

Bath & North East Somerset Council

MEETING: **Development Management Committee**

MEETING DATE: **9th March 2016**

AGENDA
ITEM
NUMBER

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

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 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.

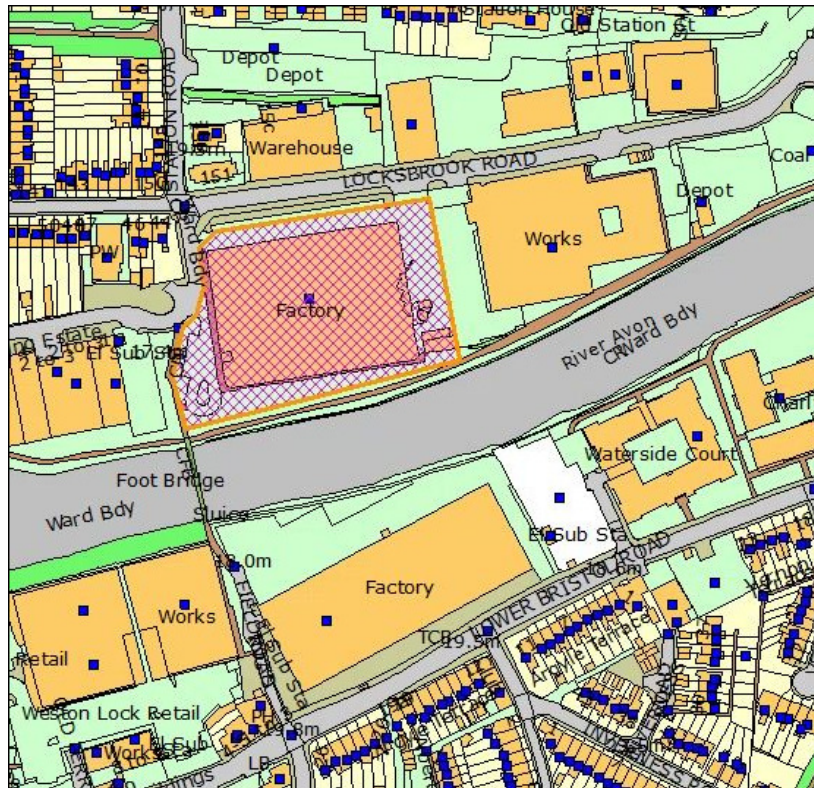
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02	15/03485/FUL 25 November 2015	Kingswood School Kingswood Preparatory School, College Road, Lansdown, Bath, Bath And North East Somerset Erection of new school building to accommodate prep school accommodation, new pre-prep and nursery, and multi use games area and associated infrastructure and landscaping.	Lansdown	Suzanne D'Arcy	PERMIT
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05	15/05519/LBA 1 February 2016	Mr Peter White 23 Royal Crescent, City Centre, Bath, Bath And North East Somerset, BA1 2LT Replace existing flat roof with lead proof slated pitched roof to summer house with alterations to parapet (Revised partially retrospective proposal)	Kingsmead	Sasha Berezina	REFUSE
06	15/05108/FUL 18 January 2016	Mrs Jackie Gregory Stevens Willow Farm, Flatts Lane, Farmborough, Bath, Bath And North East Somerset Change of use of land to residential curtilage (Retrospective).	Farmboroug h	Sasha Berezina	PERMIT

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

Item No: 01
Application No: 15/04810/FUL
Site Location: Herman Miller Uk Locksbrook Road Newbridge Bath Bath And North East Somerset



Ward: Kingsmead **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Chris Pearce Councillor Andrew Furse

Application Type: Full Application

Proposal: Change of use from furniture production (Use Class B2) to an academic space comprising technical workshops, studio space, teaching space and office accommodation (Use Class D1).

Constraints: Agric Land Class 3b,4,5, Article 4, Article 4, Article 4, British Waterways Major and EIA, British Waterways Minor and Householders, Conservation Area, Core Business Area, Cycle Route, Flood Zone 2, Flood Zone 3, Forest of Avon, Hotspring Protection, Listed Building, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,

Applicant: Bath Spa University

Expiry Date: 11th March 2016

Case Officer: Chris Gomm

REPORT

Full planning permission is sought for the change of use of the former Herman Miller furniture factory building (circa 6000sqm GIA) on Locksbrook Road in Bath from general industrial use (Use Class B2) to the relocated Bath School of Art and Design (Use Class D1) which forms part of Bath Spa University.

The Art and Design School is currently located at Sion Hill. Should permission be granted it is the university's intention for Bath Spa Institute for Education to then relocate to the vacated accommodation at Sion Hill; this will in turn release space at Newton Park for the expansion of the College of Liberal Arts.

Herman Miller have ceased their operations at Locksbrook Road and relocated their manufacturing operations to Melksham; the building is currently vacant. The building itself is Grade II listed; it was constructed in 1976 and listed in 2013 due to its architectural, technological and historic interest. The building was designed by the prominent architect Sir Nicholas Grimshaw and won numerous design awards in the late 1970s following its construction.

Permission is sought for the change of use of the building only. Any physical alterations to the building will need to be the subject of subsequent applications for planning permission and/or listed building consent should the current application be granted and the scheme proceed.

The application site is located in a predominantly industrial area with similar uses located to the north, east and west. The Locksbrook Trading Estate is in close proximity to the east.

Notwithstanding the generally industrial nature of the site's surroundings, a significant number of residential properties are situated in close proximity to the site in the form of mainly Victorian terraced housing lining Locksbrook Road. The river is situated immediately to the south of the site beyond a grassed amenity area which includes a number of attractive willow trees.

Two major pedestrian/cycle routes pass within close proximity of the application site; the east-west riverside path runs along the river bank immediately to the south of the site and a north-south route connecting the north and south sides of the river (via an adjacent footbridge) runs adjacent to the western boundary of the site.

The site is situated within the Bath Conservation Area, City of Bath World Heritage Site, Core Business Area and the Bath Enterprise Area.

HISTORY

DC - 04/00360/FUL - PERMIT - 22 April 2004 - Change of use from General Industrial (Use Class B2) with ancillary offices (Use Class B1) to storage and distribution (Use Class B8) with ancillary offices, demolition of dust extraction system at building 2

DC - 98/00084/FUL - PERMIT - 8 May 1998 - Provision of dust extraction unit on Building 2

DC - 99/00964/FUL - PERMIT - 5 November 1999 - Erection of a combustion unit on Building 2

DC - 10/00609/TCA - NOOBJ - 10 March 2010 - Crown reduce 9 Willow and remove protruding roots

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Arboricultural Officer: Not acceptable in its current form

Lack of details about changes to the external layout and how this could impact upon the trees on the south side of the river (mature weeping willows). An objective assessment of the impact of the proposal on the trees is required. The trees are located in a Conservation Area but a long-term strategy for their future management and retention is needed

Ecologist: No objection subject to conditions and further clarification

The site is adjacent to the river Avon which is a Site of Nature Conservation Interest (SNCI) and which is of importance to various protected species including otter, kingfisher and bats. The river is used as a flightpath by light-sensitive horseshoe bats associated with the Bath & Bradford on Avon Bats Special Area of Conservation (SAC). There is the potential for light spill onto the river; changes to vegetation, hours of use of changes to internal lighting may impact upon the river; these matters require clarification.

Provided there is no risk of a later requirement to increase lighting or reduce vegetation as a direct result of a consent to the proposal I will have no objection to the proposal.

Archaeologist: Comments

There are no known archaeological sites or monuments in the immediate vicinity. No further archaeological investigation will be required.

Highways: No objection - Comments and suggested conditions

The technical note identifies the need for pedestrian crossing improvements at the junction of Locksbrook Road and Station Road, and on Station Road close to Ashley Avenue. It is agreed that these improvements are a requirement of the proposal. These works will need to be secured through an appropriate legal agreement, or a condition.

The latest technical information considered the existing on-street parking availability close to the site and also reviews the potential impact of the scheme if the students wanted to park in the local area. It is clear that the development will generate "overspill" parking into the local streets, and due to the limited availability of parking, this could expand across a significant area. However, the evidence suggests that this impact would be similar to that of the site if it was occupied for its permitted use. It is also noted that the site is more accessible than the site at Sion Hill, and there is potential for more students to travel by sustainable modes. Given this, the highways authority is not in a position to raise an objection on parking grounds. It is recommended that the Travel Plan includes strong measures to ensure that parking is available to those that most need it, and this should help to reduce the need for students and staff to park on-street.

Drainage and Flooding Team: No objection

No objection subject to conditions ensuring that floor levels are not lowered, securing flood resilient design and construction in accordance with the submitted Flood Risk Assessment and the securing the submission of a flood warning and evacuation plan.

Conservation Officer: Support

The proposed change from industrial use to academic use is acceptable in principle and consistent with its preservation. A critical element of this is that single occupancy of the building will be retained (as originally envisaged by the architect and client) as opposed to being subdivided into a number of separate units, which is potentially harmful both visually and physically with the requirement for multiple industrial roller doors, new door openings, signage and other associated fixtures and fittings.

Notwithstanding its inherent and deliberate flexible design it is clear that the building was intended to be used and occupied by one user although, in the spirit of this flexibility, does not preclude appropriate future adaption. Therefore I can provide in principle support for the proposed change of use subject to detail and on the basis that any future proposed alterations are consistent with the preservation of the building's essential architectural.

Economic Development Team: Not acceptable in its current form:

The proposal changes the use of the Herman Miller building from use class B2 to use class D1 which is contrary to saved Local Plan Policy ET3 and adopted Core Strategy Policies B1 and B3.

Market signals from the Bath Industrial Market Review and evidenced by the Alder King Market Monitor 2015, indicate that there is ongoing demand for industrial space in Bath which cannot be met due to the lack of available modern industrial space in the city and the absence of any new industrial allocations.

The loss of the Herman Miller building to non-industrial uses would seriously compromise the Council's ability to protect Newbridge Riverside as Bath's primary location for industrial enterprise and the delivery of the strategic objectives of Core Strategy B1 to sustain a mixed economy to support Bath's multi-skilled workforce and multi-faceted economic base.

Core Strategy policy B3 states that there is a presumption in favour of retaining land and premises in the B1, B2 and B8 use class where this remains a viable use of land and is supported by market signals that there is demand for continued occupation that cannot reasonably be accommodated elsewhere.

In our response we indicated that an initial investment appraisal of the Herman Miller building suggested that the building could viably be subdivided into smaller modern industrial units which would meet the ongoing market demand in Bath and help to address the shortage of modern industrial space in the city.

Following submission of our response the applicant has submitted further information on the Marketing & Disposal Strategy for the Herman Miller building which indicates that, whilst sub-division was considered, it was concluded that this was not a viable option.

Core Strategy policy B3 indicates that viability is a specific consideration in relation to the retention of land and premises in the B1, B2 and B8 use classes in Newbridge Riverside. Should the applicants wish to show that retention and sub-division of the Herman Miller building is not a viable option they should be requested to submit:

1. A full Marketing Report including advertising undertaken, the terms and conditions under which the building was offered to the market including any potential flexibility and details of the interest received and reasons for not proceeding
2. A Development Appraisal of a scheme to sub-divide the building into smaller employment units for B1 / B2 / B8 uses based on a fair market price for the building and justification as to why such a scheme is not attractive to the development/investment market

Environmental Services (Contaminated Land): Comments

Taking account of the potentially contaminative historical use of the property as a coal yard and later factory and the findings and recommendations of the Phase 1 Environmental Assessment, I advise that contaminated land planning conditions are placed on the application if granted [conditions 6-10 below]

Environmental agency - No comments have been made

Bath Chamber of Commerce: Support

We are fearful there is a lack of demand for a building of this size and in this location for industrial purposes and consequently a real risk it will remain empty, gradually deteriorating in condition over time and becoming a blot on the landscape.

This is a wonderful opportunity to change the way the building is used and to give it a new lease of life. It is also a chance to assist the University in its efforts to grow and enhance its already excellent reputation.

By granting this application you will be doing something to help with the pressing space problem facing the University and enabling it to continue to increase its contribution to the local economy.

24 representations have been received (including one from the Bath Preservation Trust) of which 21 are in support of the application and 3 make a number of comments; these are summarised as follows:

Comments

- o Impact of construction traffic on Station Road including HGVs and contractors parking;

- o The scheme includes insufficient parking for future users;
- o Staff and students should be encouraged not to drive to the site;
- o The weeping willows must be preserved along the site frontage;
- o Student parking must be policed;
- o There should be yellow lines opposite the VW showroom to encourage delivery vehicles to use this route (and not station road);
- o Please think about student safety re. the riverbank
- o The building will be expensive to heat and BSU should be encouraged to insulate it;

Support

- o Good use for this lovely building;
- o Excellent use of a listed building;
- o It will ensure the building is not left vacant like the other half of the Lidl building;
- o The building will be enhanced by the arts etc. being taught there;
- o The plans put the university at the heart of the community;
- o Continued industrial use cannot preserve it;
- o Weight restrictions on the New Bridge makes access difficult;
- o Cannot image another industry buying this building;
- o This will be beneficial to traders in Chelsea Road;
- o There are good cycling and walking links;
- o There is ample parking and there will be no disruption to other residents parking;
- o Bath must support its educational establishments with the appropriate facilities needed;
- o The other Herman Miller building [now partly Lidl] was derelict for a long period of time;
- o The industry of Bath has not suffered as a result of Lidl occupying that industrial building;
- o It will reduce carbon emissions due to a reduced need to travel to Sion Hill;
- o It will reduce noise disturbance in the Sion Hill area;
- o It will make good use of the river;
- o It will have minimal impact on residential space because it is surrounded by industrial units;
- o The application will bring direct employment to the site and assist start-up SMEs;
- o No offers have been made for industrial use;
- o The proposed use is appropriate in terms of the end-user i.e. Art & Design;
- o The proposed use is also appropriate in terms of the buildings cutting edge design

Letter from Sir Nicholas Grimshaw (original architect of the building):

- o concerns about its ability to be subdivided for separate occupiers;
- o It was hoped from the start that the inherent flexibility of the building would extend its useful life beyond the average and that the building would easily adapt to new uses/occupiers;
- o the building was designed around the requirements of a single user or occupier;
- o there are number of factors that would suggest that it is not suitable for multi tenancy occupation;
- o it is unclear how the building could be practically subdivided to accommodate this usage;
- o the building is serviced by a single discrete service yard to the east;

- o there is no vehicular access the south of the building;
- o internally the building has been designed around an open plan 'plug and play' philosophy allowing for a flexibility in internal planning and usage, rather than a series of fixed independent industrial tenancies;
- o if subdivided regular roller shutter access, canopies, alarms, lighting and signage along the full length of the building envelope is likely to adversely effect its appearance;
- o the imposition of a regularised multi tenancy industrial unit solution is likely to result in a homogenised and highly repetitive external expression across all the facades, clearly at odds with existing building qualities;
- o considerable importance was attached to the way in which the building fitted into and responded to its surroundings with each building façade responding to its unique setting.

POLICIES/LEGISLATION

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:

- o Core Strategy
- o Saved Policies in the B&NES Local Plan (2007)
- o Joint Waste Core Strategy

The following Core Strategy policies are relevant:

Policy DW1: District-wide spatial strategy
 Policy B1: Bath Spatial Strategy
 Policy B3: Strategic policy for Twerton and Newbridge Riversides
 Policy B5: Strategic policy for Bath's Universities
 Policy SD1: Presumption in favour of sustainable development
 Policy CP5: Flood risk management
 Policy CP6: Environmental quality

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 following saved Local Plan Policies are relevant:

Policy ET.3: Core business area
 Policy ES.9: Pollution and nuisance
 Policy ES.12: Noise and vibration
 Policy ES.15: Contaminated land
 Policy NE.4: Trees and woodland
 Policy NE.9: Locally important species and habitats
 Policy NE.10: Nationally important species and habitats
 Policy NE.15: Character, amenity and wildlife value of water courses
 Policy BH.2: Listed buildings and their settings
 Policy BH.4: Change of use of a listed building
 Policy BH.6: Development within/affecting Conservation Areas

- Policy T.1: Overraching access policy
- Policy T.3: Promotion of walking and use of public transport
- Policy T.6: Cycle strategy: cycle parking
- Policy T24: General development control and access policy
- Policy T.26: On-site parking and servicing provision

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. However, currently the Plan has limited weight in the determination of planning applications. The following draft policies are relevant:

- Draft Policy DW1: District-wide spatial strategy
- Draft Policy SD1: Presumption in favour of sustainable development
- Draft Policy CP6: Environmental quality
- Draft Policy D6: Amenity
- Draft Policy HE1: Historic environment
- Draft Policy NE3: Sites, species and habitats
- Draft Policy NE6: Trees and woodland conservation
- Draft Policy PCS1: Pollution and nuisance
- Draft Policy PCS2: Noise and vibration
- Draft Policy PCS5: Contamination
- Draft Policy ED2(A): Strategic and other primary industrial estates
- Draft Policy ST1: Promoting sustainable travel
- Draft Policy ST7: Transport requirements for managing development
- Draft Policy B1: Bath spatial strategy
- Draft Policy B4: The world heritage site and its setting
- Draft Policy B3: Strategic policy for Twerton and Newbridge riversides
- Draft Policy B5: Strategic policy for universities, private colleges and their impacts

National Policy

The National Planning Policy Framework adopted March 2012
National Planning Practice Guidance 2014

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' 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.'

There is also a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area

OFFICER ASSESSMENT

Principle

Loss of Industrial Floor Space

The application site is situated within the Core Employment Area as designated in the Local Plan. Saved Local Plan Policy ET3 deals with the loss of non-office business floor space in the Core Employment Areas (and other areas). Policy ET3 states unequivocally that the planning permission will not be granted for proposals which would result in the loss of non-office business uses within the Core Employment Areas; the proposal is therefore contrary to this policy. It has been suggested by the agent that the application site is in fact not within the Core Employment Area because the relevant map which forms part of the adopted Local Plan does not show it as such. Be that as it may the Policy team have confirmed that a cartographic error was made in relation to the printed map which has been corrected on the electronic version; they have confirmed that the site is within the Core Employment Area and the application is to be considered as such.

The adopted Core Strategy identifies both Twerton Riverside and Newbridge Riverside on the opposite side of the river as two of Bath's main existing industrial areas. The application site is situated within the area identified as Newbridge Riverside in the Core Strategy i.e. Locksbrook Road, Brassmill Lane and the Maltings.

CS Policy B3 sets out the Council's adopted strategic policy for these areas. Twerton Riverside has contracted as an industrial area and as such it is the Council's policy to enable a broader range of uses here including housing and new B1 uses. Newbridge Riverside however is to remain the city's core industrial area. It is the Council's policy that it will function as Bath's primary location for industrial enterprise providing in the region of 12 hectares of industrial land.

CS Policy B3 is clear that at Newbridge Riverside there is a, "presumption in favour of retaining land and premises in the B1, B2 and B8 use class where this remains a viable use of land and is supported by market signals that there is demand for continued occupation that cannot reasonably be accommodated elsewhere". It should be noted that this policy is more flexible than Saved LP Policy ET3 in that it enables the loss of industrial uses where the market supports this.

Paragraph 22 of the NPPF is similar to CS Policy B3 in that it does not resist the principle of a loss of industrial uses where the market suggests there is no reasonable prospect of such a use continuing. Paragraph 22 states that, "where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities".

The proposal involves the loss of existing (albeit vacant) Use Class B2 floor space and its replacement with an educational Use Class D1, it does not follow however that the proposal is necessarily contrary to policy. Having regard to CS Policy B3 (which carries more weight than the Local Plan) and Paragraph 22 of the NPPF it is necessary to consider whether the continued use of the Herman Miller building for industrial uses is viable and in demand; these are the key policy tests.

Demand

Earlier this year the Council commissioned Lambert Smith Hampton (LSH) to undertake a review of the Bath & North East Somerset industrial market; the findings of this report are relevant when considering whether there is an industrial demand for the former Herman

Miller building. The LSH report has concluded that demand for industrial premises in Bath is centred on smaller units (100sqm-500sqm) not larger premises; whilst there is occasional demand for larger units, in general the demand tends to be for smaller units due to the restricted access routes into and out of Bath. It is accepted therefore that there is a clear lack of industrial demand for the Herman Miller building in its current form.

It is not uncommon for larger industrial buildings to be subdivided into smaller units in order to meet market demand; such a process ensures that such buildings continue in industrial use. There is clear market demand for smaller industrial premises in Bath. The Alder King Market Monitor 2015 indicates that there is good freeholder owner occupier demand; there is a lack of good quality modern space which is holding back take-up and; headline rental rates in Bath have increased. Furthermore the Alder King report explicitly makes reference to the Herman Miller building and highlights that its availability has dramatically increased supply and that it will appeal to a number of existing Bath-based occupiers.

It is stated in the planning submission that the premises in question has been extensively marketed through JLLs Bristol and Bath Offices from the end of 2014 (10 months at that time). The marketing exercise has included direct approaches to existing Bath industrial occupiers, online advertising, frequent national press advertising, marketing boards and mail shots. It is understood that interest has been limited, with only one industrial interest which was not capable of being progressed.

In conclusion the wider evidence suggests that there is a general market demand for smaller industrial units in Bath of the size that the Herman Miller building could theoretically be subdivided into but the site specific marketing evidence submitted by the agent indicates that there is no real market interest in acquiring this particular building for the purposes of subdivision. It is accepted that there is no industrial demand for the application building at the current time.

Viability/Feasibility

Notwithstanding the lack of market interest in the subdivision of the building (set out above), the council's Conservation Team have investigated whether subdivision is actually feasible given the building's Grade II listed status.

It is necessary to preserve the building's architectural interest and appearance consistent with the requirements of the primary legislation and national planning policy and guidance. The conservation team have concluded that the subdivision of the building will be potentially harmful both physically and visually. A subdivision scheme will involve the insertion of multiple industrial roller shutter doors, new door openings, signage and other associated fixtures and fittings. The character and appearance of the building is likely to be harmed by the various external alterations which will be necessary for the building to operate as a number of separate units. Furthermore internally there will be a requirement for solid partition walling, separating the individual units, this will be harmful and will undermine the open, flexible characteristics of the space which was one of the key reasons behind the building's listing. It is clear that the building was designed and constructed to be used by a single operator; subdivision will require substantial intrusive alterations to the building's fabric which will be harmful and thus highly undesirable. The subdivision of the building is not feasible from a conservation perspective.

The applicant, at the local planning authority's request, has commissioned Grimshaws to produce illustrative drawings of potential options for the building's subdivision. These plans provide the basis for a high level appraisal of the viability of splitting the building into smaller units.

Two options have been considered; the first option involves the subdivision of the building into 12 units each measuring 5165sqft. Such a scheme would involve a row of units accessed along the front of the building and a second row along the rear. It has been concluded that such a subdivision is unviable for a number of reasons including the complete lack of vehicular access to the rear i.e. along the riverside and the large size of the units compared to typical market sizes. Reference is also made to issues relating to the preservation of the listed building as highlighted above.

The second proposed option involves the subdivision of the building into 16 smaller units, typically around 2700sqft each. Due to the depth of the building such a scheme would necessitate the formation of a service road through the building in order to provide access. This scheme would be unviable due to the unacceptable loss of sellable area resulting from the service road, it is highly doubtful that such a scheme would be able to achieve listed building consent in any case. The cost of converting the building has been estimated as between £6.4m and £10.7m - it would most likely be towards the top of that scale due to the buildings complicated and Grade II listed nature. Having regard to rental incomes and a reasonable yield, the capital value of the development is estimated as £5.8m. The estimated figures clearly suggest that insufficient surplus is available for acquisition of the land and therefore this subdivision proposal results in the land having no residual value; subdivision is not economically viable.

The council has forwarded the aforementioned high-level development appraisal to external consultants for independent assessment. At the time of writing no response had been received; members will be updated at the meeting. It should be noted however that if the external consultants conclude that the submitted high-level appraisal is flawed and subdivision could theoretically be financially viable, it nevertheless remains the case that any subdivision is highly likely to be unacceptable in terms of the preservation of the listed building for the reasons set out above and therefore simply not a viable option.

Core Strategy Policy B3 sets out a presumption in favour of retaining industrial uses at Newbridge Riverside but only where such uses are viable and there is continuing demand. There is evidently little or no industrial demand for the former Herman Miller building as a single unit; demand exists for smaller units but no interest has been expressed in acquiring the building for the purposes of subdivision. The subdivision of the building would in anycase be unviable due to the costs involved, difficulties in accessing and servicing the units and due to the harm that would be caused to the listed building. The application therefore accords with Policy B3 of the Core Strategy and is consistent with the aims of the National Planning Policy Framework; the change of use of the building can be supported in principle.

Flood Risk

Educational establishments such as that proposed are categorised as 'More Vulnerable' [in the event of a flood] in the government's guidance whereas the site's historic industrial use is categorised as 'Less Vulnerable'; the proposal therefore represents an increase in

vulnerability on the site. Be that as it may the site, despite its riverside location, is not situated in a high risk flood zone. The site is instead situated in Flood Zone 2 which is an area deemed by the Environment Agency as being at a medium risk of flooding (i.e. between a 1 in 100 year and 1 in 1000 year probability of flooding). The National Planning Policy Framework states that 'More Vulnerable' forms of development are appropriate in Flood Zone 2 subject to an acceptable Flood Risk Assessment and any necessary mitigatory measures.

A Flood Risk Assessment (FRA) has been submitted with the application. The FRA recognises that when including an allowance for climate change there is in fact an annual risk of flooding at the site of 1% (i.e. 1 in 100 years). It is predicted that in such a flood event the site would be inundated with flood water to a depth of between 30-50cm. It is known that the site flooded during the well-known flooding event of 1960.

The FRA makes a number of recommendations including the use of a suspended floor inside the building so that ground floor levels are raised above existing levels as far as is practicable; it is recognised however that raising the floor above the predicted 1% flood level is unlikely to be possible. The FRA also recommends the use of flood resilient techniques such as water resistant floor and wall coverings and raised utilities etc. The FRA recommends that activities that are more vulnerable to flood water such as computer workshops, staff amenity areas and valuable items should be located on upper levels [mezzanines for example]; a safe refuge should also be provided in this area. Finally a Flood Warning and Evacuation Plan (FWEP) is recommended for the use/building.

The Council's Drainage and Flooding team have raised no objections to the application; they are content that the end-users will not be at an unacceptable risk in the event of flood, subject to conditions securing the recommendations suggested in the submitted FRA. A prescriptive condition of the nature recommended by the Drainage and Flooding team is not recommended however. Should certain flood resilience measures be prescribed by condition there is a real danger that these could conflict with conservation objectives. It would be highly undesirable and unreasonable to require certain flood resilience techniques which the applicant may not be able to obtain Listed Building Consent for. As such a more general condition (Condition 4 below) is suggested; this simply requires the submission of a scheme for flood resilience construction to be submitted and approved. This will enable the details to be worked up in tandem with the preparation of the application for listed building consent.

The application is in accordance with Policy CP5 (flood risk management) as well as the objectives of the National Planning Policy Framework which seek to ensure that all development is safe throughout its lifetime, incorporating mitigation measures as necessary. It should be noted that the sequential and exception tests often applicable to major developments in Flood Zone 2 are not applicable to change of use applications such as this; it is not necessary for the applicant to demonstrate therefore that the alternative sites in a lower flood zone have been explored or that the sustainable benefits to the community outweigh the flood risk.

Highway Matters

A Transport Assessment (TA) exploring the potential highway impact of the proposed change of use has been submitted with the application. This has been supplemented by

subsequent Technical Notes (01 and 01A) examining in more detail unrestrained vehicle movements, pedestrian routes and parking surveys.

The application site currently provides 47 off-street car parking spaces although up to 64 cars can be parked within the site if informal parking occurs. The applicant's highway consultant has calculated (using TRICs data) that the historic manufacturing use of the site generated a demand for 139 car parking spaces which therefore will have generated an overspill potential of 75-92 cars (depending if cars are parked formally or informally).

The proposed development is to provide 88 formal car parking spaces on-site and the applicant's highway consultant has calculated that the proposed educational use will generate a parking demand of 168 cars. It is calculated therefore that the proposed development should it go ahead will have an overspill potential of 80 cars i.e. very similar to the existing/historic use.

The applicant's highway consultant has undertaken an on-street parking survey to establish whether the surrounding streets have the potential to accommodate the aforementioned overspill in car parking. The survey has identified that in the early morning some 115 spaces were available and mid-morning some 236 spaces were available. The report recognises that the availability of on-street parking in the immediate vicinity of the building is limited but also concludes that in theory the generated on-street parking demand can be accommodated by the observed free daytime spaces within the wider survey area (0.25 mile radius approx).

It is argued that the proposed relocation of the Bath School and Art & Design to the Herman Miller site would encourage a reduction in the number of staff and students travelling by car. It is noted that the application site is better located in terms of accessibility to student accommodation and the Newton Park Campus as compared to the existing Sion Hill Campus.

A survey has been undertaken of pedestrian movements at the existing Sion Hill campus; it has been concluded that they are not at a level likely to cause issues of pedestrian congestion. The current condition of the likely pedestrian routes to the site from Newbridge Road and from the student accommodation on Lower Bristol Road has been reviewed. The applicant has proposed to make the following off-site highway improvements in order to improve pedestrian access to the proposed development; tactile paving to the western and southern arms of the Lockbrook Road/Station Road junction (there are already dropped kerbs); add dropped kerbs and tactile paving on Station Road close to the Ashley Avenue junction (to assist crossing as the footway terminates on one side). The highways team support the aforementioned off-site works and require a S.106 Agreement to deliver them.

The application complies with Local Plan policies T1, T3, T24 and T26 in respect of highway safety matters and the impact of the proposed development on the local highway network.

Residential Amenity

Notwithstanding the predominantly industrial nature of the site's surroundings, there are nevertheless a number of residential properties in the vicinity of the application site. There

are a number of Victorian terraced houses on Locksbrook Road itself, some which are in very close proximity to the site. Similarly Victorian terraced properties are situated on Station Road to the north also in close proximity to the site.

The proposed development will inevitably increase the number of staff and students in the area. In a densely populated area such as this however the comings and goings of individuals associated with the development will not significantly undermine the residential amenity currently enjoyed by local residents. The proposed Art & Design faculty will include artistic and creative processes which have the potential to cause disturbance. Given the industrial nature of the site however, it is not considered that the impact of the proposed activities on amenity will be any greater than the industrial processes that may already lawfully be undertaken within the building as well as those that have historically taken place. As such the application accords with Policies ES9 and ES12 of the Local Plan.

Ecology and Arboriculture

The application site is situated immediately to the north of the River Avon which is designated as a Site of Nature Conservation Interest (SNCI). The area of land between the factory building and the riverbank is an attractive landscaped area dominated by a number of mature weeping willow trees which formed part of the original landscaping of the site. The trees are not the subject of a Tree Preservation Order (TPO) but as mentioned above, the site falls within a Conservation Area and therefore the trees are afforded a degree of protection.

The ecologist has identified that the proposed development has the potential to have an impact on the external environment; a key impact could be changes to levels of light spill from the building as well as from its external areas. Any changes to the vegetation around the building, changes to internal lighting or changes to the hours of use have the potential to impact on the river (and in particular bats) through light spill. The agent has confirmed that no changes to the vegetation is proposed and that the physical works to the building are likely to be limited to internal works and alterations to the façade. It has also been highlighted that there are currently no restrictions on the hours of operation of the building and as such hours of use (and therefore light spill) could change irrespective of the current planning application. The application accords with LP Policies NE9, NE10 and NE15 in respect of ecological matters as well as CS Policy CP6 in this respect.

The arboricultural officer has highlighted that the aforementioned willow trees are an important feature which screen and break-up the southern elevation of the building, softening its impact from the river; it is important that the trees are retained. The arboricultural officer highlights however that the trees are very close to the building. Whilst this may not have been a problem when the building was in industrial use, the trees could cause light penetration issues and overshadow/shade studios and workshop space within the proposed development; there is concern therefore as to the future plans for these trees should the application be approved.

The arboricultural officer has requested that a strategy for the long-term management and retention of the trees be submitted. Whilst the arboricultural officer's comments are noted, the trees are protected by virtue of their location in the Conservation Area and the agent has confirmed that the trees are to be retained; this provides sufficient confidence that the

trees will be unaffected. A strategy dealing with the retention and long-term management of these trees can be secured by condition, it need not be provided in advance of the determination of the application. Subject to Condition 14 below the application accords with LP Policy NE4 in respect of the protection of trees and woodland.

Heritage Matters

The Herman Miller building was Grade II listed in August 2013 for four key reasons. Firstly its architectural interest; it is an important example of the renowned architects early work and expresses many features of the 'British High Tech Movement'; Secondly, its technological interest resulting from its fully flexible nature; thirdly, its historic interest as a good reminder of Bath's history of furniture design and manufacturing; and finally its group value with the earlier Herman Miller factory across the river. Of particular interest is the external cladding system which allows panels to be interchanged with fibre glass, glazing or louvered glass as need dictates. Similarly the indents in the bays can be shifted, removed or enlarged. Internally all service runs are on catwalks to minimise disturbance to production.

There is a duty under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant planning permission for development which affects a listed building or its setting 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.

There is a duty under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the preservation or enhancement of the character of the surrounding conservation area.

The Herman Miller building, as stated, is a Grade II listed building, it is situated within the Bath conservation area and it is situated with the world heritage site (WHS). While the detail of the proposed conversion will form part of a subsequent application for listed building consent (and potentially planning permission) it is necessary to consider the impact of the proposed change of use on the listed building, its setting, on the conservation area and WHS.

In respect of S.66 Saved LP Policy BH4 deals specifically with the change of use of listed buildings; the change of use of listed buildings is supported provided that, there is no realistic prospect or demonstrable need for continuation or reinstatement of the use for which the building was originally designed and there is no adverse impact resulting from the proposed use on the character and setting of the listed building, its architectural or historic interest, and on the character of the surrounding area.

The potential for the building to remain in industrial use is explored in depth above; it is accepted that there is no realistic prospect of industrial use continuing. It is not considered that the change of use itself will be harmful to the building or its setting. The occupation of the building by Bath Spa University will ensure that it remains in single-occupier use; this is the optimum manner in which to use the building (i.e. as originally intended) and one which respects the character and setting of the building. The application therefore accords with Policy BH4 as no adverse impact on the listed building will result.

In respect of S.72 Policy BH6 requires development within conservation areas to preserve or enhance the character or appearance of that area. Furthermore Policy BH4 of the Core Strategy states that there is a strong presumption against development that would result in harm to the Outstanding Universal Value of the World Heritage Site, its authenticity or integrity. This application does not seek consent for any physical works to the building or site and as such there will be no impact on the appearance of the conservation area. Similarly this pure change of use proposal will have a negligible impact upon the Outstanding Universal Value of the World Heritage Site or its authenticity or integrity. The development will have a degree of impact on the character of the conservation area and World Heritage Site by virtue of introducing an educational use in an area which is currently characterised by industrial and residential uses but this impact will not be a harmful one and will not undermine the significance of these heritage assets; the application therefore accords with Policy BH6 and is acceptable in this respect.

Planning obligations

A S.106 Agreement is necessary to secure the off-site highway works set out in the highways section above. These works will provide the necessary improvements to the footways in the vicinity of the site and will ensure that pedestrian links to the new academic facility are of an adequate standard as required by saved Policy T3 of the Local Plan. In addition, and in accordance with the Planning Obligations SPD, a scheme (and contribution towards) targeted recruitment and training is required; this too must form part of the S.106 Agreement.

Conclusion and planning balance

The former Herman Miller building is situated within Bath's key strategic industrial area where there is a presumption that industrial uses remain as such and changes of use away from industrial activity be resisted; for this reason the adopted Local Plan firmly resists the loss of industrial premises at Locksbrook Road. Since the adoption of the Local Plan however the National Planning Policy Framework has introduced a more flexible approach; rather than objecting in principle to the loss of allocated employment uses local planning authorities are required to treat such proposals on their merits and consider whether there is a reasonable prospect of the use continuing having regard to market signals and local need. The Core Strategy reflects this more flexible approach; it remains appropriate to resist the loss of industrial uses in the district's strategic industrial areas but only where there is a reasonable prospect of industrial use continuing having regard to demand and viability matters.

There is no demand in Bath for a large industrial buildings of the Herman Miller building's nature. Demand exists for smaller industrial units but there has been no market interest in acquiring the Herman Miller building for the purposes of subdivision. Subdivision would not be viable in anycase due to the nature of the building, its listed status and difficulties in accessing and servicing the building. It has also been claimed by the applicant that subdivision is unviable for financial reasons. The economic benefits of subdividing the building will not outweigh the harm that such a subdivision will do to this listed building; it is considered that in this case the requirement to preserve the listed building takes precedent over any economic benefit, particularly as it may not be possible to achieve the full (or any) economic benefit due to demand and financial viability issues.

The loss of substantial industrial floor space, in a key strategic location, is of course unfortunate but a unique set of circumstances are present. The aforementioned viability issues, the lack of demand and the building's unusual listed status suggest that the building could remain vacant for a significant period of time if continued industrial use is insisted upon. The benefits offered by the proposal, of which a key benefit is the continued use and preservation of this listed building by a single occupier (as envisaged by the original architect), are significant and are considered to outweigh the dis-benefits associated with the loss of an industrial premises. Despite the site's location within the city's key industrial area, the recommendation to permit does not constitute a departure from development plan policy; for the reasons set out above the application accords with the development plan read as a whole.

The impact of the proposed change of use will be acceptable, localised and can be satisfactorily mitigated by conditions and a S.106 Agreement. Bath Spa University's detailed proposals for the conversion of the building will form a subsequent application for listed building consent (and possibly planning permission) should the committee be minded to grant permission - the merits of which will be assessed at that time. For the reasons set out above it is recommended that permission be granted.

RECOMMENDATION

Delegate to PERMIT

CONDITIONS

0 Subject to the following:

A) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to secure the following :-

1. the delivery of off-site highway works (prior to occupation) in the form of pedestrian crossing points of Locksbrook Road and Station Road, and on Station Road close to Ashley Avenue, or alternatively an appropriate financial contribution to cover the full cost of these improvements;

2. targeted recruitment and training. It is estimated that this will be:

11 Work placements;

2 Apprenticeships;

2 New jobs advertised through DWP; and

a contribution of £5,950

B) Subject to the completion of (A) authorise the Group Manager - Development Management to PERMIT the development with 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 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) the premises shall be used for non-residential educational purposes only and for no other purpose (including any purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

Reason: For the avoidance of doubt as to the extent of the permission granted. The local planning authority wishes to manage future changes of use given the site's sensitive location close to residential properties.

3 Floor levels within the proposed development shall be set no lower than the existing floor levels

Reason: in the interests of flood risk management.

4 A scheme setting out how flood resilience and flood resistance measures will be incorporated into the means of the conversion of the building shall be submitted to and approved in writing by the local planning authority prior to the use first commencing. The approved flood resilience and resistance measures shall be implemented and incorporated into the building prior to the use first commencing.

Reason: To minimise the impact of flooding on the building and its occupiers

5 A Flood Warning and Evacuation Plan shall be submitted to and approved in writing by the local planning authority prior to the use first commencing. The approved plan shall thereafter be implemented and adhered to in full.

Reason: in the interests of flood risk management

6 Site Characterisation

No development shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application has been 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 uses 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.

7 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 uses 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.

8 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 uses 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.

9 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 6, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 7, 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 8.

Reason: In order to ensure that the land is suitable for the intended uses 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.

10 Long Term Monitoring and Maintenance

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

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

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 uses 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.

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

Reason: In the interests of amenity and highway safety.

12 Prior to any physical conversion works taking place, a Construction Management Plan (CMP) shall be submitted to and approved in writing by the local planning authority. It shall include details of deliveries (including storage arrangements and timings), contractor

parking, traffic management. The works shall proceed in accordance with said approved CMP.

Reason: To ensure the safe operation of the highway.

13 Prior to the occupation of the development, an updated Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the Travel Plan so approved.

Reason: In the interests of sustainable development

14 The existing willow trees located forward of the building's riverside elevation shall be retained as an integral part of the development hereby approved. Prior to first occupation a scheme detailing how these trees will be maintained and managed shall be submitted to and approved in writing by the local planning authority. The trees shall thereafter be managed in accordance with the scheme so approved.

Reason: To ensure the trees are retained and managed in the interest of visual amenity and to minimise ecological impact.

15 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.

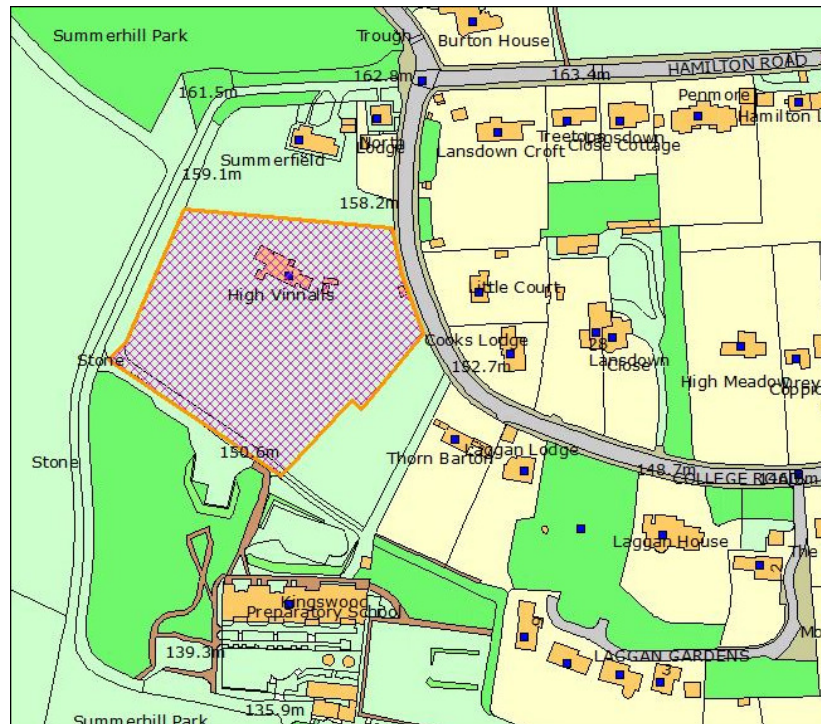
PLANS LIST:

1 Block Plan: Drawing No. IMA-15-145-007
Site Location Plan: Drawing No. IMA-15-145-006

2 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/revised proposals was taken and consent was granted.

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

Item No: 02
Application No: 15/03485/FUL
Site Location: Kingswood Preparatory School College Road Lansdown Bath Bath And North East Somerset



Ward: Lansdown **Parish:** N/A **LB Grade:** IISTAR
Ward Members: Councillor Patrick Anketell-Jones Councillor Anthony Clarke
Application Type: Full Application
Proposal: Erection of new school building to accommodate prep school accommodation, new pre-prep and nursery, and multi use games area and associated infrastructure and landscaping.
Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Greenbelt, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,
Applicant: Kingswood School
Expiry Date: 25th November 2015
Case Officer: Suzanne D'Arcy

REPORT

REASON FOR CONSIDERATION BY COMMITTEE - The application has been called to Committee at the request of Cllr Patrick Anketell-Jones due to the inappropriate size of the buildings relative to the local residential character, the Conservation Area and proximity of the Greenbelt

Kingswood Preparatory School is sited within the Bath Conservation Area and wider World Heritage Site. This application relates to the area to the south of the High Vinnells area. The west and south eastern boundaries are marked by trees that are protected as

part of a Tree Preservation Order (TPO). To the west of the site is the Bristol Bath Green Belt and the Cotswold Area of Outstanding Natural Beauty (AONB).

This is a full application for the erection of a new school building, a new pre-prep and nursery building and a multi use games area. The application has been amended since submission in relation to the design of the nursery building. The proposed school building will be sited to the south east of the site. This building will be a mix of two storey and single storey. It will be constructed of tactile brick and red cedar shingles with a cedar shingle roof.

The proposed nursery building will be constructed of cedar shingles and tactile brick. The design of this building has been revised since submission for the elements to read as a series of timber outbuildings with glazed links between the elements.

There will be an increase in pupil numbers as a result of this application. The pre-school numbers will increase from 60 to 109 pupils and there will be an increase in prep school numbers from 200 to 240. This will result in a total increase in numbers of 89 pupils (from 330 to 419).

Relevant History

7043-1 - Erection of 5 detached dwellings with double garages, and construction of new access road - Withdrawn 13th February 1995

96/00017/FUL - Erection of 3 detached dwellings with double garages, and construction of new access road (Revised proposal) - Refused 15th November 1996

97/00364/FUL - Erection of 3 dwellings with double garages and associated works and erection of a detached double garage - Deemed Refusal. Appeal Dismissed 3rd March 1998

15/04487/FUL - Erection of timber structure to form "jungle gym" (retrospective) - Permitted 13th January 2016

15/00885/PREAPP - Construction of new school building and hall for existing preparatory school and a new pre-prep nursery building.

The applicants submitted a pre-application enquiry in relation to this application in January 2015. Officers advised that there was no objection in principle to the proposal and there was not an objection to the design or the materials. Concerns were raised in terms of the impact on highway safety and trees and the applicants were advised to submit further information alongside an application to address these concerns.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highways - No objection, subject to conditions

Archaeology - No objection, subject to conditions

Drainage - No objection, subject to conditions

Building Control - No comments

Arboriculture - No objection, subject to conditions

Ecology - No objection, subject to conditions

Landscape - Objects to the proposal, raising the following points;

- This is a very important location, marking the interface between the edge of Bath and the open countryside
- Character is created by the line of beech trees and views to the west and reinforced by the estate railings
- It is an important and sensitive site
- No issue with the methodology or location of viewpoints in the Landscape and Visual Impact Appraisal
- The trees are not enclosing and framing in the winter months
- The site has a relationship with the wider landscape
- The trees are an important feature in the wider landscape
- Lower, eastern part of the site has a lesser relationship with the wider landscape
- Greater weight seems to have been put on retention of the conifers
- The beech trees have a setting and this has not been addressed in the submitted report
- There may be limited visual effect caused by the proposed, this harm exists and will remain
- Lighting from the windows has not been addressed and will remain
- Likely to have a significant impact on the AONB and the setting of the World Heritage Site.
- No objection in principle to some development on the site, but this layout does not properly respond to or make best use of the site and its attributes.

Urban Design - Offer the following comments;

- Attention has been drawn to the importance of addressing arboriculture issues to ensure that the life prospects of trees are protected.
- This should inform the development
- No in principle objection, subject to the design of the buildings (subject to the resolution of the LVIA and arboriculture issues)
- Materials may be acceptable, though they do not relate to the wider Bath context.
- The drawings should clarify the materials and samples should be submitted for approval.

Historic England - Offer the following comments;

- Remit is to assess the impact on the Conservation Area and the Outstanding Universal Value of the World Heritage Site.
- The land forms part of the open character of the city's outer green slopes and these spaces contribute to the OUV of the World Heritage Site.
- It also creates a sense of spaciousness within the conservation area
- This space, in combination with the private recreation space, contribute towards an important green space within the wider context of the more distant views within the more distant views of the World Heritage Site.
- The trees within this area also make an important contribution
- This development will involve the removal of several mature trees and the loss of the private open space
- This land has always been undeveloped
- The submitted Heritage Assessment balances the impact against the retention of the main trees, the low profile of the proposed development and the sense of enclosure.
- Historic England are not convinced this is a reasonable balance
- The LVIA has not been fully tested for night views or winter views at closer ranges

- Consider the combination of tree loss and perceived loss of openness through the development will have a harmful impact on the conservation area and the OUV of the World Heritage Site.
- The presence of more built form will impact on the sense of space and openness.
- Whilst the development site is contained by boundary treatments, it still allows the perception of undeveloped land.
- The scheme should be judged against paragraph 134 of NPPF.
- Historic England urge you to address the issues raised and recommend the application is determined in accordance with national and local policy and your own specialist advice.

Avon and Somerset Police - No objection

Sport England - No objection but advise that the application needs to be assessed in light of paragraph 74 of the NPPF.

Environment Agency - No comments received

Wessex Water - Advise the applicant to contact Wessex Water as new connections will be required.

Cllr Patrick Anketell-Jones (Local Member) - Requests the application be considered by the Development Management Committee if Officers are minded to approve due to the inappropriate size of the buildings relative to the local residential character, the Conservation Area and proximity of the Greenbelt

Representations - 31 letters of objection received, raising the following points;

- No steps have been taken to ensure that the development won't have an adverse effect on traffic on College Road
- Increased parking, noise, risk and use of the road will have an adverse impact on residential amenity
- No in principle objection to the nature of the application
- Object to the failure of the applicants to include a Transport Plan
- A generous dose of sustainability is required
- Adverse impact due to increase in traffic
- Adverse impact on pedestrian safety
- Lack of public consultation prior to the application being submitted
- Concern over the scale and massing
- Irreversible harm to the conservation area and natural environment
- Contrary to Policy T.24 of the Local Plan
- Hamilton Road is unsuitable for construction traffic
- Loss of natural habitat
- Net impact of the proposals will cause significant harm to the Green Belt
- Adverse impact on the AONB
- No justification for the proposal
- Increase in capacity at a junior level is likely to result in a future need for further senior faculties
- Adverse impact on privately maintained road
- Adverse impact on trees
- Misleading information regarding increase in pupil numbers

- Covenants are in place preventing the erection of further buildings (Officer note: This is not a material planning consideration)
- Application form is incorrect (Officer note: The applicants are satisfied that this is correct)
- Misleading information submitted in the Design and Access Statement
- Detrimental impact on the setting of the listed building (Blaine's Folly)
- Harmful to the OUV of the World Heritage Site
- Fails to conserve the landscape character
- Inadequate long term protection of the trees
- Previous appeal decision (1996 application) states that development on this site would be harmful to the Conservation area and World Heritage Site.
- Previous appeal decision is still relevant
- Alternative sites have not been considered
- Proposed nursery is a commercial venture
- Council should seek to place a reasonable cap on pupil numbers
- Loss of privacy to adjacent neighbours
- Increase in surface water is likely to lead to an increase in flood risk
- Adverse impact on bats
- Proposed development is of a similar scale and massing to the refusal in 1996.
- Potential for additional activity late into the evening, causing an adverse impact on residential amenity
- Likely to lead to pressure for the removal of the trees
- Replacement planting is unlikely to be of an appropriate appearance
- Overdevelopment of the site
- No need for additional nursery facilities in Bath
- Loss of privacy to Thorn Barton
- Overbearing impact on Thorn Barton
- Lack of car parking provision or a Green Travel Plan
- Loss of open space and sports facility
- No masterplan has been produced
- Inadequate drainage on the site
- Inappropriate in terms of scale and massing within AONB, conservation area, World Heritage Site and adjacent to the Green Belt (Officer note: The site is not located within the AONB)
- No evidence of demand has been provided
- No assurance that the access will remain as existing
- No direct notice of the application (Officer note: The Council has advertised the application in accordance with its statutory obligations)
- Change of use of High Vinnells (Officer note: High Vineells falls outside of the application site and as such, no amendments to it are proposed as part of this application)

Following the receipt of amended information, interested parties were renotified on 12th November 2015. A further 34 letters of objection were received, raising the following points;

- Particular concern regarding the additional construction and school traffic exiting Hamilton Road into Lansdown Road
- Reasons for 1996 refusal are still valid
- Severe surface water drainage issues
- No details of alternative options has been given
- School is seeking to expand to include unnecessary nursery and infant care
- Adverse impact on highway safety

- Adjacent residents have rights over the private roads
- Lack of pedestrian and cycle facilities
- Increase in noise, causing harm to residential amenity
- Lack of parking
- Adverse impact on conservation area
- History of the site is not linked to previous applications (Officer note: The Council is aware of previous applications on both this site and the adjacent site at High Vinnells)
- Had this been correct, the pre-application advice may have been different (Officer note: All the relevant material considerations were considered during the pre-application phase)
- Adverse impact on trees
- Site will be clearly visible in the long range views
- Heritage impact assessment is inaccurate
- Preliminary travel plan is very vague
- Inadequate pre-application consultation by the school
- School has shown disregard to the planning process with previous applications
- Previous reasons for refusal still stand
- Insufficient information submitted in the first instance
- Additional information should be at the heart of the design process not an afterthought
- Adverse impact on residential amenity of Thorn Barton
- Non-educational use of the proposed building
- Loss of sports and recreation space
- Absence of a masterplan for the wider site
- Overdevelopment
- Unsuitable materials
- Buses serving Bath Spa University has added to parking and traffic issues
- Inaccurate transport assessment based on one count
- Where will waste be collected?
- Harm to ecology
- Nursery is a business use and therefore should be subject to a separate application (Officer note: The nature of the use is clear in the application and has been considered as such)

Following the receipt of amended information, interested parties were renotified on 8th February 2016. A further 29 letters of objection were received, raising the following points;

- Original objections remain valid
- Development is of an industrial scale
- Previous objections have been ignored
- There has been an increase of 115% in pupil numbers since 1992
- Increased pressure on the local community is unacceptable
- Adverse impact on the conservation area
- Adverse impact on highway safety
- Additional information does not address previously outlined concerns
- Adverse impact on green belt and AONB
- Local area cannot accommodate the size of the school
- Will introduce a business premises into a residential area
- The school considering the location the only acceptable location does not make the proposal acceptable
- No explanation of amended drawings

POLICIES/LEGISLATION

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:

- o Core Strategy
- o Saved Policies in the B&NES Local Plan (2007)*
- o Joint Waste Core Strategy

DW1 - District wide spatial strategy

B1 - Bath spatial strategy

B4 - The World Heritage Site and its Setting

CP2 - Sustainable Construction

CP5 - Flood risk management

CP6 - Environmental quality

CP7 - Green Infrastructure

CP8 - Green Belts

*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

D.2 - General design and public realm considerations

D.4 - Townscape considerations

BH.2 - Listed buildings and their settings

BH.6 - Development within or affecting conservation areas

NE.2 - Areas of Outstanding Natural Beauty

NE.4 - Trees and woodland

SR.1A - Protection of playing fields and recreational open space

GB.2 - Visual amenities of the Green Belt

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. However, currently the Plan has limited weight in the determination of planning applications. The following policies are relevant:

SD1 - Presumption in favour of sustainable development

SCR1 - On-site renewable energy requirements

SU1 - Sustainable drainage policy

D.1 - General urban design principles

D.2 - Local character and distinctiveness

D.3 - Urban Fabric

HE1 - Historic environment

NE2 - Conserving and enhancing the landscape and landscape character

NE2A - Landscape setting of settlements

NE6 - Trees and woodland conservation

NE1 - Development and green infrastructure

GB1 - Visual amenities of the Green Belt

LCR5 - Safeguarding existing sport and recreational facilities

LCR6 - New and replacement sports and recreational facilities

ST1 - Promoting sustainable travel
ST7 - Transport requirements for managing developments
BD1 - Bath design policy
B5 - Strategic policy for universities, private colleges and their impacts

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

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' 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.'

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area.

OFFICER ASSESSMENT

Impact on the World Heritage Site, conservation area and adjacent listed buildings

The site is largely free from development, with only High Vinnells falling within the red line. There are other buildings to the north and the east of the site, with a wooded area to the south. The site is visible in long range views, as it is set on the hillside above the city centre. These hillsides form part of the setting of the historic centre of city. Concerns have been raised that the introduction of development on the site will result in an erosion of the green space thus being harmful to the setting of the World Heritage Site and conservation area. However, the site is considered to fall within the built envelope of the school campus. An access road to the west of the site creates a natural barrier, which separates the development from the open space beyond. As a result, the development site can be viewed as a discreet parcel, and encroachment to beyond to the west is unlikely, given the Green Belt designation.

Screening to the site is provided by an avenue of beech trees and the proposed nursery building is sited adjacent to this avenue and is significant as it sits at the perimeter of the site. Its design has therefore been subject to review to minimise the visual impact and as a result has been amended so it is of a low profile small scale linked elements comprising timber shingles linked by glazing. Their character given their low profile, form and use of timber shingles is now considered appropriate for this location.

It is accepted that there will be glimpses of the building in the wider landscape, particularly in the winter months and the building will have a series of glazed linking elements. In order to reduce the impact from artificial lighting in the winter months, which would lead to increased visibility, a condition will be imposed to limit the lux levels emitted from the building.

Given the low key appearance of the building, it is not considered that it will have a detrimental impact on the setting of the World Heritage Site or the conservation area.

Concerns have been raised that the proposed nursery will be harmful to the avenue of beech trees and may lead to pressure for their future removal. It is acknowledged that these trees are an important feature in the skyline and that, due to the access road, the root protection area is likely to be skewed into the site. Following discussions with the Senior Arboricultural Officer, it is apparent that these trees may be coming towards the end of their life as there is *ustulina deusta* in other trees on the site. It is unlikely that planting between the trees would be successful and as such, it has been proposed to plant a new avenue of trees on the west side of the access road to provide some future proofing. These would be secured through the use of Grampian conditions as the adjacent land is within the same ownership. The applicants have provided assurances in terms of the drainage strategy and a no-dig foundation solution, in order to protect the existing trees. Conditions will be imposed to ensure that appropriate tree protection measures are implemented and that any proposed replacement planting is appropriate.

The proposed prep school building is set further into the site. Due to its location, it is not considered that it will be visible in the long range views. It will be constructed of timber shingle, which is appropriate to its woodland setting.

Representations have made reference to the potential impact on the setting of Blaine's Folly, which is grade II listed. The site is approx. 100m from the tower and is on lower ground than the tower. In view of this relationship, it is not considered that there will be any adverse impacts on the setting of the listed building.

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' 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.' Under Section 72 of the same Act it is the Council's duty to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. It is considered that full consideration has been given to these duties in reaching the decision to grant consent for the proposed works and also to an impact on the setting of the World Heritage Site.

Impact on the Green Belt and the AONB

The site is adjacent to the Green Belt and the AONB. The visual impact on the openness of the Green Belt is an important consideration. As stated in the previous section, the site is located to the edge of the built form. The proposed nursery buildings will be the closest element of the scheme to the Green Belt. This building will have the appearance of four low key, wooden buildings as the massing is broken down by the introduction of the glazed linkages. In view of this, it is not considered that this element of the building will be harmful to the visual amenities or openness of the Green Belt.

The proposed prep building is located to the east of the site, and there will only be limited visibility from the Green Belt. Notwithstanding this, it would be viewed in the context of the existing built form of both the adjacent school buildings and the residential properties beyond, so it is not considered to be harmful to the visual amenities or openness of the Green Belt.

The site is heavily treed and a number of these trees have a great significance in terms of their location within the skyline. The previous section discusses the mitigation measures and future proofing of the site, particularly in terms of the beech avenue. As a result of the measures outlined above, it is considered that the proposed development will result in harm to the trees. In view of this, it is not considered that there will be a detrimental impact on the natural beauty of the AONB.

Impact on residential amenity

The nearest adjacent neighbour is sited to the east of the site at Thorn Barton. The boundary between the sites is marked by a 2m high wall with deciduous trees on the school side. The school site is set higher than Thorn Barton. There is approx. 40m between the nearest point of the new building and the rear of Thorn Barton. The element closest to the boundary is proposed to be a sports hall and as such, it will be double height as there will be no floor at first floor level. There are windows in the first floor level of the other element of the building, which is proposed to be used as classroom space. This is set a further 12m back from the boundary, resulting in a distance of approx. 45m. Given the nature of classroom use and the relationship with this neighbour, it is not considered that this will result in a significant loss of privacy to the private amenity space of Thorn Barton.

The proposed building will be sited to the west of Thorn Barton. It will have a total height of approx. 8m at its heights point. It is acknowledged that there may be some overshadowing in the evening but, due to the relationship, it is not considered that this will be significant enough to sustain a refusal.

No other neighbouring properties will be affected by overbearing or loss of privacy, due to their relationship with the proposed building.

The site is currently used by the school in its normal activities. It is acknowledged that the buildings will result in an intensification of the site and a change to the type of use. However, this will be primarily confined to the normal school hours. In view of this, it is not considered that there will be a significant noise nuisance to surrounding neighbours.

Concerns have been raised regarding impact on residents from construction. It is acknowledged that there may be some disruption to nearby neighbours during the construction phase but it is considered that a condition requiring a construction management plan will mitigate this impact, as will the temporary nature of construction.

In view of this, it is not considered that there will be any significant adverse impacts on residential amenity as a result of this proposal.

Impact on highway safety

There is access to the site from College Road/Hamilton Road, as well as through the school itself. College Road and Hamilton Road are both private roads that are maintained by the residents of these streets. The applicants have submitted a Transport Assessment, which considers that there is unlikely to be a significant impact on the wider highway network, and this is considered to be acceptable. A condition requiring a construction management plan will also be imposed to ensure that the safe operation of the highway

can continue during the construction phase. Concerns have been raised about the potential impact on the condition of College Road and Hamilton Road due to the construction of the buildings. Given that these are privately owned and outside the control of the Local Authority, it is not considered to be appropriate for the Local Authority to comment on the ongoing maintenance.

The application proposes an increase of 89 pupils, 49 of which will be of pre-prep age, when pick up and drop off will not necessarily align with the school day. The application shows facilities for parents to pick up and drop off the children and these are considered to be sufficient to accommodate the increase in students, particularly given that over 50% will be outside of traditional school times. The applicants have provided a preliminary Travel Plan, which indicates how access can be improved. A condition will be imposed for a full Travel Plan and there will be an onus on the school for its enforcement.

Given that the roads are privately owned, there will need to be engagement by the applicant with the adjacent neighbours to ensure any improvements can be achieved and the submitted Travel Plan will need to demonstrate how this will be undertaken.

It has been calculated that there is a shortfall of 20 staff parking spaces. Additional parking has been provided via the High Vinnells access and elsewhere on the site. Whilst it is not within the red line boundary, this area is owned by the school and as such, Grampian conditions could be used to secure additional parking.

In view of this above, it is not considered the proposed development would be prejudicial to highway safety.

Impact on trees

The applicants have submitted further information in response to the points raised with regards to the potential impact on the trees. Concerns have been raised about the potential impact of the development on the adjacent trees. Further details of drainage and foundations will be required by conditions, though it has been confirmed that these are achievable without harm to trees. The information submitted is not the ideal solution in terms of the impact on the trees. However subject to the use of conditions to address details the concerns are not considered to be such that a reason for refusal could be sustained.

Impact on ecology

No significant ecological constraints have been identified on the site. The applicants have submitted an ecological survey and the recommendations of this include measures for enhancement to existing habitats. Conditions will be imposed to ensure that these are implemented. A lighting analysis has also been submitted. As stated previously, conditions will be imposed to limit the emission of light from the building and to ensure the lighting erected is not harmful to wildlife. In view of this, it is not considered that there will be any adverse impact on protected species as a result of this proposal.

Impact on recreational space

The site is currently used informally for recreation and sports. It is a sloping site and this has limited its use in the past for sports. There are some poor quality cricket nets on the north western part of the site, which will be lost as a result of the proposal. The proposed development will provide a multi-use games area and a sports hall. Furthermore, the school owns additional sports and recreational facilities, both elsewhere on the site and off site. Paragraph 74 of the NPPF requires that recreational space should not be built on unless an assessment has been undertaken that shows that the land is surplus to requirements. The applicants have submitted an assessment detailing the history of the site, which has never been formally used by the school for sports or physical education lessons, and the additional recreation/sports facilities available elsewhere on the site. In view of this, Officers are satisfied that the proposed development meets the tests required under paragraph 74 of the NPPF and there will be no loss of useable sports facilities.

Drainage and Flood Risk

Concerns have been raised that the proposed development will increase flooding due to increased surface water run off. The applicant has provided full drainage details, which will be adequate for a 1 in 30 year flood event. A condition will be imposed to ensure that adequate drainage is provided to ensure that surface water for a 1 in 100 year flood event will not increase the flood risk to nearby properties.

Other issues

Concerns have been raised regarding the pre-application consultation by the school and the timing of the application submission. The applicants have asserted that they have met with a number of local residents, which they were informed were representative of a wider group of residents. Furthermore, the Local Planning Authority has advertised the application in accordance with its statutory obligations. Whilst it is unfortunate that the timing of the application coincided with the summer holidays, interested parties have had two further reconsultation opportunities and it is considered that adequate time has been provided for interested parties to comment on the application.

The representations have made reference to a previous refusal of planning permission and subsequent dismissed appeal for 3 dwellings in 1996. It should first be noted that there has been a change to the policy context since the submission of this application. The current application is for buildings to be used in association with the school use and not a separate use as individual dwellings. This is a key material difference between the previous scheme and this scheme. Furthermore, the way in which the site would be used will be different to the use pattern associated with dwellings. In view of this, it is reasonable for this scheme to be assessed on its own merits and in the context of the current policy framework.

RECOMMENDATION

PERMIT

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 above ground 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 surrounding area.

3 No development shall take place until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority and details within the approved document implemented as appropriate. 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 to the local planning authority. The statement should also include the control of potentially harmful operations such as positioning and design of steps linking the site; foundation excavations for Pre-Prep and Nursery units; the storage, handling and mixing of materials on site, location of site office, service run locations including soakaway locations and associated excavations and movement of people and machinery.

Reason: To ensure that the protected trees to be retained are not adversely affected by the development proposals in accordance with policy NE.4 of the Bath and North East Somerset Local Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

4 No development or other operations shall take place except in complete accordance with the approved Detailed Arboricultural Method Statement. A signed certificate of compliance shall be provided by the appointed arboriculturalist to the local planning authority on completion and prior to the first occupation of the buildings.

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

5 Prior to occupation of the development hereby approved, 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. This shall include full details of the replacement planting indicated on drawing numbered 1465.P.100 rev C.

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

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 Prior to occupation of the nursery building hereby approved, details of the levels of lighting from the building shall be submitted to and approved in writing by the Local Planning Authority. These details shall include the lux levels and methods for their limitations. They shall be retained and operated as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: to provide sensitive lighting with minimal impacts on bats and other wildlife and to preserve the setting of the World Heritage Site, conservation area and Green Belt.

8 The development and all new lighting shall be implemented in accordance with the predicted light levels and lighting design details as contained in the approved Light Level Survey report by Buro Happold dated July 2015, and shall be retained and operated as such thereafter unless otherwise agreed in writing by the Local Planning Authority.

Reason: to provide sensitive lighting with minimal impacts on bats and other wildlife

9 The development hereby permitted shall be carried out only in accordance with ecological mitigation proposals and recommendations of the approved Extended Phase 1 Habitat Survey Report dated July 2015 by Nicholas Pearsons. A report confirming and demonstrating implementation of the recommendations shall be submitted to the local planning authority and approved in writing prior to occupation of the development.

Reason: to avoid harm to ecology

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

Reason: In the interests of amenity and highway safety.

11 Prior to the commencement of the development, a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority and shall

include details of deliveries (including storage arrangements and timings), contractor parking, traffic management.

Reason: To ensure the safe operation of the highway and the amenity of adjoining neighbours

12 Prior to the occupation of the development, an updated Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the Travel Plan.

Reason: In the interests of sustainable development.

13 Prior to the commencement of development, detailed drainage design to illustrate how flood flows and exceedance routes are managed on site for all storm durations up to the 1:100 year event including an allowance for climate change. All surface water for up to the 1:100 year event +CC must be managed on site and is not permitted to flow onto adjacent land. The development shall thereafter be carried out in accordance with the details so approved.

Reason: In the interest of flood risk management for neighbouring land and properties

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

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

PLANS LIST:

1 This decision relates to the following drawings -

NURSERY DRAWINGS

Existing:

- o 1480/P/001 - Location Plan
- o 1480/P/005 - Existing Site Plan

Proposed:

- o 1480/P/102 A - Proposed Site Plan
- o 1480/P/110 C - Proposed Ground Floor Plan (rec'd 5 February 2016)
- o 1480/P/111 C - Proposed Roof Plan (rec'd 5 February 2016)
- o 1480/P/140 A - Proposed Floor Finishes
- o 1480/P/150 A - Proposed Reflected Ceiling Plan
- o 1480/P/160 A - Proposed Ground/Site Works Plan
- o 1480/P/170 C - Proposed Wall Type Plan
- o 1480/P/200 B - Proposed South Elevation (rec'd 12 November 2016)
- o 1480/P/201 B - Proposed North Elevation (rec'd 12 November 2016)
- o 1480/P/202 C - Proposed West Elevation (rec'd 5 February 2016)
- o 1480/P/203 B - Proposed East Elevation (rec'd 12 November 2016)
- o 1480/P/204 B - Proposed South Elevation Entrance (rec'd 12 November 2016)
- o 1480/P/205 B - Proposed North Elevation Reception Entrance (rec'd 12 November 2016)

- o 1480/P/305 C - Proposed Section A 1 (rec'd 5 February 2016)
- o 1480/P/306 C - Proposed Section A 2 (rec'd 5 February 2016)
- o 1480/P/307 C - Proposed Section B 1 (rec'd 5 February 2016)
- o 1480/P/308 C - Proposed Section B 2 (rec'd 5 February 2016)
- o 1480/P/320 C - Proposed Section C (rec'd 5 February 2016)
- o 1480/P/321 C - Proposed Section D (rec'd 5 February 2016)
- o 1480/P/322 C - Proposed Section E (rec'd 5 February 2016)
- o 1480/P/323 C - Proposed Section F (rec'd 5 February 2016)
- o 1480/P/324 C - Proposed Section G (rec'd 5 February 2016)
- o 1480/P/325 C - Proposed Section H (rec'd 5 February 2016)
- o 1480/P/326 C - Proposed Section J (rec'd 5 February 2016)
- o 1480/P/330 A - Section Detail Study
- o 1465_SCH_10_Room Area A - Schedule Room Area Schedule

PREP SCHOOL DRAWINGS

Existing:

- o 1465/P/001 A - Existing Location Plan
- o 1465/P/002 A - Existing Site Plan
- o 1465/P/003 A - Existing Site Plan

Proposed:

- o 1465/P/100 C - Proposed Site Plan (rec'd 5 February 2016)
- o 1465/P/105 B - Tree Survey Plan (rec'd 12 November 2016)
- o 1465/P/110 B - Proposed Ground Floor Plan (rec'd 12 November 2016)
- o 1465/P/111 B - Proposed First Floor Plan (rec'd 12 November 2016)
- o 1465/P/112 B - Proposed Roof Plan (rec'd 12 November 2016)
- o 1465/P/140 A - Proposed Floor Finishes Ground Floor
- o 1465/P/141 A - Proposed Floor Finishes First Floor
- o 1465/P/150 A - Proposed Reflected Ceiling Plan Ground Floor
- o 1465/P/151 A - Proposed Reflected Ceiling Plan First Floor
- o 1465/P/160 A - Proposed Ground/Site Works Plan
- o 1465/P/170 C - Proposed Wall Type Ground Floor
- o 1465/P/171 C - Proposed Wall Type First Floor
- o 1465/P/200 B - Proposed Elevations North (rec'd 12 November 2016)
- o 1465/P/201 B - Proposed Elevations East (rec'd 12 November 2016)
- o 1465/P/202 B - Proposed Elevations South (rec'd 12 November 2016)
- o 1465/P/203 B - Proposed Elevations West (rec'd 12 November 2016)
- o 1465/P/220 A - Stair Study
- o 1465/P/300 B - Proposed Section A (rec'd 12 November 2016)
- o 1465/P/301 B - Proposed Section B (rec'd 12 November 2016)
- o 1465/P/302 B - Proposed Section C (rec'd 12 November 2016)
- o 1465/P/303 B - Proposed Section D (rec'd 12 November 2016)
- o 1465/P/304 B - Proposed Section E (rec'd 12 November 2016)
- o 1465/P/305 B - Proposed Section F (rec'd 12 November 2016)
- o 1465/P/306 B - Proposed Section G (rec'd 12 November 2016)
- o 1465/P/320 A - Section Detail Study
- o 1465_SCH_10_Room Area A - Schedule Room Area Schedule

2 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/revised proposals was taken and consent was granted.

3 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, Lewis House, Manvers Street, Bath, BA1 1JG. Requests can be made using the 1APP standard form which is available from the Planning Portal at www.planningportal.gov.uk.

4 You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: www.bathnes.gov.uk/cil

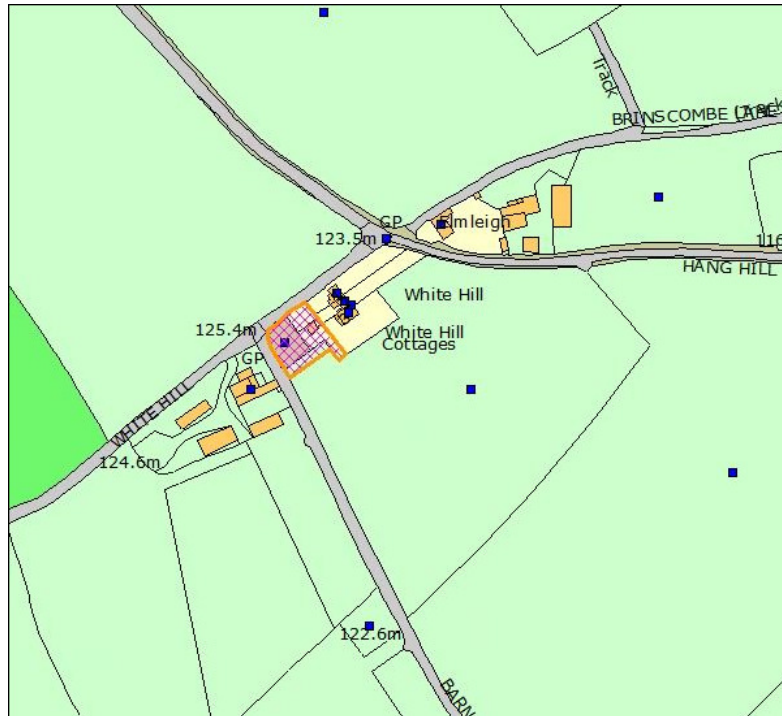
5 This permission does not convey or imply any civil or legal consents required to undertake the works.

6 New water supply and waste water connections will be required from Wessex water to serve this proposed development. Application forms and guidance information is available from the Developer Services web-pages at the website www.wessexwater.co.uk.

Further information can be obtained from the New Connections Team by telephoning 01225 526222 for Water Supply and 01225 526333 for Waste Water.

Please refer to Wessex Water's website for a Section 106 connection application and guidance.

Item No: 03
Application No: 15/05014/FUL
Site Location: Land Adjacent To White Hill Cottages White Hill Shoscombe Bath
Bath And North East Somerset



Ward: Bathavon South **Parish:** Shoscombe **LB Grade:** N/A

Ward Members: Councillor Neil Butters

Application Type: Full Application

Proposal: Demolition of existing masonry Blacksmith's Shop and adjacent corrugated iron garage: replace with three attached residential garages/stores.

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

Applicant: Mrs Carolyn, Jane, Anne Burnell, Etle, Rogers

Expiry Date: 11th March 2016

Case Officer: Christine Moorfield

REPORT

This application is for the demolition of the existing forge building and attached corrugated garage building and the redevelopment of the site with a triple garage for residential parking and storage.

The site is land adjacent to White Hill Cottages. In 2007 it formed part of the garden of No 1 White Hill Cottages and comprises a stone built shed and metal garage. To the South of the building is a disused underground water storage reservoir.

The old forge building is a relatively attractive traditional stone built building which appears to have undergone some repair work in the past but has become quite overgrown. The

adjacent garage building is a metal sheet construction which is less substantial and is considered to have little visual amenity value.

The site is located within the Greenbelt.

The proposed garage block has a foot print of 8.9m x 5.0m and a height of 4m to the ridge line. The materials to be used are stated to be limestone rubble walling (salvaged stone) to the west elevation whilst the North South and East elevations are shown to be render with interlocking double roman tiles on the roof. The windows are shown to be white UPVC and the doors are pressed steel up and over doors. Agreement is being sought from the agent to ensure that the southern elevation is also constructed of stone as this elevation is also visible from the road.

Site History

07/02078/FUL - REFUSED- 15 August 2007 - Erection of a single detached dwelling in land adjacent to 1 White Hill Cottages. The scheme was refused primarily due to the unsustainable location of the site and the unacceptable design.

The building was previously in the ownership of the residents in No. 1 White Hill Cottages however, when the cottage was sold the building was retained by the owners who now live in Timsbury.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Highways

The applicant is seeking permission to demolish an existing workshop/garage and to replace it with a triple garage on land adjacent to White Hill Cottage, The proposed garages will use the existing access to the rear of White Hill Cottages. It has been noted that these garages will not serve the 3 no. dwellings. Highways envisage that the proposed garages will not have a detrimental impact on the local highway network relative to the existing workshop and garage and therefore have no objections to its approval subject to conditions.

The difficulty that the adjacent residents in White Hill Cottages are now having in respect of accessing and egressing their properties in forward gear has been recognised by the highway engineer however it is also recognised that the Local Planning Authority have no control over land ownership and the fence that the applicant has erected along the boundary is permitted development.

Parish Council

Highway issues:

The highways issues are of great concern as the access point to and from the proposed development is onto a single track road within very close proximity of a very busy road junction.

As this site has not been used by vehicles for many years there could be at times 30% more vehicles in that area. Vehicles entering or leaving the site would either have to reverse in or out from the area in front of the proposed garages. This road is heavily used by traffic at the beginning and end of the day by school traffic and throughout the day by agriculture machinery and delivery vans and lorries.

Usage:

The 'Associated Documents' suggest there could be still workshops as well as the garages, which is confusing as the planning application is asking for permission for change of use from workshop to domestic use. If there is workshop activity this could have a negative noise/pollution impact for the neighbours living in the three cottages.

- 1) The proposed development is located within a green belt. It would have a detrimental impact on the openness of the green belt within this location.
- 2) The proposed development would be located outside of a development boundary.
- 3) The proposed development would be out of character and not in keeping with our surrounding countryside.
- 4) There are 2 working farms, one on either side of White Hill Cottages, these both have large agricultural vehicles using the already busy road.

Archaeology-

There are no known archaeological sites or monuments in the immediate vicinity that are likely to be affected by the proposed development. Furthermore, the site is likely to have been significantly disturbed by the construction of reservoir (Bath Rural District Council Water Works) first shown on the 1901-5 Ordnance Survey. Concluded that no further archaeological investigation or conditions will be required.

Drainage and Flooding team response

Whilst we have no objection in principal to the proposed development, concerns are raised about the proposed method of surface water drainage.

In line with Building Regulations part H, the development (including roofs and paved areas) must manage surface water in a sensible manner. It is not clear from the documents how this is to be done.

The applicant should detail how surface water from the new development will be managed so that it does not increase surface water flood risk to the site or neighbouring area (including roads). This should be in line with building Regulations Part H and the drainage hierarchy. A condition in respect of this matter is recommended.

10 OBJECTIONS have been received main issues raised are as follows

The proposal will obstruct access for parking for the adjacent cottages who rely on the adjacent hard standing to obtain access.

Cars serving the adjacent cottages would need to reverse out onto the road which is a very busy narrow lane.

History of planning refusals on the grounds of access to the highway.

There is no off road parking on the very narrow busy lane adjacent to the cottages.

Increased traffic generation 3 to 6 cars on this very small area that are not owned by the people that live there, would be hazardous and could restrict access for emergency services,

This piece of land is classified as 'green belt' and should not be developed.

The building has not been used as a workshop in 50 yrs. If change of use to domestic is permitted, this could be the first step towards conversion/ modification for residential use.

At present the workshop is used for storage of building materials belonging to the owners.

ECOLOGY

A satisfactory protected species survey has now been submitted. The buildings are not considered likely to be used by bats although the ivy covering could be used by wildlife including bats and nesting birds. Appropriate measures are described for ensuring any works avoid harm to birds and bats and for provision of replacement nesting and roosting habitat. These measures should be secured by condition and subject to this no objection to the proposal is raised.

POLICIES/LEGISLATION

The main planning policies that will be considered relevant to this proposal are:

Bath and North East Somerset Core Strategy (July 2014)

CP6: Environmental Quality

CP8: Green Belt

Bath and North East Somerset Local Plan Saved Policies (2007)

D.2: General design and public realm considerations

D.4: Townscape considerations

GB.2: Visual amenity of the Green Belt

T.1: Overarching access policy

T.24: General development control and access policy

T:26: On-site parking and servicing

Also of relevance are the following documents:

National Planning Policy Framework (NPPF)

Section 7: Requiring good design

Section 9: Protecting Green Belt land

Green Belt SPD.

National Planning Practice Guidance (NPPG) 2014

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. However, currently the Plan has limited weight in the determination of planning applications. Of relevance to this application are the following policies.

D 1 General Urban Design principles

D2 Local character and distinctiveness

D6 Amenity

ST1 Promoting sustainable travel

ST7 transport access and development management.

OFFICER ASSESSMENT

The key issues in respect of this proposal are:

- i- The principle of the replacement of the forge/replaced garage with 3 domestic garages
- ii- Impact on the Greenbelt

iii- Design, Mass and Bulk of the garage block

iv- Impact on amenity

v- Highways and Parking

vi- Drainage

vii- Ecology

The principle of the demolition of the forge/garage with 3 domestic garages

The buildings name implies that it was at one time used as a business use i.e. a forge. However, given the adjacent garage it appears that its been used more recently as a domestic store/garage. Interested parties have confirmed that the building has not been used as a workshop in 50 yrs. The building has more recently been used for storage of building materials belonging to the owners.

In principle the demolition of the existing buildings is acceptable and subject to compliance with other relevant policies the construction of three domestic garages in this location is considered acceptable.

The redline includes the adjacent underground reservoir site which is grassed over. It is considered necessary for the building and access drive to be for domestic garages and parking only. There should be no parking or storage of any sort on the adjacent grassed area.

In accordance with Policy Core Strategy DW1 3 the site is a brown field site and therefore in principle development of this land is acceptable.

Impact on the Greenbelt

The removal of the buildings and their replacement with a stone fronted garage building of similar proportions could provide some planning gain in terms of the appearance of the site. NPPF para. 89 indicates that new buildings within the green belt should be considered as inappropriate however, the replacement of a building with a new building that is in the same use and not materially larger than the one it replaces is identified as being an exception to this restriction.

The proposed garage block as proposed will be in the same use as the buildings as existing and as confirmed by residents and the applicants agent. The new building is not materially larger than the buildings it replaces and therefore this proposal in this respect is considered to be appropriate development in the Green Belt.

This approach is supported by the Councils Policies. Core Policy CP8 Green Belt seek to protect the openness of the Green Belt through the resistance of inappropriate development.

Therefore, in this instance where the proposed use of the new building is for domestic storage (albeit that the owner does not live within walking distance) which appears to be the same as the existing use of the building and where the new building is of a similar mass and bulk as the existing building the development is not inappropriate development in the countryside and will not impact on the openness of the green belt thereby complying with both policy CP8 and the requirements of the NPPF.

Design, mass and bulk of the garage block

The proposed garage block is of a modest scale. It is proposed that it will have a stone elevation facing the road (West) and the agreement of the applicant to also finish the south elevation in stone is being sought, the remaining walls will be rendered and the pitched roof is to be tiled. The colour of the render and a sample panel of the stone work would require conditioning however the general mass bulk and appearance of this proposed building is considered appropriate for this rural location within the Green Belt. The proposed building is considered acceptable in terms of its siting mass bulk and design and complies with saved local plan policies D2 and D4.

Impact on amenity

Concerns have been raised by residents in relation to various issues. For some years the adjacent residents have enjoyed the ability to access their properties by vehicle due to the existing access to the forge building. However the owner has recently erected a fence which is permitted development and this has restricted residents from being able to access their properties in a way that enables them to enter and exit in forward gear. This issue has been raised with the Highway Engineer and is seen as a potential highway safety issue however the residents do not have the right to encroach on the adjacent landowners' property.

Concerns have been raised in respect of the mention of garage workshop facilities being provided in the new building. The application is for garages and given that the adjacent properties are residential it is considered necessary to restrict any use of these garages to vehicle parking and domestic storage only.

Concerns have also been raised in respect of vehicles being parked in front of the garages which would be unsightly. This is an existing building with an existing access and therefore there would not be any justification to restrict the parking of vehicles in front of these garages.

Three windows are to be located on the East elevation of the building, one serving each garage. These windows do not face the adjacent properties and given that they are at ground floor level they are not considered to result in a loss of privacy to adjacent residents.

Highways and Parking

The site is located on White Hill, a classified road where the national speed limit applies, in this case 60 mph, at the junction with Barn Hill. The application proposes to rebuild the workshop and build three domestic garages. The proposed garages will use the existing access to the rear of White Hill Cottages. It has been noted that these garages will not necessarily be for occupiers of the adjacent houses.

Highways envisage that the proposed garages will not have a detrimental impact on the local highway network relative to the existing workshop and garage and therefore have no objections to its approval subject to conditions in respect of keeping the garages for domestic use and for use by the applicant only. As this use is considered acceptable in this location and there may be an opportunity for residents to acquire these garages at some point in time then it would not be seen justifiable to restrict the use of these units to the applicant only.

The site is located outside of the Local Plan development boundary and is therefore considered to be unsustainable as it is located at some distance from schools, shops and local facilities and given the proposed use i.e. three garages not being occupied by residents within the locality will give rise to traffic generation as all journeys to and from the site would be reliant on the private motor car which if this were a green field site would be unacceptable. However, in this instance the building exists and has been used for many years as ancillary residential storage etc and therefore it is not considered that the proposal as now being considered would give rise to a level of use that would be more unsustainable in terms of increased private vehicle use than the existing use/building on the site.

In order to ensure that the grassed area above the reservoir is not used for the parking of vehicles and or storage a condition is considered necessary. To ensure that vehicles cannot get onto this part of the site agreement from the applicant in respect of the construction of a small fence/knee rail is being sought and a condition to ensure this fence is erected is considered necessary.

Drainage

No objection in principal is raised to this proposed development, however concerns were expressed in relation to the proposed method of surface water drainage.

In line with Building Regulations part H, the development (including roofs and paved areas) must manage surface water in a sensible manner. Given that it is not clear from the documents submitted how this is to be done and in the interests of flood risk management and highway drainage it is considered a condition will be necessary that requires the applicant to detail how surface water from the roof and paved areas will be managed in line with Building Regulations Part H.

Ecology

A satisfactory protected species survey has now been submitted. The buildings are not considered likely to be used by bats although the ivy covering could be used by wildlife including bats and nesting birds. Appropriate measures are described for ensuring any works avoid harm to birds and bats and for provision of replacement nesting and roosting habitat. These measures should be secured by condition.

Subject to such a condition no objection to the proposal is raised by the councils ecologist.

RECOMMENDATION

PERMIT

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 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.

3 The garages hereby approved shall be retained for the garaging of private motor vehicles and ancillary domestic storage only and for no other purpose without the prior written permission of the Local Planning Authority.

REASON In the interest of residential amenity.

4 Prior to the garages hereby permitted being first brought into use a plan indicating the area to the south of the building and access drive, above the underground reservoir shall be submitted to and approved by the local planning authority. Thereafter no vehicles, materials, goods, plant, machinery, equipment, finished or unfinished products/parts of any description, skips, crates, containers, waste or any other item whatsoever shall be placed, stacked, deposited or stored on this land as identified on the approved plan.

REASON: In the interests of the appearance of the site and the amenities of the adjacent residents.

5 The development hereby permitted shall be carried out only in accordance with the measures described on page 10 of the approved Building Inspection for Bats survey report dated February 2016 by Stark Ecology Ltd, including correct timing of works to remove ivy, and provision of bat and bird boxes.

Reason: to provide ecological benefits and to avoid harm to wildlife including bats and nesting birds

6 Prior to the commencement of the building of the walls of the garage building hereby approved the applicant shall submit details which indicate how surface water from the roof and paved areas will be managed in line with Building Regulations Part H. These details shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be constructed in accordance with the approved details.

Reason: In the interests of flood risk management and highway drainage.

7 The access and parking areas shall not be brought into use until these areas have been properly bound and compacted (not loose stone or gravel) in accordance with details which shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of highway safety.

8 The construction of the walls shall not commence until a sample panel of all external walling materials to be used has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed. The walls shall thereafter be constructed to match the panel as approved.

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

9 Prior to the garages hereby permitted first being brought into use a detailed plan which indicates a post and rail fence or a knee rail which will be located perpendicular to the front of the garage building adjacent to the access shall be submitted to and approved by the local planning authority. Thereafter the fence shall be constructed and retained in accordance with the approved details.

Reason In the interests of visual and residential amenity ensuring that the adjacent land is not used for the parking of vehicles

PLANS LIST:

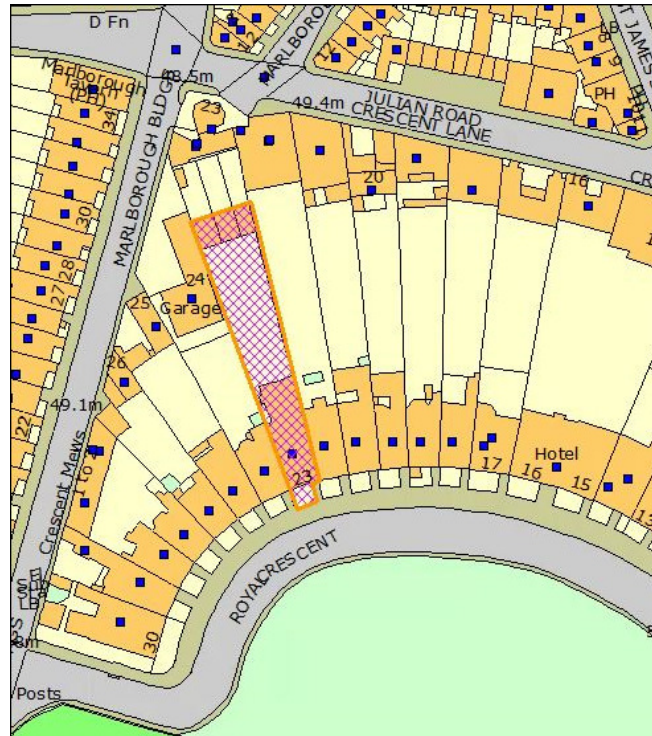
1 003 002 and 001

2 Advice:

The access to rear of 1-3 White Hill Cottages shall remain unobstructed at all times during and after completion of works.

3 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/revised proposals was taken and consent was granted.

Item No: 04
Application No: 15/05518/FUL
Site Location: 23 Royal Crescent City Centre Bath Bath And North East Somerset
BA1 2LT



Ward: Kingsmead **Parish:** N/A **LB Grade:** I
Ward Members: Councillor Chris Pearce Councillor Andrew Furse
Application Type: Full Application
Proposal: Replace existing flat roof with lead proof slated pitched roof to summer house with alterations to parapet (Revised partially retrospective proposal)
Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,
Applicant: Mr Peter White
Expiry Date: 4th February 2016
Case Officer: Sasha Berezina

REPORT

Cllrs Chris Pearce and Andrew Furse requested for the application to be referred to the Chair of the Development Management Committee, and the Chair's decision was that it should be determined by the committee.

DETAILS OF LOCATION AND PROPOSAL

This application relates to an outbuilding set in the rear garden of No23 of Grade I Royal Crescent, within Bath Conservation Area and the WHS.

The building was erected under consent granted in 2002, and in 2012 permissions were granted to provide single storey extensions on each side of the building.

A subsequent application in 2014 granted permission to replace existing flat roof with slated hipped roof.

Following permission to provide hipped roof, another application was received seeking to amend the design of the main orangery roof to provide flat area at the top, and to provide matching hipped roofs to the side extensions. Following negotiations this design was on balance accepted.

The resulting steeper pitch roof, however, was built not in accordance with the approved plans and the subsequent applications to regularise it were refused in 2015.

The current applications seek to regularise the roof and additional roof lights as built, but to introduce a higher parapet to screen the roof further.

RELEVANT PLANNING HISTORY

DC - 02/00620/LBA - CONSSE - 12 September 2002 - Erection of a summerhouse and garden room

DC - 12/02656/FUL - PERMIT - 30 October 2012 - Combine flat G and flat M1 including extension to replace former buildings in rear basement yard, with terrace and conservatory at ground level and single storey extensions each side of summerhouse in rear garden

DC - 12/02657/LBA - CON - 19 October 2012 - Internal and external alterations to combine flat G and flat M1 including extension to replace former buildings in rear basement yard, with terrace and conservatory at ground level and single storey extensions each side of summerhouse in rear garden

DC - 14/02475/LBA - CON - 24 October 2014 - External works to replace existing flat roof with a pitched slate roof.

DC - 14/02885/FUL - PERMIT - 24 October 2014 - Replace existing flat roof and lantern light to summer house with slated pitched roof. (Amendment to previously approved scheme 02/00589/FUL)

DC - 14/05567/FUL - PERMIT - 22 April 2015 - Replace existing flat roof and lantern light to summer house with slated pitched roof (Revised proposal).

DC - 14/05568/LBA - CON - 22 April 2015 - External works to replace existing flat roof and lantern light to summer house with slated pitched roof (Revised proposal).

DC - 15/03521/FUL - RF - 30 September 2015 - Installation of new roof to existing orangery (Revised retrospective proposal)

DC - 15/03522/LBA - RF - 30 September 2015 - Internal and external work to facilitate installation of new roof to existing orangery (Revised regularisation proposal)

DC - 15/05518/FUL - Pending - Replace existing flat roof with lead proof slated pitched roof to summer house with alterations to parapet (Revised partially retrospective proposal)

DC - 15/05519/LBA - Pending - - Replace existing flat roof with lead proof slated pitched roof to summer house with alterations to parapet (Revised partially retrospective proposal)

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HISTORIC ENGLAND - remain unable to support this application for these alterations to the parapet and retention of the current roof form, based on the following outstanding issues;

- The increased bulk and steeper pitch of the roof is intrusive and together with the increased height of the parapet will lead to an incongruous, top-heavy roof.
- The roof light facing towards the east is not in a historically appropriate location- hips are normally uninterrupted by openings and additions such as this.

In conclusion, we are unable to support this proposal due to the harmful impact of this proposal on the setting of the Grade I listed Crescent and from the damage to the OUV of the WHS, together with the negative impact on the character and appearance of this part of the Bath Conservation Area.

BATH PRESEVATION TRUST - Object. The proposal to increase the height of the parapet to offset the appearance of the roof does not remedy the overall issue, which is that the roof as built - contrary to the approved scheme - is at odds with the classical form and scale of the orangery and sits uncomfortably upon it. The raising of the parapet creates a further incongruous element to this building and represents a departure from the harmonious proportions of Palladian principles upon which the Royal Crescent is based. The higher parapet wall combined with the bulky mansard style roof is over-dominant and top heavy on the garden building and sits uncomfortably within the setting of the Grade 1 listed buildings. We refute the assertion that the proposed roof in its new iteration blends in better with the roofs of the new buildings to the rear; there can be no comparison or connection because those buildings are domestic dwellings and this building is a garden building, which should be subservient and non-intrusive to its surroundings. Continue to be concerned about the proposed use of this building. We continue to be very concerned about the precedent of a building of this size and dominance (it is no longer a subservient garden building) being built in such a sensitive setting within the conservation area and World Heritage Site.

CLLR CHRIS PEARCE - supported and requested to refer this application to committee if officers are minded to refuse. The council should because of its similarity to the approved plan approve this application, but if you are minded not to approve it then, because of the interest shown in this application, I request that the decision is taken to committee.

CLLR ANDREW FURSE - Considering the significant concern the application is causing, I would be happy to support your decision if you felt it appropriate to bring it to committee. Having spoken to the applicant I am sure that if refused the applicant will appeal and thus

incur cost both to him and the council. That said, one of my initial concerns remains ie The side window facing towards the East overlooks adjacent gardens and RC buildings, is rather intrusive so, the existing residential amenity is adversely affected by this application. This window was contrary to the original plans approved some years back.

THIRD PARTY LETTERS - 4 letters of objection and 9 of support (some forwarded by the applicant)

Objections:

- The amended design does not overcome the reasons for refusal relating to a previous design proposal (Ref. 15/03521/FUL);
- The proposal to raise the parapet of the summer house, far from correcting the disproportionate scale of the roof, would further aggravate the appearance of the whole building, as well as increasing its bulk and the incongruity with its setting.
- no assessment of significance of the heritage context or evidence of public benefit deriving from the proposal is made;
- impacts of the unauthorised side roof window on residential amenity of the surrounding properties by loss of privacy;
- concerns over creation of two-storey building which could be occupied as a separate dwelling;

Support:

- The unfinished Orangery is an improvement on the flat roof design and is appropriate addition in keeping with the Georgian context;
- The Orangery roof screens the development behind it;
- The roof is not prominent in public views;
- side window could be obscure glazed;
- The context is not pristine and can accommodate change;
- the pitch of the roof is to resolve construction issues;

POLICIES/LEGISLATION

The Council's Development Plan now comprises:

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

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. However, currently the Plan has limited weight in the determination of planning applications.

The following policies of the Core Strategy are relevant to the determination of this application:

B1: Bath Spatial Strategy

B4: The World Heritage Site and its Setting

CP6: Environmental Quality

The following saved policies of the Bath and North East Local Plan, including minerals and waste policies, adopted October 2007 are also relevant to the determination of this application:

BH.2 Listed Buildings and their Setting
BH.6 Conservation Area
D.2 General Design and public realm considerations
D.4 Townscape considerations

Policies within the Draft Placemaking Plan (December 2015) with limited weight in the determination of planning applications:

D.1 - D.7 & D.10: General Urban design principles: Local Character & Distinctiveness; Urban Fabric; Streets and Spaces; Building Design; Amenity; Lighting; Public Realm
H2: Local Character and Distinctiveness
HE1: Safeguarding heritage assets
ST7: Transport, access and development management and parking

Planning (Listed Buildings & Conservation Areas) Act 1990

There is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' 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.'

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area.

The National Planning Policy Framework (NPPF) and the supporting National Planning Practice Guidance (2014) also represents an important material consideration.

OFFICER ASSESSMENT

The key considerations in relation to this application relate to the impacts of the proposal upon the setting of Grade I listed buildings and the character and visual amenity of the conservation area, as well as the residential amenity of the nearby neighbours.

SETTING OF LISTED BUILDINGS AND CHARACTER OF CONSERVATION AREA

The issue in terms of visual amenity and the historic environment is considered to be one of design rather than the significance of the structure itself, and the potential impact on the setting of Royal Crescent and Bath Conservation Area.

The orangery in question is a modern building, which continues the line of traditional garden buildings along the outer line of gardens radiating from the back of the Crescent. The character and style of the buildings vary, but their relative consistency in terms of scale significantly contributes to the arcadian green setting of the Crescent. These views out contribute strongly to the setting of the Crescent.

As described above, since the original design of the orangery was approved, it has been subject to several amendments and prolonged negotiations.

The resulting roof as constructed has a much steeper pitch, which affects the appearance of the whole building. Whilst there is no change in height, the roof has lost its classical look and appears disproportionate and bulky in relation to the orangery building itself, and discordant in relation to the setting of the Royal Crescent. The odd top-heavy design is apparent not only from the rear of Royal Crescent, but also when viewing the side elevation from Marlborough Buildings to the west. The previously agreed conservation roof lights have been replaced with standard, less subtle, velux roof lights with one of them installed in the side of the hipped roof, which is awkward in appearance and is not a traditional placement for such feature.

The most recent application now seeks to increase the height of the roof parapet in attempt to effectively screen some of the redesigned roof, however this change is not considered to be a successful way to address the previous reasons for refusal. On the contrary, a higher parapet would aggravate the visual inappropriateness of the top-heavy roof and would further disturb the proportions of what originally was planned as a subservient and a low key garden structure.

RESIDENTIAL AMENITY

Objections have also been received in connection with the added side rooflight, which faces the rear garden of the recently constructed pavilion at the rear of No22 and the rear garden to the adjoining property. The applicant has agreed to provide obscure glazing to this window (this does not appear on the amended drawings but could be conditioned), and due to the height of the window in relation to the internal levels and the depth of the internal sill structure, the views out of this window are currently very oblique. Rear roof lights are of sufficient separation distance from the properties in Julian Road. As such it is not considered that the application would lead to materially greater levels of overlooking and loss of privacy.

OTHER MATTERS

The comments in relation to the potential use of the building as a separate dwelling have been noted. The applicant has previously clarified that this is not the intention and this is restricted by the terms of the lease. However such change of use would also be subject to planning control. If the building was to be changed from an ancillary structure to an independent unit of accommodation, a change of use application will be required and neighbours will be consulted.

Amended drawings have been received to correctly indicate the finish on the side wall of the extension to the conservatory (coursed ashlar instead of rubble), which has already been completed. This change to the scheme is considered to be minor and innocuous, however it does not change the overall concern with regards to the incongruous roof and the proposed increase in height of the parapet.

CONCLUSION

The general duty, when considering whether to grant planning permission for development, which affects a listed building or its setting, is set out within the LB&CA Act and is supported by national and local policies. The requirement for the Local Planning Authority is 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. In relation to impacts of the development on the conservation area, the duty is to pay special attention to the preservation or enhancement of conservation area's character.

It is considered that the proposal, which would be visually incongruous due to its bulk and unsympathetic design, would have damaging effect on the setting of the Grade I listed terrace and the wider conservation area. It is appreciated that the applicant preference is for the steeper pitch roof and that the majority of the works have been largely carried out. However, being mindful of the statutory obligations in section 66 to have special regard for desirability of preserving the setting of the protected building, these potential expenses to the occupier, who chose to carry out works not in accordance with the approved details, cannot be afforded weight in reaching the decision.

For the reasons set out above, the application is considered to be harmful to the setting of Grade I listed Crescent and the wider conservation area character, and as such is recommended for refusal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposed alterations, by reason of the form, bulk and design of the roof and the increased parapet height would appear visually incongruous to the setting of Grade I listed Crescent and would damage local character, which is fundamentally derived from the context of Georgian architecture. This would neither preserve nor enhance the character and appearance of Bath Conservation Area. The proposal therefore is contrary to the principles and policies set out in Planning (Listed Buildings and Conservation Areas) Act 1990, Section 12: Conserving and Enhancing the Historic Environment of National Planning Policy Framework, and the adopted development plan policies D.4, BH.2 and BH.6 of Bath & North East Somerset Local Plan (including Minerals and Waste Policies) adopted October 2007.

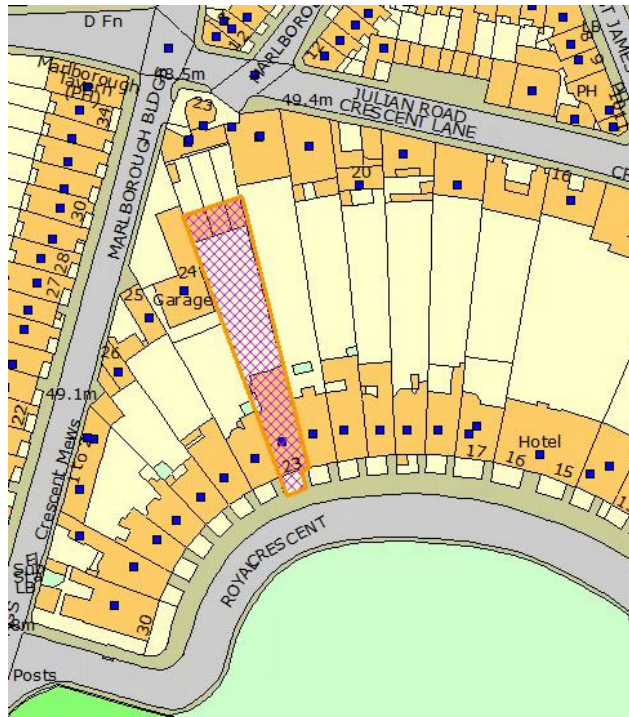
PLANS LIST:

1 Drawing 07 Dec 2015 OR2-B2XB PROPOSED FRONT ELEVATION
Drawing 07 Dec 2015 OR3-B2X PROPOSED REAR, NORTH ELEVATIONS
Revised Drawing 09 Feb 2016 NO.PW04 EAST ELEVATION
Revised Drawing 09 Feb 2016 NO.PW07 EAST ELEVATION & WEST
ELEVATION PROPOSED REVISIONS

2 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. Despite previous permissions being granted following extensive negotiations between the officers

and the applicant to enable approval, the scheme was not built in accordance with approved plans and for the reasons stated above was found unacceptable

Item No: 05
Application No: 15/05519/LBA
Site Location: 23 Royal Crescent City Centre Bath Bath And North East Somerset BA1 2LT



Ward: Kingsmead **Parish:** N/A **LB Grade:** I
Ward Members: Councillor Chris Pearce Councillor Andrew Furse
Application Type: Listed Building Consent (Alts/exts)
Proposal: Replace existing flat roof with lead proof slated pitched roof to summer house with alterations to parapet (Revised partially retrospective proposal)
Constraints: Agric Land Class 3b,4,5, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, Listed Building, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,
Applicant: Mr Peter White
Expiry Date: 1st February 2016
Case Officer: Sasha Berezina

REPORT

REASON FOR REFERRING TO COMMITTEE

Cllrs Chris Pearce and Andrew Furse requested for the application to be referred to the Chair of the Development Management Committee, and the Chair's decision was that it should be determined by the committee.

DETAILS OF LOCATION AND PROPOSAL

This application relates to an outbuilding set in the rear garden of No23 of Grade I Royal Crescent, within Bath Conservation Area and the WHS.

The building was erected under consent granted in 2002, and in 2012 permissions were granted to provide single storey extensions on each side of the building.

A subsequent application in 2014 granted permission to replace existing flat roof with slated hipped roof.

Following permission to provide hipped roof, another application was received seeking to amend the design of the main orangery roof to provide flat area at the top, and to provide matching hipped roofs to the side extensions. Following negotiations this design was on balance accepted.

The resulting steeper pitch roof, however, was built not in accordance with the approved plans and the subsequent applications to regularise it were refused in 2015.

The current applications seek to regularise the roof and additional roof lights as built, but to introduce a higher parapet to screen the roof further.

RELEVANT PLANNING HISTORY

DC - 02/00620/LBA - CONSSE - 12 September 2002 - Erection of a summerhouse and garden room

DC - 12/02656/FUL - PERMIT - 30 October 2012 - Combine flat G and flat M1 including extension to replace former buildings in rear basement yard, with terrace and conservatory at ground level and single storey extensions each side of summerhouse in rear garden

DC - 12/02657/LBA - CON - 19 October 2012 - Internal and external alterations to combine flat G and flat M1 including extension to replace former buildings in rear basement yard, with terrace and conservatory at ground level and single storey extensions each side of summerhouse in rear garden

DC - 14/02475/LBA - CON - 24 October 2014 - External works to replace existing flat roof with a pitched slate roof.

DC - 14/02885/FUL - PERMIT - 24 October 2014 - Replace existing flat roof and lantern light to summer house with slated pitched roof. (Amendment to previously approved scheme 02/00589/FUL)

DC - 14/05567/FUL - PERMIT - 22 April 2015 - Replace existing flat roof and lantern light to summer house with slated pitched roof (Revised proposal).

DC - 14/05568/LBA - CON - 22 April 2015 - External works to replace existing flat roof and lantern light to summer house with slated pitched roof (Revised proposal).

DC - 15/03521/FUL - RF - 30 September 2015 - Installation of new roof to existing orangery (Revised retrospective proposal)

DC - 15/03522/LBA - RF - 30 September 2015 - Internal and external work to facilitate installation of new roof to existing orangery (Revised regularisation proposal)

DC - 15/05518/FUL - Pending - - Replace existing flat roof with lead proof slated pitched roof to summer house with alterations to parapet (Revised partially retrospective proposal)

DC - 15/05519/LBA - Pending - - Replace existing flat roof with lead proof slated pitched roof to summer house with alterations to parapet (Revised partially retrospective proposal)

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HISTORIC ENGLAND - remain unable to support this application for these alterations to the parapet and retention of the current roof form, based on the following outstanding issues;

- The increased bulk and steeper pitch of the roof is intrusive and together with the increased height of the parapet will lead to an incongruous, top-heavy roof.
- The roof light facing towards the east is not in a historically appropriate location - hips are normally uninterrupted by openings and additions such as this.

In conclusion, we are unable to support this proposal due to the harmful impact of this proposal on the setting of the Grade I listed Crescent and from the damage to the OUV of the WHS, together with the negative impact on the character and appearance of this part of the Bath Conservation Area.

BATH PRESEVATION TRUST - Object. The proposal to increase the height of the parapet to offset the appearance of the roof does not remedy the overall issue, which is that the roof as built - contrary to the approved scheme - is at odds with the classical form and scale of the orangery and sits uncomfortably upon it. The raising of the parapet creates a further incongruous element to this building and represents a departure from the harmonious proportions of Palladian principles upon which the Royal Crescent is based. The higher parapet wall combined with the bulky mansard style roof is over-dominant and top heavy on the garden building and sits uncomfortably within the setting of the Grade 1 listed buildings. We refute the assertion that the proposed roof in its new iteration blends in better with the roofs of the new buildings to the rear; there can be no comparison or connection because those buildings are domestic dwellings and this building is a garden

building, which should be subservient and non-intrusive to its surroundings. Continue to be concerned about the proposed use of this building. We continue to be very concerned about the precedent of a building of this size and dominance (it is no longer a subservient garden building) being built in such a sensitive setting within the conservation area and World Heritage Site.

CLLR CHRIS PEARCE - supported and requested to refer this application to committee if officers are minded to refuse. The council should because of its similarity to the approved plan approve this application, but if you are minded not to approve it then, because of the interest shown in this application, I request that the decision is taken to committee.

CLLR ANDREW FURSE - Considering the significant concern the application is causing, I would be happy to support your decision if you felt it appropriate to bring it to committee. Having spoken to the applicant I am sure that if refused the applicant will appeal and thus incur cost both to him and the council. That said, one of my initial concerns remains ie The side window facing towards the East overlooks adjacent gardens and RC buildings, is rather intrusive so, the existing residential amenity is adversely affected by this application. This window was contrary to the original plans approved some years back.

THIRD PARTY LETTERS - 4 letters of objection and 9 of support (some forwarded by the applicant)

Objections:

- The amended design does not overcome the reasons for refusal relating to a previous design proposal (Ref. 15/03521/FUL) ;
- The proposal to raise the parapet of the summer house, far from correcting the disproportionate scale of the roof, would further aggravate the appearance of the whole building, as well as increasing its bulk and the incongruity with its setting.
- no assessment of significance of the heritage context or evidence of public benefit deriving from the proposal is made;
- impacts of the unauthorised side roof window on residential amenity of the surrounding properties by loss of privacy;
- concerns over creation of two-storey building which could be occupied as a separate dwelling;

Support:

- The unfinished Orangery is an improvement on the flat roof design and is appropriate addition in keeping with the Georgian context;
- The Orangery roof screens the development behind it;
- The roof is not prominent in public views;
- side window could be obscure glazed;
- The context is not pristine and can accommodate change;
- the pitch of the roof is to resolve construction issues;

POLICIES/LEGISLATION

The Council has a statutory requirement under Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant listed building consent for any works 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.

With respect to any buildings or other land in a conservation area the Council has a statutory requirement under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area.

The National Planning Policy Framework (NPPF) is national policy in the conservation and enhancement of the historic environment which must be taken into account by the Council together with the related guidance given in the Planning Practice Guidance (PPG).

The Council must have regard to its development plan where material in considering whether to grant listed building consent for any works. The Council's development plan comprises:

- Bath & North East Somerset Adopted Core Strategy
- Saved policies in the Bath and North East Somerset Local Plan (2007)
- West of England Joint Waste Core Strategy (2011)
- Adopted Neighbourhood Plans

The following policies of the Adopted Core Strategy are relevant to the determination of the application:

- CP6 - Environmental quality
- B4 - The World Heritage Site

The following saved policies of the Bath and North East Local Plan, including minerals and waste policies, adopted October 2007 are also relevant to the determination of the application.

- BH.2 - Listed buildings and their settings
- BH.6 - Development within or affecting conservation areas

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. However, currently the Plan has limited weight in the determination of applications.

OFFICER ASSESSMENT

The key considerations in relation to this application relate to the impacts of the proposal upon the setting of Grade I listed buildings and the character and visual amenity of the conservation area.

The orangery in question is a modern building, adjacent to curtilage listed walls, which continues the line of traditional garden buildings along the outer line of gardens radiating from the back of the Crescent. The character and style of the buildings vary, but their relative consistency in terms of scale significantly contributes to the arcadian green setting of the Crescent. These views out contribute strongly to the setting of the Crescent.

As described above, since the original design of the orangery was approved, it has been subject to several amendments and prolonged negotiations.

The resulting roof as constructed has a much steeper pitch, which affects the appearance and impact of the whole building. Whilst there is no change in height, the roof has lost its classical look and appears disproportionate and bulky in relation to the orangery building

itself, and discordant in relation to the setting of the Royal Crescent. The odd top-heavy design is apparent not only from the rear of Royal Crescent, but also when viewing the side elevation from Marlborough Buildings to the west. The previously agreed conservation roof lights have been replaced with standard, less subtle, velux roof lights with one of them installed in the side of the hipped roof, which is awkward in appearance and is not a traditional placement for such feature.

The most recent application now seeks to increase the height of the roof parapet in attempt to effectively screen some of the redesigned roof, however this change is not considered to be a successful way to address the previous reasons for refusal. On the contrary, a higher parapet would aggravate the visual inappropriateness of the top-heavy roof and would further disturb the proportions of what originally was planned as a subservient and low key garden structure.

Amended drawings have been received to correctly indicate the finish on the side wall of the extension to the orangery (coursed ashlar instead of rubble), which has already been completed. This change to the scheme is considered to be minor and innocuous, however it does not change the overall concern with regards to the incongruous roof and the proposed increase in parapet height of the parapet.

CONCLUSION

The general duty, when considering whether to grant listed building consent for works, which affects a listed building or its setting, is set out within the LB&CA Act and is supported by national and local policies. The requirement for the Local Planning Authority is 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. In relation to impacts of the development on the conservation area, the duty is to pay special attention to the preservation or enhancement of conservation area's character.

It is considered that the proposal, which would be visually incongruous due to its bulk and unsympathetic design, would have damaging effect on the setting of the Grade I listed terrace and the wider conservation area. It is appreciated that the applicant preference is for the steeper pitch roof and that the majority of the works have been carried out. However, being mindful of the statutory obligations in section 16 to have special regard for desirability of preserving the setting of the protected building, these potential expenses to the occupier, who chose to carry out works not in accordance with the approved details, cannot be afforded weight in reaching the decision.

For the reasons set out above, the application is considered to be harmful to the setting of Grade I listed Crescent and the wider conservation area character, and as such is recommended for refusal.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

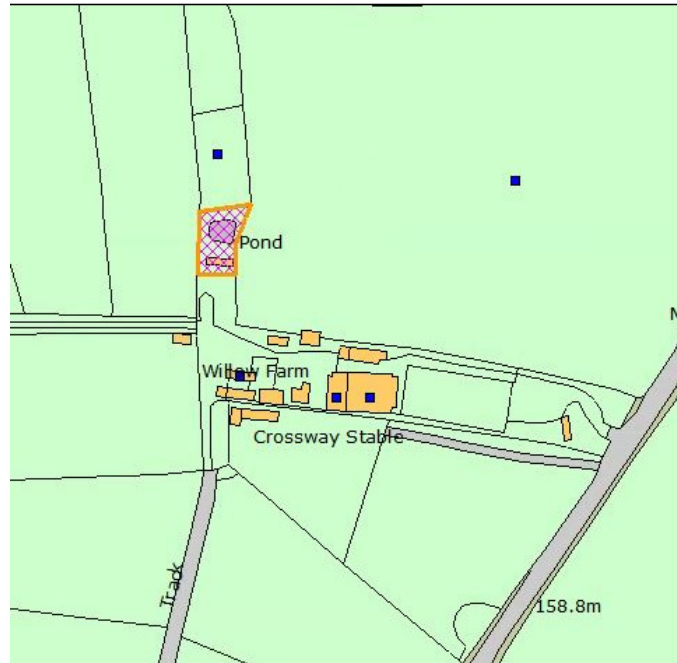
1 The proposed alterations, by reason of the form, bulk and design of the roof and the increased parapet height would appear visually incongruous to the setting of Grade I listed Crescent and would damage local character, which is fundamentally derived from the context of Georgian architecture. This would neither preserve nor enhance the character and appearance of Bath Conservation Area. The proposal therefore is contrary to the principles and policies set out in Planning (Listed Buildings and Conservation Areas) Act 1990, Section 12: Conserving and Enhancing the Historic Environment of National Planning Policy Framework, and the adopted development plan policies BH.2 and BH.6 of Bath & North East Somerset Local Plan (including Minerals and Waste Policies) adopted October 2007.

PLANS LIST:

1 Drawing 07 Dec 2015 OR2-B2XB PROPOSED FRONT ELEVATION
Drawing 07 Dec 2015 OR3-B2X PROPOSED REAR, NORTH ELEVATIONS
Revised Drawing 09 Feb 2016 NO.PW04 EAST ELEVATION
Revised Drawing 09 Feb 2016 NO.PW07 EAST ELEVATION & WEST
ELEVATION PROPOSED REVISIONS

2 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. Despite previous permissions being granted following extensive negotiations between the officers and the applicant to enable approval, the scheme was not built in accordance with approved plans and for the reasons stated above was found unacceptable

Item No: 06
Application No: 15/05108/FUL
Site Location: Willow Farm Flatts Lane Farmborough Bath Bath And North East Somerset



Ward: Farmborough **Parish:** Farmborough **LB Grade:** N/A

Ward Members: Councillor S Davis

Application Type: Full Application

Proposal: Change of use of land to residential curtilage (Retrospective).

Constraints: Airport Safeguarding Zones, Agric Land Class 1,2,3a, Coal - Standing Advice Area, Forest of Avon, Greenbelt, Hazards & Pipelines, SSSI - Impact Risk Zones,

Applicant: Mrs Jackie Gregory Stevens

Expiry Date: 18th January 2016

Case Officer: Sasha Berezina

REPORT

REASON FOR REFERRING TO COMMITTEE

Farmborough Parish Council objected to the proposal whilst the Officers are minded to approve, and the Chair's decision was that the application should be determined by the committee.

APPLICATION SITE AND PROPOSAL

The application relates to Willow Farm, which formally formed part of Crossway Stables, and has recently been separated from the stable activities as an agricultural unit. The unit is formed by just over 6ha of agricultural land in the Green Belt and includes a

dwellinghouse together with a number of structures, some of which were erected without planning permission.

The current application seeks to regularise part of the residential curtilage, which has been created without planning permission. The proposed curtilage would incorporate the land 6.4m to the south, 3m to the west and 4.5m to the north of the building.

RELEVANT PLANNING HISTORY

DC - 97/02441/FUL - REF - 1 August 1997 - Residential mobile home ancillary to livery stable business as amplified by letters and information received 30th June 1997 and 25th July 1997.

DC - 99/02109/FUL - PER - 1 April 1999 - Installation of septic tank.

DC - 05/02554/FUL - RF - 10 May 2007 - Change of use for stationing of a residential mobile home

DC - 04/03145/FUL - PERMIT - 4 May 2011 - Removal of existing stables building and siting of new stables building

DC - 09/00157/CLEU - LAWFUL - 2 October 2009 - Continuation of use of caravan as dwelling (Use Class C3).

DC - 10/03187/AGRN - AN - 13 October 2010 - Erection of 2no. polytunnels and 2no. green houses

DC - 11/00964/FUL - PERMIT - 6 July 2011 - Erection of replacement eco home and office, removal of residential caravan, lean to and portacabin and removal of two additional static caravans

DC - 11/04616/COND - DISCHG - 29 March 2012 - Discharge of condition 4 of application 04/03145/FUL (Removal of existing stables building and siting of new stables building)

DC - 12/03376/NMA - APP - 22 August 2012 - Non-Material Amendment to application 04/03145/FUL (Removal of existing stables building and siting of new stables building)

DC - 13/00709/FUL - WD - 13 June 2013 - Erection of a workshop and kitchen and field shelter/straw barn (retrospective).

DC - 13/02797/NMA - RF - 11 October 2013 - Non-Material Amendment to application 04/03145/FUL (Removal of existing stables building and siting of new stables building)

DC - 13/03879/AGRN - AP - 11 October 2013 - Erection of a tractor shed, tool room, farrowing field shelter, straw storage and feed room

DC - 13/04198/FUL - WD - 24 January 2014 - Erection of a workshop and kitchen (retrospective). (Resubmission of 13/00709/FUL)

DC - 13/04419/AGRN - AN - 8 November 2013 - Erection of a tractor shed, feed shed and straw barns.

DC - 14/00936/FUL - WD - 4 June 2014 - Relocation of existing workshop buildings. (Retrospective).

DC - 14/03304/AGRN - AP - 22 August 2014 - Erection of Pig shed and Vineyard shed

DC - 14/04099/AGRN - WD - 1 October 2014 - Erection of 2no Vineyard storage sheds

DC - 14/05429/FUL - PERMIT - 10 July 2015 - Erection of new pig shed.

DC - 14/05430/FUL - WD - 15 June 2015 - Erection of sheds to support new vineyard operation.

DC - 14/05458/FUL - RF - 17 December 2015 - Relocation of existing workshop (Retrospective)

DC - 15/02080/AGRN - AN - 4 June 2015 - Erection of two small sheds to house equipment for the maintenance of the vines.

DC - 15/05108/FUL - Pending - Change of use of land to residential curtilage (Retrospective).

DC - 16/00125/FUL - Pending - Erection of single storey front extension.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Farnborough Parish Council - Object in Principle to the application.

The Parish Council has always in the past expressed concerns over the numerous and confusing planning applications related to this site. In January 2015 the Parish Council supported an application that in the opinion of the Parish Council would clarify and resolve all the outstanding planning issues at that time.

1 The Parish Council notes that within this defined curtilage is included a part of a building that is subject to the retrospective planning application 14/05458/FUL. This part of the building is defined on drawing 2014/09/006 as a "Staff Kitchen & Meeting Room".

2 This building (built without permission) was to (retrospectively) replace a barn identified on drawing 2014/09/006 as "Existing Building". The comments relating to application 14/05458/FUL (retrospective) required this "Existing Building" to be removed from the site. It is the Parish Council's understanding that this has yet to take place.

3 This application 15/05108/FUL would therefore further confuse the outstanding applications by potentially approving part of a building that is subject to an unresolved retrospective application.

4 This application for a curtilage is defined for the 'Eco-home ' approved in planning application 11/00964/FUL. This application required the removal of a residential caravan, lean to and porta cabin and also the removal of two further static caravans. It is the Parish Council's understanding that these units remain on site.

In summary the Parish Council feels there needs to be a willingness to comply with previous planning requirements before further applications can be progressed.

Third Party Comments - none received

POLICIES/LEGISLATION

The Council's Development Plan comprises:

- o Core Strategy
- o Saved Policies in the B&NES Local Plan (2007)
- o Joint Waste Core Strategy
- o Relevant adopted Neighbourhood Plans

At the Council's Cabinet meeting on 2nd December 2015 the draft Placemaking Plan was approved for consultation purposes and also approved for Development Management purposes. However, currently the Plan has limited weight in the determination of planning applications.

The following policies of the Core Strategy are relevant to the determination of this application:

- o CP6 - Environmental Quality
- o CP8 - Green Belt

The following saved policies of the Bath and North East Local Plan, including minerals and waste policies, adopted October 2007 are also relevant to the determination of this application.

D.2: General design and public realm considerations

D.4: Townscape considerations

GB.2: Rural Qualities of Green Belt

Placemaking Policies with limited weight:

D1: General Urban design principles

D6: Amenity

GB1: Visual amenities of the Green Belt

National Planning Policy Framework (2012) and Practice Guidance (2014)

OFFICER ASSESSMENT

The key planning consideration in relation to this application relates to the impact of the proposal on the Green Belt.

The site has a long and convoluted planning history with a number of planning applications and agricultural notifications submitted to the Council.

Permission was granted in July 2011 (ref. 11/00964/FUL) for 'erection of replacement eco home and office, removal of residential caravan, lean to and porta cabin and removal of two additional static caravans', however the permission did not include any residential curtilage to serve the needs of the residential unit. The building was constructed around 2013 and the owners have subsequently created the area of private amenity space to the north and south of the dwelling which is separated from the agricultural land. The proposal seeks to regularise the use of the land around the building albeit slightly reduced from the current extent.

This site and all of the surrounding land is located within the Bath/Bristol Green Belt where special controls over development exist. National planning policy in respect of Green Belts is reflected in Core Strategy policy CP8.

The proposal entails the change of use of agricultural land within the Green Belt. Section 9 of the NPPF, which replaced the former Planning Policy Guidance on Green Belts, has omitted the reference to 'material changes of use' as being 'not inappropriate' development.

Para 90 of the NPPF provides an exhaustive list of certain other forms of development which are not inappropriate in the Green Belt, providing they preserve the openness of the Green Belt and do not conflict with the purposes of including the land in the Green Belt. This list does not include any reference to material changes of use, which implies that any proposal for a change of use should be considered 'inappropriate' by default.

This is an important material consideration in determining this application because it presents an inherent conflict of the proposal with the national policy on Green Belts, and as such the proposed change of use would present an inappropriate form of development within Green Belt.

The proposal entails some increase in the level of activity on the land as a result of the domestic use and the installation of low level timber fencing along the perimeter of the curtilage. The proposal does not mention the increase in ground levels that had to be done to bring the garden level with the house, however these were engineering works that resulted in a raised bank.

Thus, there indeed would be an increase in the volume of built development on the site. However, the curtilage is drawn relatively tightly around the existing building, which is set amongst agricultural structures. Overall it is considered that this development would not be of an order that would be significant in its encroachment on the countryside.

NPPF states that inappropriate development is by definition harmful and should not be approved, unless there are very special circumstances. The 'very special circumstances' test, which needs to be applied if it is found that there would be conflict with Green Belt policy, is embodied in para.88 of the NPPF. This explains that 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.

The very special circumstances in favour of the proposal are set out in the supporting Planning Statement, which relies on the lack of any curtilage afforded to the house as permitted and refers to para 56 of the NPPF for good design. It goes on to state that it is not unreasonable for a dwelling to have a modest amenity space, which in relation to the existing building would have little additional impact upon the character and appearance of the Green Belt.

An example of a similar planning situation is provided by reference to a 2010 appeal decision in the Cheshire Green Belt where an Inspector agreed that converting a field into a garden was inappropriate development within Green Belt, but found that in the absence

of a defined garden, very special circumstances could be argued. The decision pre-dates the NPPF, but is still considered to have relevance to the current proposal.

Another example refers to the recent changes in permitted development rights for conversion of agricultural buildings into dwellings, which also allow for a modest curtilage.

It is considered that, on balance, the circumstances of this case outweigh the harm to Green Belt by reason of inappropriateness. Weight is afforded to the absence of any authorised domestic curtilage, taken together with the opportunities afforded by the proposal to control any future development and the spread of domestic activities on site, as well as the restoration of the area beyond it to agricultural use.

The applicant has agreed to accept a condition to ensure that no buildings are constructed within the curtilage without the prior permission of the local authority. Additional conditions could be imposed to secure a schedule of features to be removed, a landscaping scheme, confirmation of boundary treatment and the restoration of the land outside the site to its former use.

It is therefore on balance recommended that the proposal is approved subject to the aforementioned conditions.

RECOMMENDATION

PERMIT

CONDITIONS

1 (i) Within 3 months of the date of this decision a scheme shall be submitted to the Local Planning Authority for approval and shall include:

- a) the precise location and details of the proposed boundary treatment in the form of a low level post and rail fence and hedging (or other such similar boundary treatment) to be erected to delineate the residential curtilage from the adjacent agricultural land;
- b) a method statement for the reinstatement of the land outside of the domestic curtilage hereby approved to its previous condition and use; and
- c) a schedule of all domestic planting, garden furniture, planters, path edgings, fencing and other domestic paraphernalia to be removed from outside the approved domestic curtilage.

(ii) Unless an acceptable scheme is submitted, approved and implemented within 12 months of this decision, the use of the site shall cease and the land shall be reinstated to agricultural land (its previous authorised use and condition).

Reason: In the interest of the openness of the Green Belt

2 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), the provisions of:

- a) Schedule 2 Part 1 Class A and Class E of the said order relating to enlargement of a dwellinghouse or any buildings incidental to the enjoyment of the dwellinghouse; and

b) Schedule 2 Part 2 Class A relating to gates, fences, walls and other means of enclosure

shall not apply to the dwelling to which this permission relates.

Reason: In the interest of protection of the openness of the Green Belt

PLANS LIST:

1 OS Extract 23 Nov 2015 SITE LOCATION PLAN
Revised Drawing 15 Jan 2016 LOCATION/PROPOSED CURTILAGE PLAN

2 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/revised proposals was taken and consent was granted.

3 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, Lewis House, Manvers Street, Bath, BA1 1JG. Requests can be made using the 1APP standard form which is available from the Planning Portal at www.planningportal.gov.uk.