

# Bath & North East Somerset Council

**MEETING:**           **Development Control Committee**

**MEETING DATE:**           **3rd September 2014**

AGENDA  
ITEM  
NUMBER

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**RESPONSIBLE OFFICER:**   Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)

**TITLE:**           **SITE VISIT APPLICATIONS FOR PLANNING PERMISSION**

**WARDS:**    ALL

**BACKGROUND PAPERS:**

## AN OPEN PUBLIC ITEM

### BACKGROUND PAPERS

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

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

#### **The following notes are for information only:-**

- [1]     “Background Papers” are defined in the Local Government (Access to Information) Act 1985 do not include those disclosing “Exempt” or “Confidential Information” within the meaning of that Act. There may be, therefore, other papers relevant to an application which will be relied on in preparing the report to the Committee or a related report, but which legally are not required to be open to public inspection.

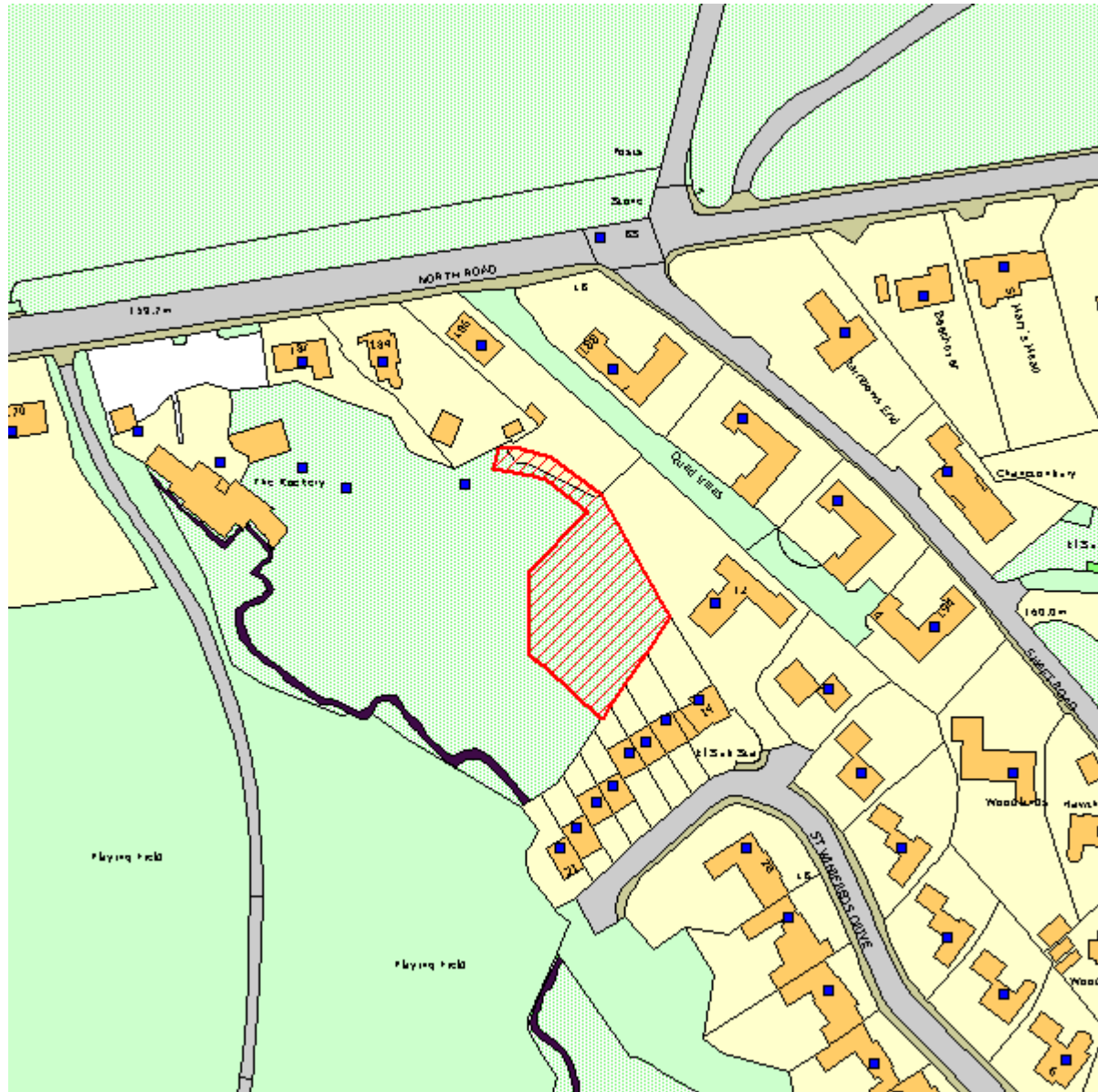
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting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

## INDEX

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	13/01733/FUL 10 September 2014	Freemantle Capital (Coombe Down) Ltd Rockery Tea Gardens Vacant Premises, North Road, Combe Down, Bath, BA2 5DN Erection of a detached single storey dwelling (revised proposal).	Combe Down	Rachel Tadman	Delegate to PERMIT

**REPORT OF THE GROUP MANAGER, DEVELOPMENT MANAGEMENT ON  
APPLICATIONS FOR DEVELOPMENT**

**Item No:** 001  
**Application No:** 13/01733/FUL  
**Site Location:** Rockery Tea Gardens Vacant Premises North Road Combe Down  
Bath BA2 5DN



**Ward:** Combe Down                      **Parish:** N/A                      **LB Grade:** N/A  
**Ward Members:** Councillor Cherry Beath      Councillor R A Symonds  
**Application Type:** Full Application  
**Proposal:** Erection of a detached single storey dwelling (revised proposal).  
**Constraints:** Agric Land Class 3b,4,5, Forest of Avon, Hotspring Protection, Mineral Consultation, Water Source Areas, World Heritage Site,  
**Applicant:** Freemantle Capital (Coombe Down) Ltd

<b>Expiry Date:</b>	10th September 2014
<b>Case Officer:</b>	Rachel Tadman

## **REPORT**

Reason for Reporting To Committee:

The application has been referred to Development Control Committee after a request by the Ward Councillors Roger Symonds and Cherry Beath and the further agreement of the Chair.

The application was considered by Development Control Committee on 30 July 2014 where it was referred for a site visit. Members visited the site on 18 August 2014.

Description of the Site and Proposal:

The site of the Rockery Tea Gardens is located on the south side of North Road, approximately 350 metres east of its junction with Ralph Allen Drive and 100 metres west of the junction with Shaft Road.

The site comprises a former quarry and was used as a Tea Garden until work recently commenced to construct two houses and nine apartments granted planning permission under application ref: 08/03370/FUL in December 2010.

The site has a frontage of 45 metres to North Road and slopes away to the quarry floor approximately 5 metres below street level. The whole Tea Garden site has a total area of approximately 0.85 hectares.

To the east of the site are three chalet bungalows on the south side of North Road, whose rear gardens adjoin the application site. To the west of the site is the access drive to Monkton Combe Junior School and the school playing fields and there are two storey houses further to the west on the south side of North Road. On the opposite side of North Road is a high stone wall with woodland beyond. To the south-east of the site is modern terrace housing fronting on to St Winifreds Drive.

The site is located just outside the City of Bath Conservation Area, the southern boundary of which follows North Road, but the site is within the World Heritage Site and the built-up area of the city. North Road also forms the southern boundary of the Green Belt and Cotswolds Area of Outstanding Natural Beauty in the vicinity, but the site is not subject to these designations. The site is within a mineral consultation area.

The proposal is for the erection of a single dwelling house on an area within the Rockery Tea Gardens site that was safeguarded as a Woodland area under the previous permission of 08/03370/FUL. The dwelling would be single storey with the main element having a pitched roof and flat roofed elements to the front and side.

The dwelling would be constructed of natural rubble stonework with Cedar vertical boarding and Cedar shingles to the south west gable.

The existing driveway to the approved Rockery Tea Gardens development would be extended to serve the proposed dwelling.

Relevant History:

DC - 08/03370/FUL - PERMIT - 17 December 2010 - Erection of new two houses and nine apartments with nine garages

DC - 11/05422/COND - DISCHG - 30 April 2012 - Discharge of condition 2, 8, 15 and 24 of application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

DC - 12/00053/COND - SPLIT - 19 April 2012 - Discharge of conditions 3,4,5,6,11,13,14 and 17 of application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

DC - 12/00145/COND - DISCHG - 6 March 2012 - Discharge of condition 2 of application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

DC - 12/00232/COND - DISCHG - 30 April 2012 - Discharge of conditions 15 and 16 for application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

DC - 12/02264/COND - DISCHG - 29 June 2012 - Discharge of condition 16 of application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

DC - 12/02715/COND - RF - 8 August 2012 - Discharge of condition 10 of application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

DC - 12/03544/COND - RF - 19 October 2012 - Discharge of condition 10 of application 08/03370/FUL ( Erection of new two houses and nine apartments with nine garages)

DC - 12/04380/NMA - WD - 25 October 2012 - Non-Material Amendment to application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

DC - 12/05489/COND - DISCHG - 11 February 2013 - Discharge of condition 10 of application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

DC - 12/05583/FUL - WD - 28 February 2013 - Erection of single dwelling.

DC - 13/01733/FUL - PCO - - Erection of a detached single storey dwelling (revised proposal).

DC - 13/01823/NMA - APP - 9 July 2013 - Non-Material amendment to application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

DC - 13/05125/COND - DISCHG - 16 January 2014 - Discharge of Conditions 2 (Resubmission) and 20 of application 08/03370/FUL (Erection of new two houses and nine apartments with nine garages).

DC - 13/05346/COND - RF - 20 January 2014 - Discharge of condition 22 of application 08/03370/FUL. (Erection of 2no houses and 9no apartments with 9 garages)

DC - 14/00693/COND - DISCHG - 26 March 2014 - Discharge of condition 22 attached to 08/03370/FUL (Erection of new two houses and nine apartments with nine garages)

### **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Highways Development Officer: It is not considered that the proposed development will result in any material concerns regarding increased vehicular movements or highway safety, I therefore recommend that no highway objection is raised subject to a condition being attached to any permission granted.

Arboricultural Officer: Further to my comments dated 4th June 2013 and 5 July 2013, to summarise, the current application shows that 5 trees are to be removed of which two, identified within the tree survey as T12 and T18, are to be lost as a direct result of the proposed layout without supporting arboricultural reasons.

Replacement planting along the south eastern boundary to mitigate for the loss of trees as a direct result of the current proposal and further offsite tree planting is proposed to mitigate for the loss of tree planting space within the woodland as part of the development of the Rockery Tea Gardens as a whole.

The proposed tree planting opportunities appear to follow the principles and aspirations of the adopted Green Infrastructure Strategy in terms of connectivity and address the requirements within retained policy NE.4 Trees and Woodlands:

A revised woodland management plan to incorporate the whole of the Rockery Tea Gardens and offsite tree planting is considered appropriate and should be conditioned if possible or secured by some other means. In addition conditions are suggested.

Ecology: Further to my comments of June 2013 objecting to the scheme, revised plans have been submitted and I no longer object subject to conditions and a S106 legal agreement. The comments are summarised below:

- o Light Spill - it has now been demonstrated that light spill from the proposed development will be minimised sufficiently and will not harm bat activity.
- o Mitigation for loss of canopy and woodland management area - the provision of off site planting with the aim of mitigating and compensating impacts of tree removal and loss of canopy area to this woodland site are now considered acceptable.
- o Tree planting & meadow area - the proposed new tree planting is located on grassland outside the red line development boundary, on adjacent land used and managed by Monkton Combe School. Despite local concerns that the grassland area contains wild flower interest there are no objections to the loss of this area to tree planting. The proposed new tree planting area must be secured by condition and its ongoing long term management by legal agreement.
- o Proposed planting including new native tree and shrub planting within the land to which the S106 Woodland Management Plan for the adjacent development 12/05583/FUL applies. I am happy with the proposed planting but the proposed specifications including

importation of topsoil and use of herbicides are not acceptable within the woodland area where this area is subject to an approved Woodland Management Plan.

- o Long Term Management - the approved Woodland Management Plan 12/05583/FUL (and secured by S106) remains in force but a further legal agreement is required to secure the production and long term implementation of an additional Management Plan incorporating all off site planting and habitat provision.

- o Test of Likely Significant Effect - The net impact on bats including bats of the SAC will be neutral, and potentially enhanced due to the stronger habitat connectivity that will result from the proposed off-site planting. A "Test of Likely Significant Effect" has been completed which concludes that there will be no risk of a "likely significant effect" on the SAC or bats of the SAC.

Natural England: No objections

Landscape Officer: Initially objections were raised due to the dwelling being located within land that was agreed as being a woodland management area.

The Landscape Officer has now considered the revised plans submitted and has confirmed, verbally, that the mitigation planting is considered sufficient to overcome his previous objections.

Sport England: No comments

Contaminated Land: No objections subject to conditions.

Education Services: No contribution is sought for Children's Services for this proposed development as it is only one dwelling.

Environmental Health: The applicant has submitted a noise assessment in respect of application ref. 08/03370/FUL, which shows that the development falls within Noise Exposure Category B in PPG24.

As this subsequent application falls within the same Noise Exposure category (B) PPG24 recommends that in such circumstances "noise should be taken into account when determining the planning application and where appropriate conditions imposed to ensure an adequate level of protection against noise."

Accordingly I would advise that there are no objections subject to conditions.

(Officer Note: PPG24 has been superseded by the NPPF.)

Local Residents:

The application has received representations from 41 contributors of which 37 objected and 4 made general comments. No letters of support have been received. The objections/comments relate to the following concerns:

1. The 08/03370/FUL permission set the maximum development limit for the site and which should not be breached.
2. Overdevelopment of the site

3. Its location in an area that was to be retained as woodland is unacceptable and goes against the recommendations of the 08/03370/FUL
4. Loss of woodland, protected trees and area for wildlife
5. Harm to wildlife and protected species
6. Risk to remaining trees due to concerns from future residents about falling branches etc
7. It will result in a visually prominent and intrusive development
8. Contrary to Green Infrastructure Policy CP7
9. The proposed development, including the compensatory planting, will cause overlooking, overshadowing and loss of outlook for existing dwellings as well as light and noise pollution from the access road.
10. Detrimental impact on existing trees
11. Lack of info to show relationship with existing dwellings
12. Loss of wildlife meadow and footpath across Glen Field due to compensatory planting
13. Location on spoil heap could have land stability issues
14. Increased impact on the highways
15. Inaccuracy of drawings.

Councillor Cherry Beath: I am opposed to the Application on the grounds that it constitutes over development on this very special site, and would irreversibly harm the special setting and wild life habitat which makes up the complete site, and which was protected by the original permitted application some years ago, which limited the number of dwellings on the site.

## **POLICIES/LEGISLATION**

National Planning Policy Framework (March 2012) and the National Planning Practice Guidance (April 2014) can be awarded significant weight

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Council's Development Plan now comprises:

- Bath & North East Somerset Core Strategy (July 2014)
- Saved Policies from the Bath & North East Somerset Local Plan (2007)
- Joint Waste Core Strategy

The following policies should be considered:

DW1 - District Wide Spatial Strategy  
 Policy B1 - Bath Spatial Strategy  
 Policy B4 - World Heritage Site  
 Policy CP2 - Sustainable Construction  
 Policy CP3 - Renewable Energy  
 Policy CP6 - Environmental Quality  
 Policy CP7 - Green Infrastructure

The B&NES Local Plan policies that are replaced by policies in the Core Strategy are outlined in Appendix 1 of the Core Strategy. Those B&NES Local Plan policies that are not



replaced and remain saved are listed in Appendix 2 of the Core Strategy. The policies relevant to this application are:

D2: Design;  
D4: Townscape;  
ES2: Energy Efficiency;  
ES15: Contaminated Land;  
SR1A: Playing fields and recreational open space;  
GB2: Visual Amenities of the Green Belt;  
NE1: Landscape Character;  
NE4: Trees;  
NE.8, NE.10 and NE.11: Ecology;  
NE.12: Natural Features;  
BH6: Conservation Areas;  
M2: Minerals Consultation Areas;  
T24: Highways;  
T26: Parking and Servicing.

## **OFFICER ASSESSMENT**

Principle of the Development:

The site is located within the built-up area of Bath where Policy B1 of the Core Strategy states that housing development is acceptable in principle.

There is therefore no objection in principle to the development of this site for residential purposes.

Impact on the character and appearance of the surrounding area and this part of the World Heritage Site:

The proposed dwelling has been designed so that it is of a low height and, due to its location within the wider Rockery Tea Gardens development and some distance from both North Road and Shaft Road would not be prominent or particularly visible from public viewpoints surrounding the site.

It has been designed in a contemporary fashion to reflect the design of the adjoining wider Rockery Tea Gardens development and uses a mixture of cedar boarding and natural rubble stone walling.

Many objections to the scheme have been received on the grounds that the development represents overdevelopment of the site. However this issue has been given particular consideration and due to the limited visual impact that the proposed house will have on the local area and the setting of the nearby Conservation Area it has been concluded that the proposal would not result in the overdevelopment of the site or adversely affect the setting of the World Heritage Site.

Impact on Trees:

The proposal to erect a further dwelling within the Rockery Tea Gardens site, and within the existing woodland management area, does show that 5 trees are to be removed of

which two, identified within the tree survey as T12 and T18, are to be lost as a direct result of the proposed layout without supporting arboricultural reasons.

Following initial objections by the Arboricultural Officer a revised replacement planting scheme was submitted to include additional planting along the south eastern boundary to mitigate for the loss of trees as a direct result of the current proposal. In addition the offsite tree planting proposed on the Glen Field is proposed to mitigate for the loss of tree planting space within the woodland as part of the development of the Rockery Tea Gardens as a whole.

The proposed tree planting opportunities follow the principles and aspirations of the adopted Green Infrastructure Strategy in terms of connectivity and address the requirements within saved policy NE.4 Trees and Woodlands:

#### Impact on Ecology:

The site is close to part of the "Combe Down and Bathampton Down Mines" Site of Special Scientific Interest (SSSI), which is a component site of the "Bath & Bradford on Avon Bats" Special Area of Conservation (SAC). It is also known that the site is used by bats from the SSSI and the SAC. As a result the impact of the proposed development on the habitat of the bats has been carefully considered. The location of the dwelling within the area safeguarded as a Woodland area, which is required to be managed in accordance with an Ecological Management Plan under the S106 legal agreement attached to Planning permission ref: 08/03370/FUL, attracted an objection from the Ecologist due to the lack of mitigation for the loss of the woodland area.

However the revised replacement planting scheme subsequently submitted, including the offsite tree planting proposed on the Glen Field, is now considered to retain and strengthen habitat connectivity sufficiently to avoid harm to bats that are known to use the site including use of the boundary tree-lines as flight lines. The boundary of the proposed house is now defined by a native species hedgerow which is welcomed and enables a clear distinction of the garden from the retained area of woodland.

The proposed new tree planting is located on grassland on adjacent land used and managed by Monkton Combe School. Concerns have been expressed from local residents that part of this grassland area contains wild flower interest and has been subject to a meadow creation project for some years. The complete loss of this area to tree planting would be regrettable although the Ecologist is of the view that there are no objections to the proposal in relation to this.

The proposed new tree planting area must be secured by condition and its ongoing long term management by legal agreement. The ecologist has recommended that the condition is worded with sufficient flexibility to allow minor revisions, to accommodate any changes to mitigate impacts on the wildflower area as referred to above, and for final details to be approved in writing by the LPA.

The revised plans have also addressed other concerns such as light spill from the dwelling and a number of windows have been removed from the scheme which, in conjunction with the use of SPD Smartglass, which operates when lights are switched on to prevent 99% of light emission from the building at night, will reduce light spill to a level that is not

considered to harm bat activity. External lighting and the provision of future windows within the proposed dwelling will also be controlled by condition.

Due to the location of the site close to the SAC a Test of Likely Significant Effect has been carried out by the Ecologist. She has concluded that she is confident that the net impact on bats including bats of the SAC will be neutral, and potentially enhanced due to the stronger habitat connectivity that will result from the proposed off-site planting.

In conclusion it is considered that, the proposed mitigation and compensation package sufficiently addresses the likely ecological impacts and is therefore acceptable, subject to appropriate conditions and a S106 legal agreement. The S106 legal agreement should specifically require that the provision and long term management of the off-site tree planting area is carried out in accordance with a Woodland Management Plan, that is to be submitted and agreed in writing prior to the commencement of development. Furthermore the proposed new tree planting must take place prior to further removal of trees from the development site and commencement of development.

Finally Natural England has made no objections to the proposals. The Ecologist has been in discussion with Natural England as the proposals, including the provisions within the S106 legal agreement, have progressed. Natural England have also approved the Test of Likely Significant Effect and they are, overall happy with the Council's Ecologists assessment of the proposal.

Impact on the Landscape:

The Landscape Officer originally objected to the scheme, however the revised plans are now considered to overcome his concerns and it is considered that the proposed development would not have an adverse impact on the landscape of the site or the surrounding area.

Impact on Glen Field:

Glen Field is designated as a playing field and recreational open space under Policy SR1A of the Local Plan. With regard to this case, Policy SR1A seeks to ensure that development involving the loss of part of the playing field is not permitted except in certain circumstances. Sport England have responded to state they have no comments on the proposals.

The proposed development seeks to plant trees on the playing field which will lead to a loss part of the playing area, forming recreational open space, but only around the periphery. The plans clearly indicate that a pitch would still be retained for sports use. Therefore it is considered that the loss of recreational open space would be negligible compared with the overall provision within the Monkton Combe School grounds, that sufficient playing space would be retained to be considered acceptable and that there is no identified deficiency.

In conclusion it is considered that the proposal is not contrary to Policy SR1A of the Local Plan.

Impact on residential amenity:

The proposed development would be located adjacent to the boundary of Plot 2 within the Rockery Tea Gardens development but also adjacent to the boundary with other existing dwellings located off North Road and St Winifred's Drive.

The majority of the windows to habitable rooms within the dwelling face south and south east which is towards the dwellings on St Winifred's Drive. Furthermore the proposed dwelling would be located at an elevated level to the neighbouring dwellings on St Winifred's Drive (Nos 14 to 21) meaning that there are a number of windows and patio areas of the garden which would have views looking towards the neighbouring dwellings.

However, many of the windows on this elevation are secondary windows to the living room, a kitchen window and a utility window. The glazed gable also would have oblique views towards the neighbouring dwellings. The main window which raises the most concern is that to the bedroom with its patio area immediately outside.

However, the proposed dwelling, would be still be located some distance from Nos 14-21 with Nos 14-17 being the closest. At a minimum the dwelling would be 29m from the rear of Nos 14-17 and 35m at its maximum.

The minimum distance of 29m is considered to be of sufficient distance to significantly reduce any incidence of direct overlooking and, furthermore, the dwelling is proposed to be single storey in height and views from ground floor windows would therefore be further blocked or obscured by both existing planting but also, in part, by the proposed hedge boundary around Plot 3.

Overall, these factors combined are considered to comprise a situation where the proposed development would not cause an unacceptable level of overlooking to the neighbouring dwellings and would not have a significant detrimental impact on the occupiers residential amenity.

With regard to the impact of the building itself, due to its location some distance from the boundaries, its design, size and height, it is not considered to have an overbearing or overshadowing impact on any neighbouring dwellings to the detriment of the residents, future or existing, amenity.

The development also proposes the provision of an access drive and parking area close to the north eastern boundary of the site which is close to Plot 2 and the gardens of the dwellings to the north and east of the site. Whilst movements of cars on the access drive and parking area are likely to be audible to adjoining residents, the number of car movements arising from an additional dwelling in this location is not considered to be so significant as to have a detrimental impact on residential amenity. The impact from vehicle headlights is not considered to be significant.

Concerns have been raised by the residents living on St Winifred's Drive, and adjacent to the proposed mitigation planting area on Glen Field, that the proposed tree planting will cause a loss of light, overbearing impact and loss of outlook. This issue has been considered carefully by Officers, including the Arboricultural Officer, and it is clear from the proposed planting scheme that whilst there are some large trees such as Oaks being proposed, these are interspersed between smaller trees. Furthermore the trees would not

be planted right up to the boundary of Glen Field with St Winifred's Drive allowing for a small buffer zone in between.

Additional trees are also proposed along the boundary of the site, within the remaining woodland area, and alongside the boundary with Nos 14-21 St Winifred's Drive. The impact of these trees on the residential amenity of both the future and existing occupiers has been considered and it is concluded that they would not have a significant detrimental impact through overshadowing to justify the refusal of the scheme.

In light of this it is considered that, whilst some residents will lose their existing open outlook onto Glen Field, the proposed planting would not have an overbearing or overshadowing impact that would be so significant as to have a harmful impact on the residential amenity of the occupiers.

Turning to the residential amenity of the future occupiers of the proposed dwelling, the siting of the dwelling is in close proximity to a number of large trees which have a heavy canopy under which limited sunlight will be gained. However it has been shown the submitted plans that the trees would not directly overhang the dwelling and that it would still benefit from sufficient areas of garden that would benefit from direct sunlight during the day. This is also considered to significantly reduce the risk of future residents raising concerns about the trees and thereby pressuring for their removal.

Overall it is considered that the future occupiers of the dwelling will benefit from an acceptable level of residential amenity. Furthermore it is considered that the proposed dwelling would not cause an unacceptable level of overlooking, overbearing or overshadowing impact or would cause a level of noise and disturbance, particularly through the movement of cars, that would result in an unacceptable impact on the residential amenity of those living in the neighbouring dwellings.

#### Impact on Highway Safety:

As a result of the already approved development within the Rockery Tea Gardens an acceptable vehicular access to the site has already been established. As the proposed development would only result in additional vehicle movements from one dwelling it is considered that the existing vehicular access is acceptable. The proposal has not attracted any concerns or objections from the Highways Development Officer, subject to a condition, and it is therefore considered that the development would not have a harmful impact on highway safety.

The proposed dwelling will, however, have the benefit of the use of the communal access road which is maintained by a management company as required by the S106 legal agreement secured under 08/03370/FUL. As a result it is considered necessary that the S106 legal agreement for this development also includes the requirement that the future owners of the approved dwelling sign up to a management company for the future maintenance of the communal road leading to the dwelling.

#### Minerals Issues:

The site is located within a Mineral Consultation Area (MCA) where Policy M2 of the Local Plan states that development will not be permitted if it would sterilise or restrict the extraction of minerals of economic importance which are capable of being worked.

The application site has been worked out, however, and the land immediately to the south, between the application site and the existing working quarry (Upper Lawn Quarry), has been developed for housing.

There is no objection to the proposed development on minerals planning grounds.

Noise:

The overall site of the Rockery Tea Gardens fronts North Road, a busy main road, and a Noise Assessment has been submitted which indicates that the proposed development would be affected by traffic noise and would fall within Noise Exposure Category B, where development is permissible subject, where appropriate, to the imposition of conditions to secure an adequate level of protection against noise.

The Environmental Health Officer has no objections to the application subject to an appropriate condition being imposed.

Other Considerations:

Many objections have been raised concerning the previous application 08/03370/FUL where many residents were under the impression, once this development was constructed, that no further development could, or would be able to, take place within the Rockery Tea Gardens boundary. However, as Members will be aware, now that a further application has been submitted for a further dwelling on this site, it has to be considered on its merits.

Concerns have also been raised regarding issues of land stability. The Council's Building Control Team have confirmed that this site is within an area where land stability is an issue, due to the previous mining activity, but that such concerns can be overcome through engineering solutions to the construction of the dwelling.

Concerns have also been raised that the submitted plans are inaccurate. The concerns have been considered by the Agent who has confirmed that the plans are correct.

Conclusion:

The proposal to erect a further dwelling within the Rockery Tea Gardens site, in addition to those currently under construction permitted under 08/03370/FUL, has been met with significant objection and concern from local residents.

The location of the dwelling with the woodland area, safeguarded by a S106 legal agreement under 08/03370/FUL, and close to the SAC, also resulted in objections from the Arboricultural Officer, Ecologist and Landscape Officer as adequate mitigation wasn't proposed and there were concerns about the impact on the woodland and also the habitat of the bats.

However the proposals were revised to provide off site planting on the adjacent Glen Field and other measures to increase planting within the existing woodland area in order to address these concerns. In addition the dwelling has been revised to reduce window openings and will be fitted with glass that tints at night in order to reduce light spill onto the surrounding area.

Furthermore, due to the close proximity of the SAC, a Test of Likely Significant Effect has been carried out by the Ecologist where she concluded that the net impact on bats including bats of the SAC will be neutral, and potentially enhanced due to the stronger habitat connectivity that will result from the proposed off-site planting.

Therefore the revised scheme has overcome the objections raised by the consultees and is not now considered to have an adverse impact on the habitat of protected species, in particular the bats that are known to use this site.

As has been explained above in some depth the proposed development, and the off site tree planting, is not considered to have a detrimental impact on the residential amenity of both the future occupiers of the development or the existing residents of the neighbouring dwellings.

Furthermore the design of the dwelling is considered to be acceptable and, in conjunction with its location, is not considered to have a detrimental impact on the character and appearance of the surrounding area or this part of the World Heritage Site.

Finally the proposal is not considered to have a harmful impact on highway safety.

## **RECOMMENDATION**

Authorise the Divisional Director, Development to PERMIT subject to condition(s)

## **CONDITIONS**

A: Authorise the Group Manager, in consultation with the Planning and Environmental Law

Manager, to enter into a section 106 agreement to provide/agree the following:

The submission of an acceptable Habitat Conservation Management Plan for the land known as Glen Field including the future long term implementation of the approved plan.

That no felling of trees or development shall commence until the approved new tree and woodland planting is in place.

That the future owners of the approved dwelling sign up to a management company for the future maintenance of the communal road leading to the dwelling.

B: On completion of an acceptable S106 legal agreement, PERMIT subject to the following 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 a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the details so approved.

Reason: In the interests of the appearance of the development and the character and appearance of the Conservation Area.

3 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no 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 amenities of the surrounding area.

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 garages or other free standing buildings shall be erected within the curtilage of the dwelling(s) 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 appearance of the development and the amenities of the surrounding area.

5 The dwelling(s) shall not be occupied until space has been laid out within the site in accordance with the approved plan(s) for the parking and turning of vehicles, and such area(s) shall not thereafter be used for any purpose other than the parking and turning of vehicles associated with the development, in accordance with the details of the approved drawings.

Reason: To ensure that sufficient provision is made for off-street parking and turning of vehicles in the interests of highway safety.

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

Reason: To avoid harm to existing habitats and protected species.

7 No development shall take place until a Detailed Arboricultural Method Statement with Tree Protection Plan has been submitted to and approved in writing by the Local Planning



Authority. The final method statement shall incorporate a provisional programme of works; supervision and monitoring details by an Arboricultural Consultant and provision of site visit records and certificates of completion. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, service run locations and movement of people and machinery.

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

8 No development activity shall commence until the protective measures as stated in the approved Arboricultural Method Statement are implemented. 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.

9 No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement unless otherwise agreed in writing by the Local Planning Authority. A signed certificate of compliance shall be provided by the appointed Arboriculturalist to the Local Planning Authority prior to the occupation of the dwelling.

Reason: To ensure that the approved method statement is complied with for the duration of the development.

10 The development shall be constructed to provide sound attenuation against external noise in accordance with BS8233:1999. The following levels shall be achieved: Maximum internal noise levels of 30dBLAeqT, for living rooms and bedrooms. For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax. Compliance with the levels specified shall be demonstrated with proper provision for ventilation.

Reason: In the interests of the residential amenity of the future occupiers.

11 Notwithstanding the approved plans or submitted documents, no development shall commence until a hard and soft landscape scheme, that is compatible with the Ecological Management Plan, approved under the S106 legal agreement attached to Planning permission ref: 08/03370/FUL, has been first submitted to and approved in writing by the Local Planning Authority, such a scheme shall include 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 avoid harm to existing habitats and protected species and to ensure the provision of an appropriate landscape setting to the development.

12 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.

13 No external lighting shall be erected, attached or otherwise provided within the boundary of the approved dwelling until full details have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out strictly in accordance with any approved details.

Reason: To avoid harm to existing habitats and protected species.

14 No development shall commence until an Ecological Working Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement should provide details of all necessary wildlife protection working methods; named Ecological Clerk of Works; and provide details of exclusion zones and protective fencing for retained vegetation, to ensure no harm to wildlife during site clearance and construction.

Reason: To avoid harm to existing habitats and protected species.

15 Site Characterisation - An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - o human health,
  - o property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - o adjoining land,
  - o groundwaters and surface waters,
  - o ecological systems,
  - o archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: In order to ensure that the land is suitable for the intended use and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

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

Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: In order to ensure that the land is suitable for the intended use and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

17 Implementation of Approved Remediation Scheme - The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

Reason: In order to ensure that the land is suitable for the intended use and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

18 Reporting of Unexpected Contamination - In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

Reason: In order to ensure that the land is suitable for the intended use and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

19 Long Term Monitoring and Maintenance - A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority.

Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority.

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: In order to ensure that the land is suitable for the intended use and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 of the National Planning Policy Framework.

20 No development shall commence until a fully annotated drawing showing the finished floor, eaves, ridge and flat roof heights of the approved dwelling and in relation to the adjacent dwelling shown as Plot 2 on drawing No 2233/2001 has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out strictly in accordance with the approved details.

Reason: In the interests of clarity.

21 No development shall commence until a technical specification has been submitted to and approved in writing by the Local Planning Authority to demonstrate that the glazing to all the windows to the dwellinghouse hereby permitted will limit any light spill to a minimum and acceptable level. The development shall thereafter be occupied only with the agreed glazing specification in place.

Reason: To safeguard the local ecology and the amenity of nearby residents.

22 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 L331 SK, L331 SK2 Rev B, L331 SK3, 2233/2000 Rev C, 2233/2001, 2233/2002 Rev A, 2233/2003 Rev A, 2233/2004, 2233/2005 Rev B, 2233/2008, 1098-02 A, 1076-10 Rev C

## 2 Decision Making Statement

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

## 3 Advice Note:

The submitted "Woodland Management Plan" dated 30th Jan 2012 by A to B Landscapes has not been considered acceptable and does not form part of the approved scheme.

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 should comply with the BRE Code of Practice to control dust from any 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 should be fully complied with during demolition and construction of the new buildings.

Consideration should be given to proofing any roof/flat surfaces against gull's nests.

**4 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](http://www.planningportal.gov.uk).

5 This permission is accompanied by an agreement under Section 106 of the Town and Country Planning Act 1990.