from two children to four.
9. A recent High Court case which clarifies a two stage approach in cases involving gypsies by considering first the planning merits of the case and then (if the planning merits do not favour permission) human rights. *AZ v SSCLG and South Gloucestershire Council* [2012] EWHC 3660 (Admin) 36.
10. Whether very special circumstances exist which clearly outweigh the harm to the Green Belt and any other harm.

GREEN BELT

In considering any proposal in the Green Belt the first step is whether the use by definition is considered appropriate or inappropriate. The changes in the policy context i.e. the NPPF and PPfTS hold the position that such proposals are considered inappropriate development (this was also the case under the current temporary permission). Inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances. Furthermore such harm should be given significant weight.

The second step is to establish the level of harm that will arise from the proposals and following that to establish if there are any very special circumstances and if whether these clearly outweigh the harm.

The position established in the last application was that the proposals raised issues in terms of two purposes of including land in the Green Belt. An extract from the officer's report to 10/03798/FUL is provided below:

As noted by the Inspector in his May 2009 decision, the proposal would contribute to a limited extent to the sprawl of a large built-up area (Bristol) and would fail to safeguard the countryside from encroachment. In this, it would conflict with two of the purposes of including the land within the Green Belt. It is considered that the current proposal would also have these impacts (to an even greater extent). It would be inappropriate development in the Green Belt, harm the openness of the Green Belt and conflict with the purposes of including the land within the Green Belt, contrary to Policies GB.1 and GB.2 of the Local Plan.

It is accepted that the site is relatively well-screened from view but the test in relation to harm to the Green Belt is not reliant on visual impact but on the facts of what is on the land. Adverse impact on the character and appearance of the area may add to the harm to the Green Belt but the lack of such adverse impact does not outweigh the harm to the Green Belt.

In the context of application 10/03798/FUL (which this application seeks to vary) harm was established albeit not relating to the visual impact. However, given the personal circumstances of the applicant together with the Councils progress of the Gypsy and Travellers Site Allocation DPD it was considered that on balance that the benefits of the proposals clearly outweighed the harm and a temporary planning permission was granted.

It is important to note that the Council previously came to the conclusion that although harm to the Green Belt was recognised and significant weight accorded, the balance of other issues weighed in favour of granting temporary permission. These other issues were:

- the site being in a sustainable location for a gypsy site,
- the unmet need for gypsy and traveller sites,
- the lack of available alternative sites and
- the personal circumstances of the applicant and his family.

Ministerial Statement on Green Belt - The Ministerial Statement issued on 1st July 2013 states:

The Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the 'very special circumstances' justifying inappropriate development in the green belt.

The above position is a material consideration that needs to be taken into account. This issue has also been raised by number of objectors. In reading the statement it is clear that the issue of need alone is not considered enough to be very special circumstances to clearly outweigh harm to the Green Belt.

It should be noted that the argument put forward by the applicant does not solely rest on unmet demand. It places weight on the personal circumstances of the family. Therefore, having regard to the statement no conflict is raised through any grant of planning permission.

SITE SUITABILITY

Policy HG.16 is the relevant policy of the Development Plan relating to Gypsy and Traveller sites. The Core Strategy through Policy CP11 provides for a more updated version in line with national policy and does not give rise to any conflict with the existing policy. For these reason this policy is given substantial weight in the consideration of the proposals. Policy CP.11 of the Submitted Core Strategy is very useful in setting out the criteria to be used to guide the identification (and allocation) of suitable sites. These

should be available and deliverable. The full text of this policy is set out in the planning policy section of this report.

For ease of reference the criteria to assess suitable Gypsy and Traveller sites refers to the following:

a) The site is suitably located to allow access to local community services and facilities, including shops and health facilities and employment opportunities by sustainable modes of transport. The site is located close to Whitchurch which has a number of services and facilities. Furthermore the site has already been established not to be an unsustainable location when considered in the last application.

b) Satisfactory means of access can be provided and the existing highway network is adequate to service the site. The means of access to the site has been established by the highways officer to be adequate for the purpose proposed use.

c) The site is large enough to allow for adequate space for on-site facilities and amenities including play provision, parking and manoeuvring as well as live/work pitches if required to enable traditional lifestyles. The site is well laid out with play space, parking and garden. The site is tidy and well kept.

d) The site is well designed and well landscaped and has no unacceptable adverse impact on the character and appearance of the surrounding area. The site is well screened by fencing, trees and hedging. At the moment there is a storage container on site which is partly visible from the road. It is understood that planting required as a condition from the last application is yet to be implemented. The agent has indicated that these works will be forthcoming in the new year.

e) Adequate services including utilities, foul and surface water and waste disposal can be provided as well as any necessary pollution control measures. It is understood that there site has adequate facilities and no issues of concern have been identified.

f) Health and wellbeing of the occupiers on or neighbouring the site. There is no evidence that the proposals would give rise to unacceptable harm in terms of the well-being and health of the occupiers. In fact having a settled base assists access to key health services. In terms of neighbouring occupiers no impact has been identified. There is one statement that raises personal health issues and the worry of this application exacerbating the existing health condition. Whilst this is an unfortunate situation for the objector, the application and Mr Jones and his family living on site, there is no evidence to link the current proposals to the health condition of the objector.

g) The site should avoid areas at high risk of flooding and have no adverse impact on protected habitats and species, nationally recognised designations, landscape designations and heritage assets and their settings and natural resources. No risk has been identified in respect of floodrisk. There are no identified adverse impacts on protected habitats and species, nationally recognised designations, landscape designations and heritage assets and their settings and natural resources.

h) The scale of development will not dominate the nearest settled community no place undue pressure on the local infrastructure. The location of the site, its size and screening

all lend themselves to having minimal effect in terms of dominating the nearest settlement. No harm identified. Furthermore, given the scale of development proposed no undue pressure resulting from the development has been identified in respect of local infrastructure.

i) The site does not lie within the Green Belt unless there are very special circumstances this final criterion is discussed further in the report.

The site and proposals when assessed against the policy criteria (a to h i.e. not including the very special circumstances related to the Green Belt) raise no concerns to warrant the rejection of this site for use as a gypsy and traveller site.

It is noted that there have been a number of objections to the proposals however these mainly focus on the fact the site is in the Green Belt and the process of allocating sites.

Having taken consideration of the site against criteria (a to h) of Policy CP11 the site as a gypsy and traveller site is deemed acceptable. It would also comply with policy HG.16 of the Local Plan.

Therefore, the only harm of the proposals is by reason of inappropriateness and in terms of the two purposes of including land in the Green Belt these being encroachment into the countryside and extending sprawl albeit to a limited degree.

CONSIDERATION OF VERY SPECIAL CIRCUMSTANCES

Criterion (i) of Policy CP11 specifically deals with sites within the Green Belt which would only be considered acceptable where very special circumstances are established.

The very special circumstances that are now considered are a combination of factors. These are:

- the site being in a sustainable location for a gypsy site;
- the unmet need for gypsy and traveller sites;
- the lack of available alternative sites; and
- the personal circumstances of the applicant and his family.

Gypsy and Traveller Site Provision and Needs The approach to provision is via the Core Strategy in terms of overarching policy and specifically in terms of site provision through the Gypsy and Traveller Site Allocations DPD.

The submitted Core Strategy (March 2013) at paragraph 6.81c provides information on the Councils requirements in terms of provision.

In March 2012 the Government published Planning Policy for Traveller Sites alongside the NPPF, which seeks to align planning policy for Travellers with other housing. This requires the Council to demonstrate a five year supply of deliverable sites. The Council has undertaken a refreshed assessment of need which updates the West of England Gypsy and Traveller Accommodation Assessment undertaken in 2007 for the Bath and North East Somerset Area. This establishes the level of need for five, ten and fifteen year supply of sites in accordance with Planning Policy for Traveller Sites. The report has identified the

need for 28 permanent and 5 transit pitches and 40 travelling showmen's yard to be provided between the period 2012-2027.

Furthermore, based on information available (GTAA 2012 - which updated the 2007 study) it is evident there is currently insufficient capacity outside the Green Belt to fully accommodate the need for Gypsy & Traveller Pitches in B&NES. Therefore, Green Belt Sites will be required to meet need requirements within the Plan period.

Work on the Site Allocations Development Plan Document continues. A report to Cabinet on 13 November 2013 sets out that adoption is likely in December 2016 (assuming no further slippage of the Core Strategy).

The reason for revision to the timetable is to allow further work to be undertaken with neighbouring authorities in order to ascertain accommodation needs across the West of England and to review capacity to accommodate the travelling communities outside the Green Belt.

The work is on-going and will feed inform the overall timetable although it would seem reasonable at this stage to assume that this work will have commenced by December 2014.

It should be noted that the site was included in the Preferred Options Site Allocation DPD and remains a site for consideration as the document progresses through the DPD process. Whilst weight is accorded in this respect it is very limited at this stage as the emerging policy document at an early stage.

Overall significant weight is afforded to the following factors in the determination of this case; the site being in a sustainable location for a gypsy site; the unmet need for gypsy and traveller sites and the lack of available alternative sites.

Prematurity - Given the above work it is necessary to explore the issue of prematurity in terms of granting a planning permission at this stage.

Previously the issue of prematurity was dealt with in PPS1. However, through the introduction of NPPF in 2012 PPS1 was withdrawn. At present there is no adopted guidance but there is draft guidance which was published in August 2013. This document takes the same approach as PPS1. Text from the draft guidance is provided below for information;

While emerging plans may acquire weight during the plan-making process, in the context of the National Planning Policy Framework and in particular the presumption in favour of sustainable development arguments that an application is premature are unlikely to justify a refusal of planning permission other than in exceptional circumstances (where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account). Such circumstances are likely to be limited to situations where both:

a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by

predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood plan; and
b) the emerging plan is at an advanced stage but has not yet been adopted (or, in the case of a neighbourhood plan, been made).

Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.

Taking the above into account together with there being no formal authorised Gypsy and Traveller sites, no alternative sites, and no five year supply of sites it is your officer's view an argument of prematurity cannot be used as a reason for refusal. Consideration in terms of a temporary permission is discussed further toward the end of this report.

Personal Circumstances - In gypsy and traveller applications personal circumstances such as the medical and educational needs of the family must be considered and are consequently afforded weight in the decision and any subsequent appeal. This was the position that was reached by the Inspector of the 2009 appeal. The Inspector concluded that the family's personal circumstances are therefore a factor in favour of the development but not one to which I give great weight.

Since 2009, the main changes in the family's circumstances are that the applicant's son is attending a construction course at the SGS College (Filton Campus). Their daughter has applied to Broadlands to continue her education to continue with her dress making career. Currently Mr and Mrs Jones are looking at funding for the younger two children to attend pre-school. The twins will be in primary school education by the time the temporary permission expires in November 2015.

In terms of health the site provides a stable base to access local health facilities. Mrs Jones needs regular access to the local doctor's surgery and Royal United Hospital for an on-going health problem.

The needs identified in terms of health and education are not considered to be 'special' in that only this site could provide for such needs. However, the need of a stable base to have access to health and educational facilities is an important factor supporting the case. In this context particular reference is made to a point made by an Inspector in the Mile Road appeal which was recovered by the Secretary of State with the decision given on 27th August 2013 (appeal reference APP/P0240/A/12/2179237).

61. There is no requirement to show that educational needs are unusual or exceptional. In any event, the needs of even a satisfactory achieving gypsy/traveller child can be considered unusual in the circumstances of a current lack of a lawful stable base and in the context of a significant lack of alternative accommodation. The Secretary of State has previously given weight to the educational needs of children who are not of school age and to the needs of unborn children. Educational needs must be met and it is not reasonable to argue that those needs do not have to be met from the appeal site when no other acceptable, available and suitable site can be identified.

62. In terms of health care, one proposed occupier suffers from depression and needs medication. Another suffered health problems during her pregnancy. Other proposed occupiers do not presently have health issues, but all would like regular access to a

doctor's surgery. Access to health services has to be easier and more secure from a stable base. It would be wrong to limit the weight to be given to the medical needs of those individuals who do not have needs equating to serious illness or to adopt the approach of the Council of exceptional requirements. It should not be the case that weight is only given to the health needs of gypsy/traveller families when they become ill.

The finer details of the above case are different to the current case, (the above case is however, a gypsy traveller case in the Green Belt). What is clear is that the stable base a site affords for the family in terms of access to health and education is a point that should be given significant weight. However, this point on its own and when taking into account the children's and Mrs Jones needs do not, it is considered, constitute very special circumstances. Rather the very special circumstances case is an integrated package whereby the needs of the family are viewed against the background of a lack of sites or alternative provision.

The family's personal circumstances do still weigh in favour of the proposal and with the addition of the two younger children it is considered reasonable to give greater weight to the to the personal circumstances than that given in the 2009 appeal. However the personal circumstances of the family are not considered alone to constitute very special circumstances in Green Belt terms.

Finally, it is recognised that a number of objectors have raised concern that they have not been able to view documents in relation to the personal circumstances put forward. It is well established that personal information should not be made available for public inspection and this is covered in the relevant data protection legislation. However, this information can be used by the decision maker in reaching a decision in relation to planning applications.

It should be noted that the personal circumstances put forward in the last application were accepted by members and it is officer opinion that no material change in circumstances has occurred to warrant a different outcome. Indeed the introduction of the twins to the family strengthens the personal circumstances put forward by the Jones family.

In summary, the very special circumstances comprise a package of factors these are;

- the unmet need for gypsy and traveller sites;
- that Green Belt sites will be required to meet need within the plan period
- the lack of available alternative sites; and
- the personal circumstances of the applicant and his family.

Whilst the individual factors in favour of the proposal are, in themselves, considered not to be very special, the High Court Judgment *Basildon District Council vs First Secretary of State* [2004] EWHC 2759 (Admin) establishes that a number of factors ordinary in themselves can combine to amount to very special circumstances and that this is a matter of planning judgment based on the issues pursuant to the particular proposal.

It is the combination of the factors listed above when viewed as a package that give rise to very special circumstances. To be clear this position has been reached by having regard to a number of factors (in addition to those set out above) which includes the size of the site and proposals and its location. Furthermore, very special circumstances only exist

having regard to the harm that will occur to the Green Belt from the grant of any planning permission.

As already set out the harm to the Green Belt has been established to be, the fact that this is inappropriate development and also in terms of encroachment into the countryside and to a limited extent sprawl of the large built up area both which concern including land into the green belt. The impact in terms of character and appearance of the area is considered to be a limited concern given screening to the site which was the position reached by the Inspector for this site in the 2009 appeal.

The four considerations in combination clearly in this case represent very special circumstances which are considered to be a package of issues outweigh the harm to the Green Belt in this case.

The acceptance of very special circumstances is not a precedent whereby any case with similar facts would be given a green light. Each case will always be assessed on its own merits and is subject to the consideration of all the facts especially the harm that would occur to the Green Belt which is always very different in each case.

Given the above position and the acceptability of the site having regard to all the criteria of Policy CP11 and HG.16 the site is considered to be one that is acceptable in policy terms and one that is available and deliverable in meeting current need that exists.

TEMPORARY PERMISSION

Consideration to further extending the current temporary planning permission has been explored.

The principles applying to temporary planning permissions are contained in Circular 11/95. Temporary permissions are rarely necessary where development conforms with the provisions of the development plan. From the officer assessment it is clear that the proposals do conform with the development plan, in particular Policy HG.16 and Policy GB.1 and GB.2. Furthermore, Policy CP11 of the proposed draft changes to the Core Strategy has been approved for development control purposes and no conflict exists between the proposals and this updated policy.

On this basis and given that i) this is a deliverable site now; ii) there is no conflict with the development plan and emerging policy and iii) that there is no 5 year supply of sites, a temporary permission is not considered the appropriate route.

This position differs from the last Officer report presented to the Committee. At the time of the last decision in 2010 it was anticipated that the site allocations DPD would have been adopted by 2015. This is clearly now not the case.

For these reasons set out above a temporary permission is not supported.

CONCLUSION:

Summary of the Planning Assessment

A summary of the assessment is set out below;

- Harm would occur in terms of the Green Belt by way of the proposals representing inappropriate development which is by definition harmful and substantial weight is attached in this regard. Harm would also occur having regard to two reasons for including land in the Green Belt, encroachment and contribution to sprawl.

- Very Special Circumstances are accepted as an integrated package including; the unmet need for gypsy and traveller sites; that Green Belt sites will be required to meet need within the plan period; the lack of available alternative sites; and the personal circumstances of the applicant and his family. The combination of these are considered to clearly outweigh the harm to the Green Belt.

- The site when assessed against Policy HG.16 and CP11 and other national policy and ministerial statements raises no conflict.

- The applicant has put forward personal circumstances relating to education and health supporting the proposals for permanent use of the site. These are given significant weight but not considered very special circumstances in their own right.

- Currently there are no Gypsy or Traveller sites in Bath and North East Somerset. There is also no 5 year supply of sites which is a requirement of national and local policy. This is given significant weight.

- The proposals would if approved provide Bath & North East Somerset with its first authorised gypsy site that would start to address the need for such sites within the Council's area.

- In terms of the on-going identification of sites for Gypsies and Travellers the current timetable is December 2016.

- The site being in the Green Belt does raise issues in terms of this site coming forward before any non-Green Belt sites are identified. Whilst this is the case it is clear that the Council's area does contain a significant amount of Green Belt where around two third of all land is in the Green Belt. Furthermore, from evidence collected to date in respect of the Core Strategy it is the current position that Green Belt sites will be required to meet need.

- Further extending the temporary permission is not supported. To do so is to rely on a prematurity argument which cannot be defended as already explored in this report. Furthermore the use of temporary permission should be avoided when there is no conflict with the development plan which has been established.

Taking the above points into consideration on balance it is considered that the removal of Condition 1 is the appropriate decision to adopt.

Human Rights

In the event that Members are minded to refuse a permanent planning permission, the human rights of the applicant and her family will be engaged under Article 8 of the European Convention on Human Rights. The High Court judgment *AZ v SSCLG* and

South Gloucestershire Council [2012] EWHC 3660 (Admin) establishes that a decision undertaken by a state body must accord with the Human Rights Act 1988 and Article 8 of the European Convention on Human Rights. Further, it establishes that this duty on a decision maker, in this case the local planning authority, is engaged immediately when the decision maker becomes aware that a decision they have made or will make, is impacting or will impact upon the rights of a child. Contained within Article 8 are the obligations under the United Nations Convention on the Rights of the Child.

Article 8 provides that;

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 3 of the United Nations Convention on the Rights of the Child provides that;

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

The High Court judgment advises that, in addition to the usual planning balance, a second stage assessment must be undertaken to take account of Article 8 and determine if any interference with human rights is proportionate. As such, Members are advised that this second stage must be undertaken if they are minded to refuse the granting of a permanent permission.

This second stage assessment is set out below:

1. Will the proposed refusal of permission be interference by a public authority with the exercise of the applicant's right to respect for his private or (as the case may be) family home?
2. If so, will such interference have consequences of such gravity as potentially to engage the operation of article 8?
3. If so, is such interference in accordance with the law?
4. If so, is such interference necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others?
5. If so, is such interference proportionate to the legitimate public end sought to be achieved?

Should Members be minded to refuse the application, it is recommended that the application be deferred and brought back to Committee at a later date, in order that a separate recommendation can be made in respect of the second stage test set out below to allow Members to fully debate this issue.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 The use hereby approved shall enure for the benefit only of Mr John Jones and his immediate family in accordance with the details set out in the submissions in support of this planning application.

Reason: The proposed development would provide a site that would help to satisfy the national, regional and local need for such sites, and would assist in providing for the applicant family's medical and educational needs. These benefits when allied to a grant of would clearly outweigh the harm to the Green Belt and loss of openness inherent in the proposals, so as to amount to very special circumstances.

2 Within 6 months of the date of this permission, hedging across the previous access shall be planted in accordance with details to be first submitted to and approved by the Local Planning Authority. If any of these plants die, are removed or become diseased within 5 years of the date of this permission they shall be replaced with the same species of plant.

Reason: In the interests of protecting the appearance of the Green Belt.

3 Within 3 months of the date of this permission, the storage container on site shall be permanently removed from the site.

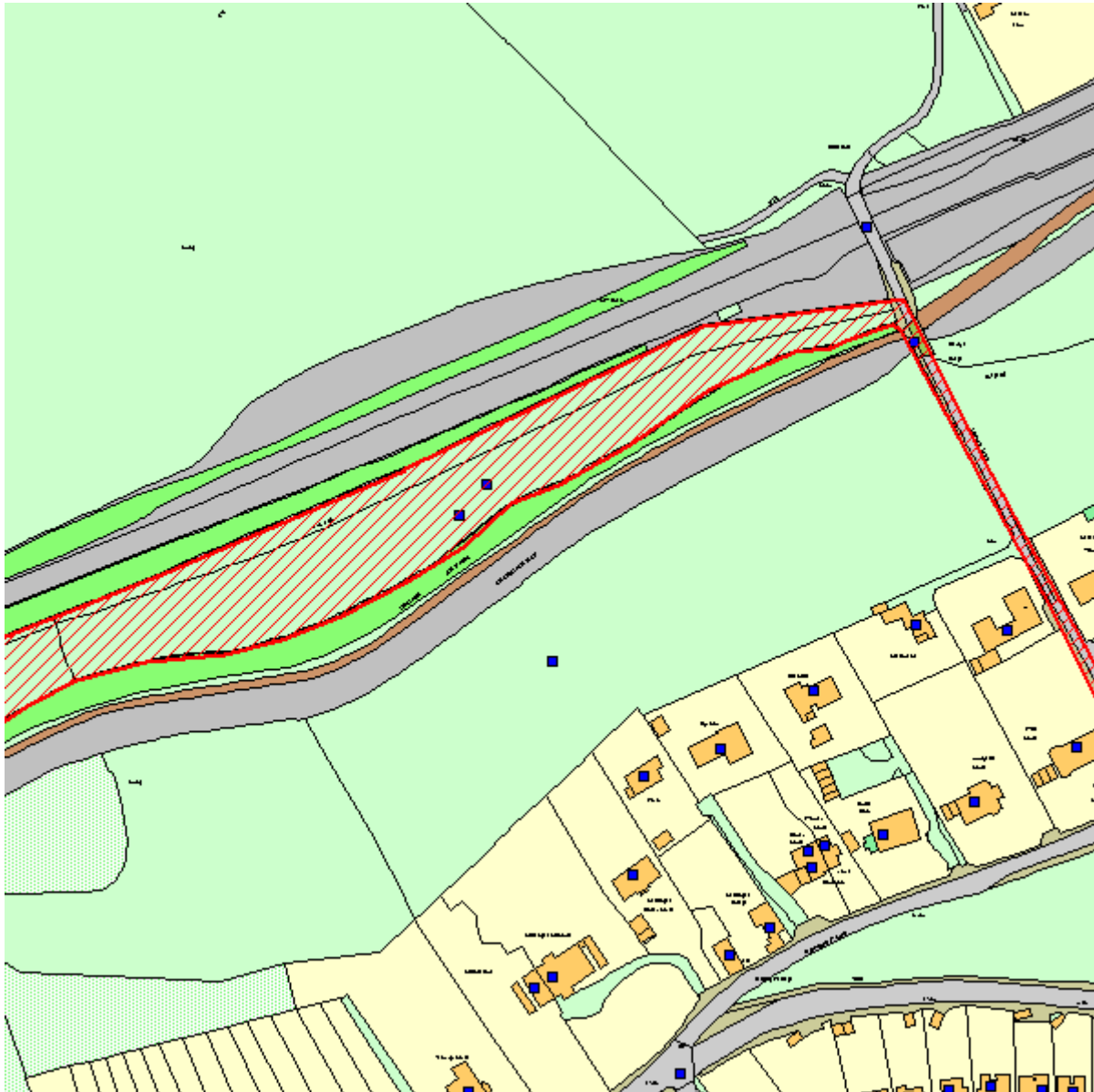
Reason: To preserve the openness of the Green Belt.

PLANS LIST:

1 This decision relates to an unnumbered site plan, drawing 0954/02A, as received on 27 September 2010, and drawing 18135_100 Rev A, as received on 25 August 2010.

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

Item No: 05
Application No: 13/02745/FUL
Site Location: Candywood Leys Meadow Lane Bathampton Bath BA2 6SN



Ward: Bathavon North **Parish:** Bathampton **LB Grade:** N/A
Ward Members: Councillor M Veal Councillor Gabriel Batt Councillor Geoff Ward

Application Type: Full Application

Proposal: Stationing of one mobile home for residential use by one traveller family (retrospective)

Constraints: Agric Land Class 1,2,3a, Agric Land Class 3b,4,5, British Waterways Major and EIA, British Waterways Minor and Householders, Conservation Area, Cycle Route, Forest of Avon, Greenbelt, Hotspring Protection, Housing Development Boundary, Listed Building, Public Right of Way, Sites of Nature Conservation Imp (SN),

Applicant:	Ms Catherine Wood
Expiry Date:	12th November 2013
Case Officer:	James Jackson

REPORT

APPLICATION NO: 13/02745/FUL

TYPE: Full Application

EXPIRY DATE:
20 November 2013

APPLICANT:
Ms Catherine Wood

REASON FOR REPORTING APPLICATION TO COMMITTEE:

Cllr Geoff Ward, Ward Councillor for Bathavon North, has requested in writing that the application be considered by the Development Control Committee, by reason of the complexities of the application and that it relates to the family home and livelihood of the applicant and her family. In addition, Bathampton Parish Council has objected in principle, stating that they will continue to object to any new building in the Green Belt. The application has been referred to the Chairman of the Development Control Committee, who has advised that the application should be considered at Committee.

PROPOSAL:

Permission is sought for the stationing of one mobile home for residential use by one traveller family (retrospective).

SITE LOCATION:

Candywood Leys, Meadow Lane, Bathampton, Bath

DESCRIPTION OF SITE AND APPLICATION:

Permission is sought for the stationing of one mobile home for residential use by one traveller family (retrospective).

The application relates to a linear plot of land to the north of the Bathampton developed area and to the north east of Bath City Centre. The site is located within the Bristol / Bath Green Belt, between the Kennet and Avon Canal tow path to the south and the railway line that links Bath with Chippenham to the north. The site slopes steeply downwards from the tow path at its southern boundary before levelling out to flatter ground that abuts an existing public footpath at its northern boundary that runs parallel with the railway line. The western part of the site is densely wooded with a fence forming the western boundary of the site. To the east, the land rises gently to a vehicular access which leads onto Meadow Lane, a private road that facilitates access from the site to the Bathampton Lane public highway. The majority of the flat areas of the site are grassed, whilst the sloped areas that lead up to the tow path comprise bushes, trees and shrubs with some areas of grass.

The proposed dwelling, already constructed and occupied, is a timber cabin with all external walls and roof constructed from timber. It occupies a footprint of approximately 11 x 4 metres with a height to eaves of approximately 2.2 metres and ridge height of

approximately 2.4 metres. The internal space is arranged to provide a main bedroom, children's bedroom area, wash room, office, kitchen area, comfortable seating area, storage area and provision for wet boots and clothes. The dwelling is sited to the southern edge of the site, against the sloping bank of the canal embankment, and is supported on timber stilts. The result of this siting is that the north elevation of the floor of the dwelling is raised approximately 0.5 metres above the sloping ground. Behind the dwelling is located a timber structure of modest scale that accommodates a compost toilet to serve the applicant and her family and a rainwater harvesting system that discharges run off from the roof of the dwelling into a plastic tank.

It is clear that the dwelling as constructed is of a permanent nature and cannot reasonably be described as a 'mobile home'. The dwelling does not have any means by which it could be transported in its form as built and is intended to remain permanently within the site. For these reasons, officers consider that the dwelling is a building under s55 of the Town and Country Planning Act 1990. Consideration has been given to changing the description of development; however this is not necessary as the assessment of the application has been made on the basis of the dwelling as constructed.

In addition to the dwelling the site accommodates a variety of small scale agricultural structures which together operate as a subsistence based agricultural business to provide income for the applicant and her family. These comprise a fenced off chicken run which accommodates hens and their associated coops; small timber structures to provide shelter for a breeding Dexter cow; a polytunnel; a motor vehicle which is stationed on the site further towards the vehicular access; and a number of storage points across the site which are covered by tarpaulin. It is considered that some of these structures require planning permission in their own right, by reason of their degree of permanence and that the agricultural operation is too small to benefit from agricultural permitted development rights.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

CONSULTATIONS AND REPRESENTATIONS:

Bathampton Parish Council - Object in principle. Parish Council continues to object to any new building in the green belt. Further representation has been received from the Parish Council; however the Parish has stated that they do not wish the comments to be available as a public document. As such, these comments cannot be taken into account in the determination of the application.

Highways - No objection

Public Rights of Way - No comment

Canal & River Trust - No comment

Landscape - Object in principle. In respect of previous appeal Inspector gave weight to harm to character, appearance and openness of the Green Belt.

Contaminated Land - No comment

Environmental Health - If planning permission is granted a caravan license would be required under the Caravan Sites and Control of Development Act 1960

Arboriculture - No objection

Representations - Representations have been received both in support of, and objecting to, the application.

27 representations of support, including comments from the Headteacher and other teachers at Bathampton Primary School, the Rector at The Vicarage and a former resettlement worker at a local housing and support agency. In addition, the applicant has submitted the representations of support for previous planning applications, totalling 53 representations. The following issues have been raised:

- Good example of sustainable living
- Educational benefits to adults and children
- Renewable energy use is beneficial
- Positive use of local food production
- Benefits to local community
- Improvement to the land
- Inspirational operation
- Family are active in community
- Development well screened
- Wellbeing and stability of applicant's children is paramount
- Excellent example to others
- Dwelling is in keeping with surrounds
- Appropriate planting at boundaries
- Accords with B&NES policy of social inclusion and building communities
- Land unusable for other purposes
- Doesn't set precedent
- Rehousing will cost tax payers
- Development contributes to the economy
- Lack of affordable housing in Bath
- Improves understanding of animals
- Accords with Government agenda in relation to sustainability
- Accords with Government Early Years Foundation Stage Curriculum
- Concerns relating to the 'traveller community' are unfounded
- Allows children to mix together
- Health benefits of the applicants' way of life
- Council's own policies support this development
- Site will be continually improved
- Policy framework has changed since original application
- Lack of local traveller sites within B&NES
- Homelessness puts pressure on social, health and welfare services
- Objections appear to be generalised and at times contradictory
- Objections may be based on perceptions and fears
- B&NES has considerable waiting list for housing
- Applicant's partner relies on local area for employment / income
- No negative impact on surrounding residents

In addition to the above, the applicant has submitted a petition containing 130 signatures in support of her residency on, and use of, the site. All signatures were collected within a 700m radius of the site.

Eight objections have been received in respect of the application, including one from Bath Preservation Trust. The following issues have been raised:

- Site is within AONB
- Permission would justify more infilling
- Any traffic increase would be hazardous
- Parking will spoil beauty and tranquillity of the area
- Site is within green belt
- Dwelling is unsightly structure
- Perhaps family need social housing
- Permission previously refused and dismissed at appeal
- No proper access - issue for emergency vehicles
- Within environs of World Heritage Site
- Threat to openness of green belt
- Development proposed is of poor quality and inappropriate nature
- Recent ministerial statements confirm under-supply of traveller sites do not themselves constitute 'very special circumstances
- Danger of precedent
- Application contrary to NPPF and Local Plan
- Cost to tax payers
- Proposals are out of keeping with surrounding area
- Site is outside housing development boundary
- Public Right of Way exists across the site
- Ribbon development along railway line would not be an enhancement
- Planning regulations cannot be ignored
- Dwelling was erected in contravention of refusal of planning permission and dismissed appeal
- Cynical action to move out of boat and onto the site
- Removal of clutter of domestic family life should be enforced
- Blackmail for anyone to erect a structure without planning permission
- Site is too small for applicant's aspirations
- Letters of support are irrelevant; decision should be based upon Local Plan and national guidance

In addition to the above, the petition submitted by the applicant shows that five respondents object to the application.

One further representation has been received which makes general comments in respect of the application. The following issues have been raised:

- Admire lifestyle and improvement to land
- Applicant has right of access down Meadow Lane for agricultural purposes; reserve right to withdraw access for residential use
- Meadow Lane is not adopted highway
- Non-personal permission should not be granted
- No significant impact on openness of green belt

- Permission would set precedent
- Housing provision in relation to green belt in B&NES is inadequate
- Development of large scale residential sites as currently proposed is wrong approach
- Small scale developments should be directed towards sustainable villages

RELEVANT PLANNING HISTORY:

10/00475/FUL - Stationing of mobile home on land west of Meadow Lane - Refused under delegated powers 27 May 2010, appeal dismissed 3 February 2011

11/04515/FUL - Erection of a temporary agricultural dwelling to the west of Meadow Lane, Bathampton (Retrospective) - Refused under delegated powers 31 January 2012

13/00196/FUL - Erection of a temporary agricultural dwelling to the west of Meadow Lane, Bathampton (Retrospective) - Refused under delegated powers 3 June 2013

POLICIES/LEGISLATION

POLICY CONTEXT:

National Planning Policy

National Planning Policy Framework (NPPF) - March 2012

The NPPF guidance in respect of the issues which this particular application raises does not conflict with the Local Plan policies set out below.

Planning Policy for Traveller Sites (PPfTS) - March 2012

Ministerial Statement - 1 July 2013 - Advises that the single issue of unmet demand, whether for Traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the 'very special circumstances' justifying inappropriate development in the green belt.

Local Planning Policy

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

- GB.1 Control of development in the green belt
- GB.2 Visual amenities of the green belt
- HG.16 Gypsy and Traveller Sites
- BH.6 Development within or affecting Conservation Areas
- NE.1 Landscape character
- ES.2 Energy conservation and protection of environmental resources
- D.2 General design and public realm considerations
- D.4 Townscape considerations
- T.24 General development control and access policy

Bath & North East Somerset Draft Core Strategy - Proposed changes March 2013

- CP11 Gypsies, Travellers and Travelling Showpeople
- CP8 Green Belt

- B4 The World Heritage Site and its Setting

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

Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document (DPD) - Preferred Options (Given the early stage of the DPD in the planning process, a member of the Council's Planning Policy Team has advised that only limited weight can be attached to the DPD.)

Gypsies and Travellers Accommodation Assessment (2007) Updated 2012

OFFICER ASSESSMENT

Introduction

The primary considerations in the determination of the application are the identified need for, and lack of, identified Traveller sites within Bath & North East Somerset, the impact of the proposals on the Bristol / Bath Green Belt, the character of the landscape, highway safety and the amenities of the occupiers of nearby sensitive premises.

In addition, other relevant material considerations must be given due consideration, these being the sustainable energy measures adopted by the applicant, the representations received in respect of the application, the previous condition of the site, the educational benefits resulting from the development of the site, the other residential options available to the applicant and the personal circumstances relating to the applicant and her family.

It is noted that part of the site is located within the Bathampton Conservation Area, however given that it is solely the access road (Meadow Lane), there will be no impact, either positive or negative, on the character and appearance of the designated Conservation Area. The character and appearance of the Conservation Area will therefore be preserved.

The applicant's traveller status was established through the findings of the planning inspector during his consideration of an appeal further to the refusal of a previous planning application, reference 10/00475/FUL. Further, since the appeal, Planning Policy for Traveller Sites (PPfTS) has been published which states, at Annex 1, that for the purposes of PPfTS 'gypsies and travellers' means: 'Persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.'

Prior to occupying the site the applicant resided on a boat on the Kennett and Avon Canal system for 10 years, with a further two years on other waterways. Before that the applicant states that she resided in vehicles for 10 years. Her two children were born in a

caravan and boat. As such it is accepted that the applicant and her family fall within the above definition of 'gypsies and travellers'.

It is important to note the provision made within PPfTS for gypsies and travellers to cease travelling due to educational or health needs. These are the circumstances that apply in this case, as the applicant has ceased to travel on the basis of her thyroid condition, which requires her to visit her GP every three weeks for the rest of her life, and the educational needs of her children, who attend Bathampton Primary School.

A number of the representations objecting to the proposal have raised the issue of the applicant moving onto the land after the dismissal of a previous appeal relating to the site, reference 10/00475/FUL. In this regard, Members are advised that they should consider the application as they would any other retrospective application; that is, on its individual merits. To date, no formal enforcement action has been taken by the Council in respect of the unauthorised use of the site.

Principle of development

The adopted Local Plan policy HG.16 addresses gypsy and traveller sites, and sets out a number of criteria that should be used to assess proposals for such sites. Each of these criteria, and an assessment of the proposals in their context, is set out below:

- a) the site has good access to local services, facilities and public transport;

The site is within close proximity to the local services and facilities within Bathampton. In addition, Bath City centre is located approximately 1.5 miles from the site and can easily be accessed by bus, bicycle and on foot. The proximity of the site to these services, and the low carbon principles of the applicant and her family, result in low usage of a private motor vehicle as a means of transport within the local area. The proposals satisfy this criterion.

- b) it has safe and convenient access to the road network;

Meadow Lane provides access from the site to Bathampton Lane. Whilst Meadow Lane is not an adopted highway, in dismissing the appeal in relation to 10/00475/FUL the Inspector held that this should not act as a barrier to planning permission being granted, by reason that the proposals would generate only a limited number of additional vehicular trips that would use Meadow Lane. The proposals satisfy this criterion.

- c) it is capable of being landscaped to ensure that it blends in with its surroundings;

In dismissing the appeal relating to a previous application reference 10/00475/FUL, the Inspector found that the proposal would bring about a change in the character of the area by reason of its domestic nature. He noted, however, that the harm would only be slight, given the siting of the dwelling against the canal embankment, the existing natural screening, the natural topography of the site and its surrounds and the presence of other man-made features within close proximity to the dwelling. Whilst the identified harm is only slight, the proposals do not satisfy this part of the policy.

- d) adequate services including foul and surface water drainage and waste disposal can be provided;

All of the above services are adequately provided by the proposal. Surface water is captured by a rainwater harvesting tank and reused on site, whilst waste is processed by a compost toilet system and is also reused on site. The proposal satisfies this part of the policy.

e) there would be no harmful impact on the amenities of local residents by reason of noise or fumes from business activities.

The nearest neighbouring occupiers are located some distance from the site and are separated from the site by the canal. It is therefore considered that there will be no harmful impact by reason of noise. Further, the only business activity on the site is the extremely small scale subsistence agricultural operation which does not generate unacceptable levels of noise or any fumes. The proposal satisfies this part of the policy.

Whilst the proposals satisfy criteria a), b), d) and e), they are contrary to criterion c). In addition to the above criteria, the preamble to the policy states that proposals would usually be inappropriate in green belt locations. As noted above, the site is located within the green belt and an assessment of the proposals in this context must therefore be undertaken.

Green Belt

The NPPF addresses the protection of Green Belt land in paragraphs 79 - 92 and states, at paragraph 79, that 'The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.' Paragraph 80 expands on this principle by clarifying that the Green Belt serves five purposes, as follows:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

Paragraph 89 of the NPPF states that 'A local planning authority should regard the construction of new buildings as inappropriate in Green Belt' and then lists, at paragraphs 89 and 90, forms of development that are exceptions to this. The building proposed for residential use by this application does not fall within the list of exceptions, with the result that the proposal clearly represents inappropriate development in the Green Belt.

Paragraph 87 of the NPPF states that 'As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.' In addition, paragraph 88 states that 'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.' Policy GB.1 of the Local Plan and Policy CP8 of the Bath and North East Somerset Draft Core Strategy December 2010 are considered to be consistent with this national stance.

Taking account of the above guidance set out within the NPPF and the requirements of Policy GB.1 of the Local Plan and Policy CP8 of the Bath and North East Somerset Draft Core Strategy, substantial weight is given to the harm by reason of inappropriateness.

In addition to the harm caused by reason of inappropriateness, it is also necessary to consider if there is any other resultant harm to the Green Belt. In dismissing the appeal in relation to application 10/00475/FUL, for the stationing of mobile home on land west of Meadow Lane, the Inspector opined that 'even if a residential curtilage for the proposed mobile home was to be contained in terms of size, domestic activity and paraphernalia would also have an impact on the openness of the Green Belt, irrespective of any landscape screening which might take place'. Now that the proposed dwelling is in situ this is illustrated by the siting of a trampoline and timber structure upon which are mounted a number of solar PV panels on the site, which adversely affect the openness of the Green Belt. The Inspector also held that there would be some encroachment into the countryside, which conflicts with the purposes of including land within the Green Belt. The Inspector also noted, however, that the development would be limited in scale and concluded that there would be only a small amount of additional harm to openness and the purposes of including land within the Green Belt. In this instance however, in addition to the domestic paraphernalia there is the sprawl resulting from the agricultural operation that now operates at the site in association with the residential use. These structures are not confined to a tight curtilage close to the dwelling and therefore further detract from the openness of the site, notwithstanding that they are of modest scale when considered in isolation. Given this situation it is considered that there will be moderate additional harm to be added to the harm arising from inappropriateness. It is noted that the appeal decision relating to application 10/00475/FUL was made prior to the publication of the NPPF, however given that Green Belt guidance contained within the NPPF follows that of the now superseded Planning Policy Guidance 2: Green Belts, it is reasonable to conclude that the findings of the Inspector in respect of the impact on the Green Belt are still relevant today.

To conclude, the harm to the Green Belt as a result of the proposals is three-fold: The harm caused by reason of inappropriateness and the moderate additional harm to openness and the purposes of including land within the Green Belt. Taking account of Green Belt planning policy and the assessment of the proposals in this context it is clear that there is substantial harm to the Green Belt as a result of the proposals. Accordingly, this harm must be given substantial weight against the proposal.

It is necessary to consider if the harm found to the Green Belt by reason of inappropriateness and other additional harm discussed above is clearly outweighed by other material considerations so as to amount to very special circumstances to justify the proposals. The other relevant issues are discussed below, before the factors that weigh in favour and against the proposals are balanced against each other.

Landscape character

The findings of the Inspector when dismissing the appeal relating to the previous application reference 10/00475/FUL are again relevant. The Inspector stated that the 'residential use the subject of the proposal would be low key but I nevertheless consider that it would bring about a change in the character of the area because of its domestic nature'. This remains the case in respect of the current application by reason that the

dwelling is the same as that previously proposed and that the proposals have resulted in the introduction of a limited amount of paraphernalia of a domestic character. The Inspector also gave due consideration to the visual impact of the proposals, however he concluded that there would be only slight harm in this regard, by reason of the siting of the dwelling; the existing natural screening; the natural topography of the site and its surrounds; and the presence of other man-made features within close proximity to the dwelling. The local planning authority's Landscape Officer has also had regard to the Inspector's findings and has raised objection to the impact of the proposals on landscape character. This slight harm must be added to the identified harm to the Green Belt.

Identified need for traveller sites within B&NES

Planning Policy for Traveller Sites (PPfTS), published March 2012, makes it clear that local planning authorities must assess the need for traveller sites and address this identified need in plan making. In this regard, the Council has established the level of need for five, ten and fifteen year supply of sites in accordance with Planning Policy for Traveller Sites. The report has identified the need for 28 permanent and 5 transit pitches to be provided for the period 2012 - 2027. This identified need must be given significant weight in the determination of the application and weighs in favour of the proposals.

Supply of traveller sites within B&NES

PPfTS requires, amongst other things, that local planning authorities should identify and update annually, a supply of specific deliverable sites to provide five years' worth of sites to meet their identified demand.

In dismissing the appeal relating to application 10/00475/FUL, the Inspector took account of the preparation by the Council of the Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document. He considered that, given that the DPD would not come forward for two to three years, this issue should be given weight in favour of the proposals. The appeal was dismissed in February 2011, yet the DPD has still not progressed to adoption. Indeed, the Council's revised LDS was considered by Cabinet on 13 November 2013 and the current position is that a draft plan will not be in place until May 2015, with the Plan not adopted until December 2016. The result of this policy position is that there are no alternative permitted traveller sites, and will not be for some three years (unless planning permissions are granted in advance of the DPD), that can offer a residence to the applicant and her family. A refusal of planning permission would therefore effectively make them homeless. It should be noted that in dismissing the appeal of the refusal of the previous application, reference 10/00475/FUL, the Inspector concluded that 'it is clear from the evidence before me that other sites which would be suitable for the stationing of mobile homes would be beyond the means of the Appellant and Mr Humphries'. It is therefore considered that there are no alternative options for the applicant and her family. PPfTS states, at paragraph 22(b), that 'the availability (or lack) of alternative accommodation for the applicants' should be considered by local planning authorities.

Given that the DPD has not come forward as anticipated, the lack of supply to meet the identified demand should be given significant weight in favour of the proposals.

In addition to the above, it is noted that the Gypsies and Travellers Accommodation Assessment (2007), which was updated in 2012, indicates that there will be insufficient land located outside of the green belt to meet the identified need. This is also evident in

that three of the six sites coming forward through the DPD process are located in the green belt, as is the case in respect of the applicant's site. Whilst the DPD can only be given limited weight at this time, by reason that it is only at Preferred Options stage, it is extremely likely that a proportion of the sites that will be allocated will be located in the green belt and it is therefore considered that this should be given significant weight in favour of the proposals.

Policy CP11 of the Proposed Changes to the Bath and North East Somerset Submitted Core Strategy will be used to guide the identification of suitable sites for allocation in the relevant DPD and to identify sites to respond to future accommodation needs when assessed. These criteria will also be used when considering planning applications that may happen before the DPDs are prepared or in addition to sites being allocated. It should be noted, however, that Policy HG.16 of the adopted local plan currently forms part of the Development Plan, whereas CP11 of the Proposed Changes to the Bath and North East Somerset Submitted Core Strategy does not. Policy HG.16 therefore has primacy in the determination of this application and CP11 should be given less weight.

The criteria set out within Policy CP11 are as follows, as well as an assessment of the proposals in the context of this policy:

Proposals for sites for Gypsies, Travellers and Travelling Showpeople accommodation will be permitted provided:

a.) the site is suitably located to allow access to local community services and facilities, including shops, schools and health facilities, and employment opportunities by sustainable modes of transport

The site is within close proximity to the local services and facilities within Bathampton. In addition, Bath City centre is located approximately 1.5 miles from the site. The applicant's children attend Bathampton Primary School and a large proportion of the applicant's partner's employment (he is the principal wage earner) is within the local area. Both Bathampton and Bath are accessible by bus, bicycle and on foot and the sustainable way of life of the applicant and her family result in a low level of private motor car use. The proposals satisfy this policy requirement in full

b.) satisfactory means of access can be provided and the existing highway network is adequate to service the site

In dismissing the appeal relating to a previous refusal of planning permission, reference 10/00475/FUL, the Inspector held that there were no adverse highway impacts as a result of the proposals. The proposals satisfy this policy requirement in full.

c.) the site is large enough to allow for adequate space for on-site facilities and amenities including play provision, parking and manoeuvring, as well as live/work pitches if required to enable traditional lifestyles

The site is approximately 1ha in size, and whilst it is acknowledged that some areas of the site are steeply sloped, sufficient space remains to accommodate the needs of the applicant and her family. It is noted that the application does not propose a hardstanding for a caravan and that a day room does not form part of the proposals, with the result that

the site may not be suitable for other gypsy or traveller families; however it remains the case that the site is suitable for the applicant's needs and would therefore assist in meeting the demand within the district. The proposals satisfy this policy requirement in full.

d.) the site is well-designed and well-landscaped and has no unacceptable adverse impact on the character and appearance of the surrounding area

The site is well-designed insofar that the dwelling is set back against the embankment of the Kennet and Avon Canal and the small scale subsistence agricultural operation is sensibly laid out in an unobtrusive manner. Further, it is well landscaped to ensure that the majority of the site retains its rural character. However, in dismissing the appeal relating to a previous refusal of planning permission, reference 10/00475/FUL, the Inspector held that the residential use of the site introduced a domestic character to parts of the site which was harmful to landscape character. That said, the siting of the dwelling is such that it is unnoticed from the majority of surrounding viewpoints, with the result that the adverse impacts to landscape character are largely confined to the site. The proposals satisfy this policy requirement in part.

e.) adequate services including utilities, foul and surface water and waste disposal can be provided as well as any necessary pollution control measures

The sustainable way of life of the applicant and her family has resulted in little need for such services and utilities. Water and waste are recycled and reused on the site and energy is generated on-site by solar PV panels and topped up with a generator as and when required. There is no indication that pollution control measures are necessary. The proposals satisfy this policy requirement in full.

f.) there is no unacceptable impact on the amenities, health and well-being of occupiers of the site or on neighbouring occupiers as a result of the development

The development encourages health and wellbeing for the applicant and her family. There are no adverse impacts on neighbouring occupiers, by reason of the distance between the site and the nearest occupiers and that they are separated by the Kennet and Avon Canal and its embankment. The proposals satisfy this policy requirement in full.

g.) the site should avoid areas at high risk of flooding and have no adverse impact on protected habitats and species, nationally recognised designations, landscape designations and heritage assets and their settings and natural resources

The submitted Flood Risk Assessment concludes that there is not a high flood risk at the site. In addition, there is no evidence that there are protected habitats and species present on the site. There are no designations or heritage assets on the site. Natural resources are used in a responsible manner by the way of life adopted by the applicant and her family. The proposals satisfy this policy requirement in full.

h.) the scale of the development does not dominate the nearest settled community nor place undue pressure on the local infrastructure

The nearest settled community is Bathampton. It will in no way be dominated by the development, by reason of the modest scale of the development in the context of Bathampton. The proposals satisfy this policy requirement in full.

i.) the site does not lie within the Green Belt unless there are very special circumstances.

The site is located within the Bristol / Bath Green Belt. As discussed earlier, all of the material considerations pursuant to the application have to be considered and balanced against each other before it can be determined if very special circumstances exist. As such, the conclusion in this regard is set out towards the end of this report.

Personal circumstances pertaining to the applicant and her family

The appeal relating to application 10/00475/FUL established that the applicant has a thyroid condition which requires her to access her GP and pharmacy every three weeks for the rest of her life. At the time of the appeal the applicant and her family resided on a canalboat on the Kennet and Avon Canal. In dismissing the appeal, the Inspector held that this issue could be afforded only limited weight, by reason that there was insufficient evidence to suggest that British Waterways (now the Canal & River Trust) would enforce their policy that boat dwellers cannot permanently reside in one location on the canal. Had British Waterways done so, the Inspector agreed that access to healthcare for the applicant would suffer. This situation has now changed, with evidence provided by the applicant in the form of a Bristol County Court Judgment that this policy can, and will, be enforced.

In any case, the applicant no longer owns the canalboat and so this is not a residential option, but the principle still holds true: A refusal of planning permission, if followed up with enforcement action, will leave the applicant with no obvious alternative residence (ie, the applicant and her family would be homeless), given the absence of identified traveller sites within the district, thereby adversely affecting her access to healthcare. Therefore, this is now a more serious issue than when the appeal relating to application 10/00475/FUL was considered and should be given significant weight.

Further, the possibility of homelessness would clearly affect the applicant's children. It is evident from the application submission that they are settled in a local school and there is a likelihood of disruption in the event that planning permission is refused. Again, this issue was highlighted by the Inspector in dismissing the appeal relating to application 10/00475/FUL, who afforded this consideration limited weight as the threat of homelessness was not as pressing as now. As noted earlier, in dismissing the appeal of the refusal of the previous application, reference 10/00475/FUL, the Inspector held that 'it is clear from the evidence before me that other sites which would be suitable for the stationing of mobile homes would be beyond the means of the Appellant and Mr Humphries'. It is therefore considered that there are no alternative options for the applicant and her family. PPfTS states, at paragraph 22(b), that 'the availability (or lack) of alternative accommodation for the applicants' should be considered by local planning authorities.

Given the absence of alternative traveller sites, and the resultant increased threat of homelessness, this issue should now be given significant weight in favour of the proposals.

Previous condition of the site

The submitted information draws attention to the previous use of part of the site by 'rough sleepers' which resulted in its untidy appearance and anti-social behaviour. This is evidenced by statements by the applicant, photographs of the site and representations made in respect of the application. PPfTS states, at paragraph 24(a), that local planning authorities should attach weight to the 'effective use of previously developed (brownfield), untidy or derelict land': this consideration therefore weighs in favour of the proposals, albeit to a limited degree given the slight harm to landscape character arising from the proposals as previously identified by the Inspector .

Energy efficiency and resource management

There are numerous references within the submitted documentation to the sustainability of the proposals: The applicant claims to have lived off grid for the last 20 years and it is her aim to be exemplary in the field of renewable energy. Solar PV panels are mounted on a timber frame on the site and rainwater is harvested, to be used on site. In addition the applicant and her family utilise a compost toilet, the products from which are used on the site, and water from a stream that runs across the site is also utilised. The applicant and her family endeavour to make journeys by bicycle or on foot wherever possible, with limited need for the use of a private motor car and the submitted information states that the 'proposals are sustainable as they are ultra low impact with nigh on zero carbon footprint'. The Council has no reason to dispute these claims and this general approach to the use of the site is given moderate weight in favour of the proposals. It should be noted that the Inspector previously adopted the same stance, stating that 'I am satisfied that the Appellant and her family would occupy the appeal site in a sustainable manner, with minimum impact on services and a low reliance on the private motor car as a means of transport.'

Representations

27 representations have been received in support of this application. In addition, the applicant has submitted 53 representations of support that were made in respect of the previous applications relating to the site and a petition containing 130 signatures in support of the residential use and general operation of the site. The submitted representations largely focus on the sustainable nature of the site, the educational benefits arising from the development, the personal circumstances of the applicant and her positive role in the community. In dismissing the appeal following the refusal of a previous application on the site, reference 10/00475/FUL, the Inspector concluded that these matters did weigh in favour of the proposals. Accordingly, some weight must be given to such representations in respect of this application, albeit limited, given that in the main the representations do not balance the merits of the application against the harm to the green belt and other harm. This is not unreasonable, given that they are comments in support of the application, however without acknowledgement of the resultant harm it is considered that they should only be given limited weight.

Conversely, eight objections have been made to the current application, many of which cite green belt harm and danger of precedent as reasons for their objection. In addition to the above, the petition submitted by the applicant shows that five respondents object to the application.

It is noted that all of the representations received are material considerations and generally raise issues that are relevant in the consideration of the proposals.

Educational benefit

The applicant has indicated that she intends to offer school visits to the site for children to learn about low carbon, sustainable living. A document submitted as part of the application contains letters from schoolchildren who have visited the site previously and it is evident that they found it to be a positive learning experience. Further, it is also evident from the representations received that the teachers of Bathampton Primary School also found their visit to be educational and have been able to use the experience as a basis for learning in other subject areas within the school. In addition, a letter from the Deputy Leader of Bathampton Playgroup states that the educational visits have helped them meet part of Government's Early Years Foundation Stage Curriculum. This is of some benefit in that it represents the opening up of the site to wider users than just that of the applicant and her family, however it is considered that this is an ancillary benefit and as such should be given limited weight in favour of the proposals.

Affordability

The submitted Design and Access Statement makes reference to the affordability of the site and that the applicant and her family cannot afford to live elsewhere. As noted earlier, in dismissing the appeal of the refusal of the previous application, reference 10/00475/FUL, the Inspector held that 'it is clear from the evidence before me that other sites which would be suitable for the stationing of mobile homes would be beyond the means of the Appellant and Mr Humphries', and gave weight to the lack of alternatives available to the applicant and her family, a situation which is now even more relevant given that the Gypsies, Travellers and Travelling Showpeople Site Allocations Development Plan Document has not yet been adopted. As discussed above, there is a very real possibility that the absence of identified sites would result in the applicant and her family becoming homeless, which must be given significant weight and weighs in favour of the proposals.

It is therefore considered that there are no alternative options for the applicant and her family. PPfTS states, at paragraph 22(b), that 'the availability (or lack) of alternative accommodation for the applicants' should be considered by local planning authorities.

Officer assessment of Highways considerations

The Highway Development Control Officer has advised that the Highways Department has no comments to make in respect of the current application.

It is noted that Meadow Lane is not an adopted highway, however in dismissing the appeal in relation to 10/00475/FUL the Inspector held that this should not act as a barrier to planning permission being granted, by reason that the proposals would generate only a limited number of additional vehicular trips that would use Meadow Lane.

In addition, it is clear that there is sufficient space for a vehicle to manoeuvre when accessing or exiting the site.

For these reasons there are no concerns in respect of the impact of the proposal in highways terms.

Amenity

There will be no impact on the amenities of the occupiers of nearby residential dwellings, by reason of the site's location a significant distance away from residential dwellings located to the south of the site.

Conclusion and Very Special Circumstances

The assessment of the proposals has identified that the development results in significant harm to the Green Belt by reason of inappropriateness, to which must be added moderate harm to openness and the purposes of including land within the Green Belt. The slight harm to landscape character must also be added to this harm.

Conversely, the assessment has found that there are pertinent issues that must be given significant weight in favour of the proposals, these being the identified need for traveller sites within the district; the lack of identified sites to meet this need and resultant absence of alternative or affordable accommodation for the applicant and her family; the likelihood that sites allocated through the DPD process will be located in the green belt; the health needs of the applicant; and the education of the applicant's children. In addition, the educational benefits arising from school trips to the site; the low carbon and generally sustainable lifestyle of the applicant and her family; the contribution made by the applicant and her family to the local community; the site's access to local services and facilities; the previous condition of the site; the suitability of the site to serve the needs of the applicant and her family; and the representations of support also weigh in favour of the proposals to a more limited extent.

In reaching a conclusion as to whether the material considerations that weigh in favour of the proposals amount to very special circumstances which clearly outweigh the harm to the green belt and other identified harm to justify inappropriate development in the Green Belt, it is necessary to have regard to the Ministerial Statement issued on 1 July 2013, which states;

'The Secretary of State wishes to make clear that, in considering planning applications, although each case will depend on its facts, he considers that the single issue of unmet demand, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the 'very special circumstances' justifying inappropriate development in the green belt.'

Whilst the Ministerial Statement advises that the single issue of unmet demand is unlikely to constitute the 'very special circumstances' justifying inappropriate development in the green belt, the issue nonetheless must be given significant weight in favour of the proposals. In any case, in this instance the decision does not turn on the single issue of unmet demand. Rather, the additional issues discussed above that weigh in favour of the proposals, many of which must be given significant weight, have to be considered in the planning balance.

It is evident that there are a number of factors that weigh in favour of the proposals; however to be considered as Very Special Circumstances to justify the granting of planning permission they must clearly outweigh the identified harm, which as noted earlier is substantial.

Whilst there are numerous factors in favour of the proposals it does not follow that these are automatically very special because of their number. In addition, many of the factors when considered in isolation are not in themselves very special. They are, in planning terms, relatively ordinary in respect of the applicant's health needs, the educational needs of the children, the educational benefits of the school visits to the site, the sustainable lifestyle of the applicant and her family, their contribution to the local community, the site's access to local services and the previous condition of the site, as these are factors that could easily be repeated in other cases. In respect of the identified need and absence of supply of authorised gypsy and traveller sites; this is also not very special when considered in isolation, by reason that this situation would apply to any gypsy or traveller family residing in B&NES or in other authorities where there is an under supply of such sites.

Whilst the individual factors in favour of the proposal are, in themselves, considered not to be very special, the High Court Judgment *Basildon District Council vs First Secretary of State* [2004] EWHC 2759 (Admin) establishes that a number of factors ordinary in themselves can combine to amount to Very Special Circumstances and that this is a matter of planning judgment based on the issues pursuant to the particular proposal.

Notwithstanding that the identified harm resulting from the proposals is substantial; it is considered that the material considerations set out above that weigh in favour of the proposals are considerable when combined. The weight of these considerations and their nature is such that they are considered to be Very Special and sufficient to clearly outweigh the identified harm. It has been demonstrated that they are a set of circumstances that apply specifically to these proposals and applicant.

Given that the material considerations that weigh in favour of the proposals are considered to represent Very Special Circumstances there is no danger of precedent and Members are advised that the granting of a permanent planning permission would not weaken the Council's ability to refuse other developments located within the green belt. By definition, the set of circumstances that apply in this case are considered to be Very Special, with the result that they could not be used as justification for other proposals.

In addition to the above, it is recommended that the planning permission be made personal to the applicant and her family, to reflect that it is the set of circumstances pertinent to this application and this applicant that justify the granting of the permission. A situation whereby any gypsy, traveller or showperson could reside on the site would be inappropriate.

Consideration of a temporary permission

Due consideration has been given to whether the granting of a temporary permission would be appropriate in this case.

Circular 11/95, still extant following the publication of the NPPF in March 2012, sets out the circumstances where the granting of a temporary permission may be appropriate. Paragraph 109 clarifies that a temporary permission will rarely be necessary when proposals conform with the provisions of the development plan. The assessment of the proposals set out above concludes that the proposals are indeed in conformity with the development plan; it is therefore considered that the granting of a temporary permission

would be inappropriate and would place the Council at risk in the event that an appeal was made against such a decision.

Should Members conclude that the proposals are not in conformity with the development plan; the Circular also advises that it is undesirable to impose a condition requiring the demolition after a stated period of a building that is clearly intended to be permanent. It is clear that the dwelling erected on the site is of permanent construction and the granting of a temporary permission is therefore considered inappropriate.

Prematurity

Draft guidance was published in August 2013 in relation to the issue of prematurity and states that;

'While emerging plans may acquire weight during the plan-making process, in the context of the National Planning Policy Framework - and in particular the presumption in favour of sustainable development - arguments that an application is premature are unlikely to justify a refusal of planning permission other than in exceptional circumstances (where it is clear that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, taking the policies in the Framework and any other material considerations into account). Such circumstances are likely to be limited to situations where both:

- a.) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging Local Plan or neighbourhood plan; and
- b.) the emerging plan is at an advanced stage but has not yet been adopted (or, in the case of a neighbourhood plan, been made).

Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how the grant of permission for the development concerned would prejudice the outcome of the plan-making process.'

Taking account of the above guidance and the nature of the proposals, it is considered that a reason for refusal based on prematurity could not be successfully defended at appeal.

Human Rights

Without prejudice to the consideration of the application; in the event that Members are minded to refuse a permanent planning permission, the human rights of the applicant and her family will be engaged under Article 8 of the European Convention on Human Rights. The High Court judgment *AZ v SSCLG and South Gloucestershire Council* [2012] EWHC 3660 (Admin) establishes that a decision undertaken by a state body must accord with the Human Rights Act 1988 and Article 8 of the European Convention on Human Rights. Further, it establishes that this duty on a decision maker, in this case the local planning authority, is engaged immediately when the decision maker becomes aware that a decision they have made or will make, is impacting or will impact upon the rights of a child. Contained within Article 8 are the obligations under the United Nations Convention on the Rights of the Child.

Article 8 provides that;

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 3 of the United Nations Convention on the Rights of the Child provides that;

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

The High Court judgment advises that, in addition to the usual planning balance, a second stage assessment must be undertaken to take account of Article 8 and determine if any interference with human rights is proportionate. As such, Members are advised that this second stage must be undertaken if they are minded to refuse the granting of a permanent permission.

This second stage assessment is set out below:

1. Will the proposed refusal of permission be interference by a public authority with the exercise of the applicant's right to respect for his private or (as the case may be) family home?
2. If so, will such interference have consequences of such gravity as potentially to engage the operation of article 8?
3. If so, is such interference in accordance with the law?
4. If so, is such interference necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others?
5. If so, is such interference proportionate to the legitimate public end sought to be achieved?

Should Members be minded to refuse the application, it is recommended that the application be deferred and brought back to Committee at a later date, in order that a separate recommendation can be made in respect of the second stage test set out below to allow Members to fully debate the human rights issue.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 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.

2 The use hereby approved shall enure for the benefit only of Ms Catherine Wood, her partner and their dependents.

Reason: The development hereby approved is only acceptable in this location because of the special circumstances of the applicant and her family.

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no extension, external alteration or enlargement of the dwelling(s) or other buildings hereby approved shall be carried out unless a further planning permission has been granted by the Local Planning Authority.

Reason: Any further extensions require detailed consideration by the Local Planning Authority to safeguard the openness of the green belt and landscape character.

4 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no free standing buildings shall be erected within the curtilage of the dwelling hereby approved, other than those expressly authorised by this permission, unless a further planning permission has been granted by the Local Planning Authority.

Reason: The introduction of further curtilage buildings requires detailed consideration by the Local Planning Authority to safeguard the openness of the green belt and landscape character.

5 Within three months of the date of this permission, a plan shall be submitted to, and approved in writing by, the local planning authority detailing the extent of the residential curtilage associated with the dwelling hereby approved. Any domestic paraphernalia shall be contained within the defined curtilage as approved and shall not be sited on any other part of the site.

Reason: to safeguard the openness of the green belt and landscape character.

PLANS LIST:

1 ADVICE NOTE:

Where a request is made to a Local Planning Authority for written confirmation of compliance with a condition or conditions attached to a planning permission or where a request to discharge conditions is submitted a fee shall be paid to that authority. Details of the fee can be found on the "what happens after permission" pages of the Council's

Website. Please send your requests to the Registration Team, Planning Services, PO Box 5006, Bath, BA1 1JG. Requests can be made using the 1APP standard form which is available from the Planning Portal at www.planningportal.gov.uk.

3 Plans List:

This decision relates to drawings detailing front, rear, left side and right side elevation, plan view, floor plan, site location plan and block plan date stamped 25 June 2013; supporting documents entitled 'Catherine Wood and Family', Canal & River Trust Briefing Paper 'Non Compliant Continuous Cruising' and letter from Ann Robins to the applicant date stamped 25 June 2013; petition submitted by applicant, childrens' letters entitled 'The Good Life', Bristol County Court Judgment between British Waterways Board and Paul Davies date stamped 4 July 2013; photographs date stamped 8 July 2013; and photographs date stamped 17 July 2013; and Flood Risk Assessment date stamped 13 August 2013.

4 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, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and planning permission was granted.

Item No: 06
Application No: 13/04777/FUL
Site Location: Church Farm Barn Washing Pound Lane Whitchurch Bristol BS14
OPN



Ward: Publow And Whitchurch

Parish: Whitchurch

LB Grade: N/A

Ward Members: Councillor P M Edwards

Application Type: Full Application

Proposal: Repair and rebuilding of existing dilapidated workshop/outbuilding to provide new one and half storey dwelling with associated engineering works, access, car parking area and garden area. (Resubmission of 13/03692/FUL)

Constraints: Airport Safeguarding Zones, Agric Land Class 3b,4,5, Forest of Avon, Greenbelt,

Applicant: Mrs L Maddocks

Expiry Date:	30th December 2013
Case Officer:	Jonathan Fletcher

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE:

The Parish Council are in support of the proposal and Councillor Peter Edwards has requested that the application is referred to the Committee if officers are minded to refuse the application. The Chairman has agreed that the proposal should be considered by the Committee as a previous application for the same development was considered by the Committee.

SITE DESCRIPTION AND PROPOSAL:

The application relates to a site located within the Bristol/Bath Green Belt. The application seeks planning permission for rebuilding an existing dilapidated outbuilding to form a one and a half storey dwelling with an access from Church Lane. The remnants of the former barn are located to the south boundary of the site and are comprised of sections of wall and hardstanding. The proposal is for a new structure with a dual pitched roof occupying the same position within the site onto the boundary with Church Lane. The building is proposed to be constructed with rubblestone facing to external walls and pantiles to the roof. The dimensions of the structure would be 15m length x 9.5m width x 6.1m height.

RELEVANT HISTORY:

16981 - Refused - 14 October 1994 - Proposed conversion to dwelling with new vehicular access.

16981/A - Refused - 20 June 1995 - Conversion of barn to form dwelling and vehicular access.

02/01237/FUL - Refused - 13 November 2002 - Conversion of existing building to form a dwelling.

05/00689/FUL - Refused - 6 January 2006 - Restore barn/store/workshop as original prior to fire damage

10/04816/FUL - Refused - 31 January 2011 - Repair of existing dilapidated agricultural outbuilding.

11/00046/RF - Dismissed - 24 October 2011 - Repair of existing dilapidated agricultural outbuilding

13/00347/FUL - Refused - 25 March 2013 - Repair and rebuilding of existing dilapidated workshop/outbuilding to provide 1no. one and half storey dwelling with associated access, car parking area and garden area.

13/01606/FUL - Refused - 5 July 2013 - Repair and rebuilding of existing dilapidated workshop/outbuilding to provide 1no. one and half storey dwelling with associated access, car parking area and garden area (resubmission).

13/03692/FUL - Refused - 23 October 2013 - Repair and rebuilding of existing dilapidated workshop/outbuilding to provide new one and half storey dwelling with associated engineering works, access, car parking area and garden area.

13/00110/RF - Appeal In Progress - Repair and rebuilding of existing dilapidated workshop/outbuilding to provide 1no. one and half storey dwelling with associated access, car parking area and garden area (resubmission).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Whitchurch Parish Council: The application is supported as the it is considered the proposal would improve the appearance of the site however concern has been raised in relation to the reference to 'engineering works'.

Highway Development Officer: No objection is raised to the application subject to three conditions relating to highway safety and amenity.

Drainage Technician: No objection is raised to the application subject to a condition relating to surface water drainage.

Representations: One letter has been received with no objection to the principle of the dwelling and the relocated access however concern is raised in relation to the reference to 'engineering works'.

POLICIES/LEGISLATION

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

D.2 - General Design and Public Realm Consideration

D.4 - Townscape Consideration

GB.1 - Control of Development in the Green Belt

GB.2 - Visual Amenities of the Green Belt

T.24 - General Development Control and Access Policy

HG.4 - Residential development in the urban areas and R.1 settlements

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

ET.9 - Re-use of rural buildings

Bath and North East Somerset Submission Core Strategy (May 2011) as amended by the Schedule of Proposed Changes to the Submitted Core Strategy (March 2013).

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 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. The following policies are relevant:

CP3: Renewable Energy

CP6: Environmental Quality

CP8: Green Belt

National Planning Policy Framework - March 2012

The NPPF guidance in respect of the issues which this particular application raises does not conflict with the Local Plan policies set out above.

OFFICER ASSESSMENT

INTRODUCTION:

The primary issues to consider when determining this application relate to the appropriateness of the development within the green belt, the visual impact on the surrounding area, highway safety and residential amenity. This current application is the fourth application which has been submitted to the Council for the rebuilding of the dilapidated barn since January 2013. The first application was refused under delegated powers, the second application was refused by the planning committee and the third was refused again under delegated powers. These applications were refused as they were deemed to present an inappropriate form of development within the green belt which would be harmful to openness and the character of the area.

The current application seeks permission for an alternative scheme with the access relocated to southwest and a reduced area of excavation. The design and siting of the dwelling would be unchanged.

GREEN BELT:

As noted in the planning history above, this application follows a number of previous proposals which have been refused to rebuild the former barn for both residential and agricultural uses. It is useful to note the conclusions drawn from previous decisions relating to the site to consider the appropriateness of the development within the green belt.

Photographs have been included with the application which indicate that there was a roof over the building in 1999 which was then partially reconstructed in 2003 however the building was open with no walls to each gable end at this time. The roof was subsequently removed following an arson attack and the remnants of the building have been left on site since this time. An appeal was dismissed in 2011 against the Local Planning Authority's refusal of planning permission for the rebuilding of the barn for an agricultural use. The Inspector noted the following: 'Given that very little remains of the building that once occupied this site and the considerable period of time that has elapsed since a usable structure existed, I consider the proposed development would amount to construction of a new building.' The current application has also therefore been considered on the basis that the proposal relates to a new building within the green belt.

The guidance within the NPPF does not include the construction of new dwellings as an exception to the presumption against inappropriate development within the green belt. Furthermore, the proposal is not considered to fall within the exception of the redevelopment of previously developed land. A definition of previously developed land is provided at Annex 2 of the NPPF which excludes 'land that has been used for agricultural or forestry buildings'. The proposal therefore represents inappropriate development in the green belt, which is by definition harmful.

The applicant has stated that the site has previously been used for motor vehicle repairs for approximately seven years however no evidence has been provided to demonstrate this use and site is currently unoccupied. Furthermore, there is no record of planning permission being granted that this use and the duration of the use would not have resulted in immunity from enforcement action. The historic use of the site for agriculture is therefore deemed to have continued. Moreover, even if the site was to be considered as previously developed land, given the increase in the scale of the development, the proposal would have a materially greater impact on openness and would conflict with the

purposes of including land within the green belt. The proposal could not therefore be supported on this basis.

The proximity to the adjacent buildings emphasises the need to prevent new buildings from being constructed in this area. In this case the location of the site is considered to present substantive conflict with the purposes of including land within the green belt. The Inspector noted in the appeal of application 16981/A which sought planning permission for the conversion of the former barn to a dwelling that the site is located in a 'narrow gap' between Whitchurch and Bristol. The development of the site was therefore considered to conflict with the purposes of including land within the green belt identified at paragraph 1.5 of Planning Policy Guidance 2 (PPG2) which seek 'to prevent neighbouring towns from merging and to assist in the safeguarding the countryside from encroachment.' Although PPG2 has now been superseded these purposes have been brought forward under paragraph 80 of the NPPF.

The previous applications were refused on the basis that the development represents inappropriate development but also on the grounds that the impact of the development would be to reduce the openness of the green belt and harm the character of the area. The resubmissions have presented designs with an alternative massing for the dwelling, excavation works to lower the ground level of the building and changes to the fenestration details. These changes have been incorporated to seek to address concerns in relation to the visibility of the dwelling above the boundary wall on Church Lane and the domestic appearance of the dwelling. The appearance of the development from Church Lane would be improved by lowering the ridge height of the dwelling however officers remain concerned in relation to the visual impact of the development. The proposal would require the ground levels to be excavated by approximately 700mm in order to limit the height above the boundary wall however the full scale of the new dwelling would be apparent when viewed from the north. Whilst the area of the excavation has been reduced under this application, it remains that the development would substantially change the character of the site. The new dwelling would be clearly visible above the boundary wall onto Church Lane. The scale of the dwelling, albeit at a reduced floor level, would have a substantially greater impact on the openness of the green belt in comparison to the limited areas of development which exist on the site. Additional harm is also therefore identified to the rural character of this site.

HIGHWAY SAFETY:

The Council's Highway Development Officer has no objection to the revised position of the access and has submitted the following assessment:

'The proposal is a resubmission of an earlier application, submitted under reference 13/03692/FUL, and therefore my response is the same.

An application under reference 10/04816/FUL to repair the barn and utilise the existing access at the corner of Church Lane and Washing Pound Lane was refused permission, and was subsequently dismissed at appeal. However, whilst concerns over the use of such an access were raised, due to its location at a junction, a lack of visibility and the restricted widths of the lanes, the appeal inspector considered that the access to the agricultural use was similar to a field access opposite, and as speeds were low, there would not be any significant increased risk of the safety of highway users.

Whilst the current proposal is for a residential dwelling, and therefore could generate more traffic than an agricultural use of the land, I do not feel that there would be such a significant difference to justify a contrary view to the appeal inspector.

The current proposed layout seeks to close the existing access at the junction of Washing Pound Lane and Church Lane to vehicular traffic, with a new access created to Church Lane, which would accommodate two parking spaces, together with on-site turning.

The existing access at the junction is indicated on the drawing to be "sealed. Timber Field gate to be provided. No vehicular access allowed." The access will be required to be closed off to vehicular traffic, and the provision of a timber gate may be viewed as retaining a vehicular access for future use, and therefore I would prefer a reinstatement of a hedge to this access point.'

It should be noted that the previous applications were not refused on the basis of the location of the access which is now proposed to be closed off. The alternative access submitted under this application is also considered to be acceptable and therefore no objection is raised on this basis.

RESIDENTIAL AMENITY:

The new dwelling would be sufficiently separated from adjacent properties to prevent a loss of privacy and therefore no objection is raised on the basis of residential amenity. One letter objection has been received within the consultation however this does not relate to residential amenity concerns.

DO VERY SPECIAL CIRCUMSTANCES EXIST WHICH WOULD CLEARLY OUTWEIGH THE HARM TO THE GREEN BELT?:

In light of the points raised above the proposal is considered to constitute an inappropriate form of development within the green belt which is also harmful to openness and the purposes of including land in the green belt. Such development can only be approved where very special circumstances exist which clearly outweigh the harm to the green belt and any other identified harm. The following issues are specified within the Planning Statement for the application as very special circumstances which are contended to outweigh the harm to the green belt.

- the site is surrounded on 2/3 sides by existing houses;
- the site is previously developed land and was an important part of the historic settlement of Church Farm and Whitchurch village as identified on OS plans dating back to 1871;
- there are three substantial walls and hardstandings remaining on site. As recent as 2002 there was a building on the site of a very similar volume to that now proposed;
- the site is untidy and detracts from the appearance of the area;
- the parish council support the redevelopment of the site;
- our client will restore the remainder of the land to meadow if required;
- the NPPF raises as significant material considerations in support of the proposal the need to house a rising population; the need to consider housing proposals favourably; the economic, social and environmental roles relating to sustainable development and

matters relating to the more positive approach of the Framework generally and the Planning for Growth agenda. there is an identified housing shortage in BANES at present.

- The Council cannot demonstrate a 5-year housing land supply, the Council will need to assess proposals in light of the presumption in favour of sustainable development set out in paragraph 14 of the NPPF.

These issues can be categorised into four areas for assessment:

PRESUMPTION IN FAVOUR OF DEVELOPMENT SET OUT IN THE NPPF AND HOUSING LAND SUPPLY IN BATH AND NORTH EAST SOMERSET:

The examination of Bathnes Core Strategy 2010 has previously been suspended however the Council have approved an amended Core Strategy for development management purposes and the examination has now recommenced. Paragraph 14 of the NPPF states that there is a presumption in favour of sustainable development and that planning permission should be granted where the development plan is absent, silent or the relevant policies out-of-date unless 'specific policies in this Framework indicate development should be restricted'. The footnote to this extract confirms that these specific policies relate to, amongst other things, land designated as green belt. It should be noted therefore that the application should be assessed on the basis of paragraphs 89 and 90 setting out the presumption against development within green belt which has been discussed above.

The delivery of housing is a material consideration which can be given substantial weight in the assessment an application. The current proposal is however for a single dwelling which would not provide a significant contribution to the delivery of housing in the area. Moreover, the proposal is not indicated to supply housing which would meet the need for a rural worker. Given the level of harm to the green belt which would be caused by the development, the provision of a single dwelling is not considered to be sufficient to demonstrate very special circumstances exist in this instance. Although each application would need to be considered on its individual merits, this approach to the assessment of green belt development would present a very low threshold for allowing inappropriate development and would compromise the ability to resist small scale residential development being spread across the green belt.

Attention is drawn within the planning statement to the recent appeal decisions within Bath and North East Somerset at Brookside Drive, Farmborough and Sleep Lane, Whitchurch. These decisions present significantly different considerations to the current application in that they both relate to sites which have been safeguarded for development. The contribution to housing delivery would also not be comparable to the current application which seeks permission for a single dwelling.

RELATIONSHIP TO EXISTING PATTERN OF DEVELOPMENT:

It is contended that the proposed dwelling would be assimilated within the existing development adjacent to the site. As noted above, it is considered to be important to retain the open space between Bristol and Whitchurch.

Reference is made to an appeal decision outside the Bathnes area at Greenlea Cottage, Hedley in support of the development. This application related to a development of a dwelling on the edge of the village boundary in a position where there were the

foundations of previous buildings. The circumstances of this case are deemed to be significantly different in light of the relationship of the site to the settlement and the need to retain the undeveloped gap between Whitchurch and Bristol which is considered to be particularly important in this case.

FORMER DEVELOPMENT ON THE SITE:

The former existence of buildings on the site has been discussed above. Whilst it is accepted that over ten years ago the building previously had a roof, the photographs also indicate that the building was not in use and could not have been secured at this time due to the absence of walls on the gable elevations. The length of time which has now passed would conclusively exclude any rebuilding of the barn from being considered as repair works. Paragraph 89 of the NPPF and policy ET.9 of the Local Plan both confirm that buildings must be of substantial construction to be converted and previous appeal decisions relating to this site have concluded that the proposal must be considered as a new building. These circumstances would exist in any situation where a building is no longer capable of conversion without substantial or complete reconstruction.

PARISH COUNCIL SUPPORT AND VISUAL AMENITY OF THE AREA:

The Parish Council are supportive of this scheme as it is thought the proposal would improve the appearance of the site. The planning statement indicates that the applicant would be willing to return the remaining area of the site to a meadow if planning permission was granted. Although this would be beneficial to the visual amenity of the area it is not considered to be sufficient to outweigh the harm to the green belt. The current situation has arisen from an historic agricultural use of the site which has ceased leaving the site unmanaged for a considerable period of time. These circumstances will invariably exist where rural buildings have fallen into a state of disrepair however landscaping provision cannot outweigh the harm which is sought to be resisted by planning policy to prevent new buildings on such sites.

The above areas are not considered to present very special circumstances which clearly outweigh the identified harm and consequently the application is recommended for refusal on this basis.

CONCLUSION:

For the reasons set out above the proposal is considered to be unacceptable and is recommended for refusal.

RECOMMENDATION

REASON(S) FOR REFUSAL

1 The proposal would result in construction of a new dwelling which would constitute an inappropriate form of development within the green belt which would be harmful to the openness of the green belt, the semi-rural character of the area and would conflict with the purposes of preventing neighbouring towns from merging and safeguarding the countryside from encroachment. The very special circumstances put forward by the

applicant are not considered to be sufficient to clearly outweigh the harm caused by the development. The proposal is therefore contrary to policies GB.1 and GB.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007 and the guidance set out in the National Planning Policy Framework 2012.

2 The proposed development, by reason of its scale, the required excavation works and the visibility from the surrounding area, would be harmful to the openness of the green belt and the semi-rural character of the area contrary to policies D.2, D.4 and GB.2 of the Bath & North East Somerset Local Plan including minerals and waste policies - adopted October 2007.

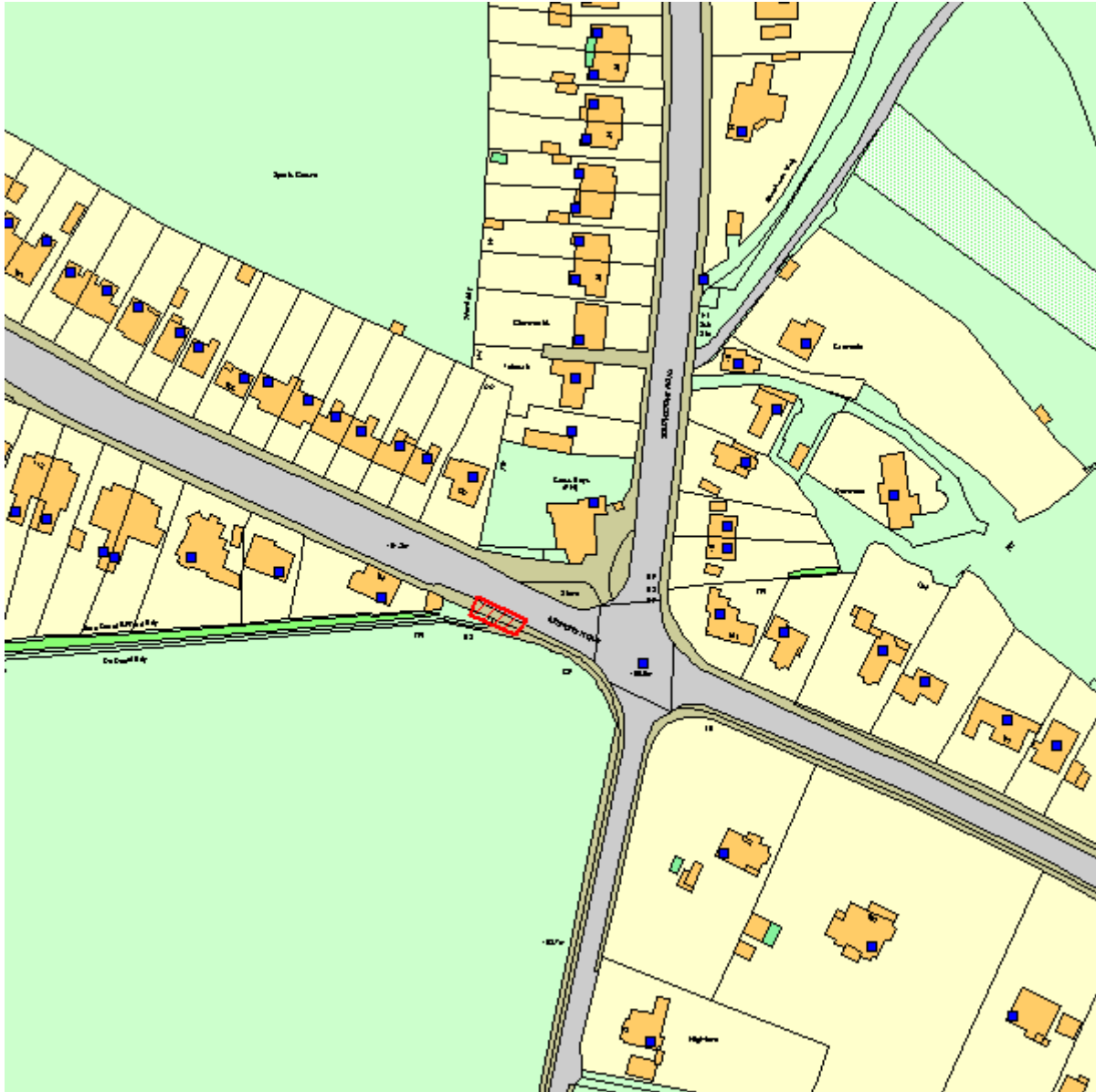
PLANS LIST:

1 Site location plan, 001, 002, 201C, 202A, 203A, 204B, 205A

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. The Local Planning Authority acknowledges the approach outlined in paragraphs 188-192 in favour of front loading and operates a pre-application advice service. Notwithstanding active encouragement for pre-application dialogue the applicant did not seek to enter into correspondence with the Local Planning Authority. The proposal was considered unacceptable for the reasons given and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application, and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

Item No: 07
Application No: 13/04340/AR
Site Location: Street Record Midford Road Odd Down Bath Bath And North East Somerset



Ward: Bathavon South

Parish: South Stoke

LB Grade: N/A

Ward Members: Councillor Neil Butters

Application Type: Advertisement Consent

Proposal: Display of internally illuminated poster cabinets of proposed advertisements in bus shelter serving the No.13 Foxhill-Bathford Route; to be located along Midford Road.

Constraints: Agric Land Class 3b,4,5, Area of Outstanding Natural Beauty, Forest of Avon, Greenbelt, Hotspring Protection, MOD Safeguarded Areas, Sites of Nature Conservation Imp (SN), World Heritage Site,

Applicant: Mr Derek Quilter

Expiry Date:	30th December 2013
Case Officer:	Alice Barnes

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE

The application is being reported to the committee at the request of Councillor Neil Butters for the following reasons;

The advert is located close to a listing building (Cross Keys). It is on or very close to the Green Belt and Area of Outstanding Natural Beauty. It is within inches of the Wansdyke which is a Scheduled Ancient Monument. It is therefore an inappropriate location.

The application has been referred to the Chairman of the Development Control Committee (DCC) who has agreed that the application should be considered by the DCC as there is local interest.

DESCRIPTION OF SITE AND APPLICATION

The application site is located on the south edge of Bath. The site is located on the opposite side of the road from the Cross Keys pub at the junction of Southstoke Road and Midford Road. The site is located at the edge of the built up area of Bath on the boundary of the World Heritage Site. It is located at the boundary of the Green Belt and Area of Outstanding Natural Beauty. To the south of the site is the start of the Wansdyke, a scheduled ancient monument. The nearby Cross Keys pub is a Grade II listed building.

This is an application for the display of an internally illuminated poster advert within a bus shelter at Midford Road. The bus shelter itself does not require permission and has been erected as permitted development to replace the existing shelter. The advertisements will be double sided located on the side wall of the shelter. They will be illuminated using fluorescent tubes.

RELEVANT HISTORY

DC - 01/00906/AR - WD - 6 June 2001 - Display of non-illuminated free standing signs at junction of Midford Road and Old Frome Road on wider footway preceding Old Frome Road junction (Re-submission application)

DC - 97/00073/AR - RF - 27 March 1997 - Display of internally illuminated panel signs to bus shelters at: Midford Road, Green Park Road, Pulteney Road, Lower Bristol Road and Pines Way

DC - 12/01392/AR - CON - 14 June 2012 - Display of 3no. A1 vertical information boards

DC - 13/00429/TEL - APP - 26 March 2013 - Installation of a broadband cabinet (PCP 004 S/O 101 Midford Road).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Councillor Neil Butters; The advert is located close to a listing building (Cross Keys). It is on or very close to the Green Belt and Area of Outstanding Natural Beauty. It is within inches of Wansdyke which is a Scheduled Ancient Monument. It is therefore an inappropriate location.

Southstoke Parish Council: Object, it is entirely inappropriate to have brightly illuminated advertising signs of any description in such a sensitive rural location. The site is immediately adjacent to the Wansdyke, a Scheduled Ancient Monument, and the Cotswold Area of Outstanding Natural Beauty, both of which will be affected by the light spillage from this device.

Highways: No objection

Representations: No representations have been received

POLICIES/LEGISLATION

D.2: General design and public realm considerations

D.4: Townscape considerations

Bh.1: Impact of development on World Heritage Site of Bath or its setting.

Bh.17: Advertisement consent

GB.1: Control of development in the Green Belt

GB.2: Visual amenities of the Green Belt

Ne.2: Area of Outstanding Natural Beauty

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

SUBMISSION CORE STRATEGY, MAY 2011

At its meeting on 4th March 2013 the Council approved the amended Core Strategy for Development Management purposes. Whilst it is not yet part of the statutory Development Plan the Council attaches 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. The following policies should be considered:

CP6 - Environmental Quality

B4 - The World Heritage Site and its Setting

CP8 - Green Belt

National Policy

The National Planning Policy Framework adopted March 2012

OFFICER ASSESSMENT

The application site is located on the border of the Green Belt and AONB. The Grade II listed Cross Keys Public house is located on the opposite side of the road. The proposed advertisements form part of wider upgrades and enhancements to public transport and bus infrastructure across Bath. The site is located on the edge of the built up area of Bath. The bus shelter itself does not require permission and has been erected as permitted development to replace the existing shelter.

Applications for advertisement consent are considered on their impact on visual amenity and highway safety. The highways officer has declined to comment on the application and the proposed development is not considered to cause harm to highway safety.

The proposed sign would be located on a shelter serving the number 13 bus route. The advertisements will be formed of an enclosed cabinet, with toughened glass frontage with a block border. The cabinet will form the side elevation of the shelter, which will be double sided and lit with fluorescent tubes. The lighting will be mounted centrally and equidistant, ensuring an even spread of lighting. The double sided cabinet will be contained within a green powder-coated aluminium casing.

There is an existing bus shelter on site. The new bus shelter will not require permission as it is being constructed under permitted development. A bus shelter is a lit structure and therefore provision of a lit advert is considered to be acceptable within the context of the existing shelter.

The shelter is located on the opposite side of the road from the Grade II listed Cross Keys pub. It will not be located directly outside the public house. The advert will be viewed in the context of the bus shelter structure and will not harm the setting of the nearby Grade II listed building.

The proposed advert is located on the boundary of the Green Belt and Area of Outstanding Natural Beauty. As stated above the advert would be viewed in the context of the bus shelter structure. It is located within a built up area rather than the open countryside and therefore will not harm the visual amenity of the surrounding Green Belt and Area of Outstanding Natural Beauty.

Concern has been raised that the advertisement would impact on the appearance of the Wansdyke. There is an existing bus shelter at the site and the replacement shelter and advertisement, for the reasons outlined above, are not considered to harm the setting of the Wansdyke Scheduled Ancient Monument.

CONCLUSION

The proposed advertisement is considered to preserve the visual amenity of the surrounding World Heritage Site, Green Belt and Area of Outstanding Natural Beauty. The development will not cause harm to highway safety and consent is recommended.

RECOMMENDATION

CONSENT with condition(s)

CONDITIONS

1 a. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

b. No advertisement shall be sited or displayed so as to -

(i) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);

(ii) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
(iii) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

c. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

d. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

e. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: These conditions are specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2 This consent shall expire at the end of a period of five years from the date of this approval.

Reason: This condition is specified in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3 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 Site location plan A00
Advertisement display units single and double sided 16581 sheet 1 B
LED advertisement display single sided 16581/sheet 2 B
GA advertisement display double sided 16581/sheet 3 B
Cross Keys R13, S13 Shelter 16576 A

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, and expanded upon in a related case officer's report, a positive view of the submitted proposals was taken and consent was granted.