

# Bath & North East Somerset Council

MEETING:	<b>Development Management Committee</b>	AGENDA ITEM NUMBER	
MEETING DATE:	<b>5th April 2017</b>		
RESPONSIBLE OFFICER:	Mark Reynolds – Group Manager (Development Management) (Telephone: 01225 477079)		
TITLE:	<b>APPLICATIONS FOR PLANNING PERMISSION</b>		
WARDS:	ALL		
BACKGROUND PAPERS:			
<b>AN OPEN PUBLIC ITEM</b>			

## BACKGROUND PAPERS

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

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

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

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

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

## **INDEX**

ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
001	16/06124/FUL 10 March 2017	Mrs A Chippendale 14 Audley Grove, Lower Weston, Bath, Bath And North East Somerset, BA1 3BS Erection of 1 no. dwelling, car parking and associated landscaping in rear garden of existing dwelling.	Kingsmead	Emma Hardy	PERMIT
002	16/05888/FUL 27 January 2017	Mr Geoff Jones 3 Streamside, Chew Magna, Bristol, Bath And North East Somerset, BS40 8QZ Erection of front and side extension to create house access from road level, rear single storey extension and associated works	Chew Valley North	Samantha Mason	REFUSE

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

**Item No:** 001  
**Application No:** 16/06124/FUL  
**Site Location:** 14 Audley Grove Lower Weston Bath Bath And North East Somerset BA1 3BS



**Ward:** Kingsmead      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Chris Pearce      Councillor Andrew Furse  
**Application Type:** Full Application  
**Proposal:** Erection of 1 no. dwelling, car parking and associated landscaping in rear garden of existing dwelling.  
**Constraints:** Affordable Housing, Agric Land Class 3b,4,5, Article 4, Article 4, Article 4, Conservation Area, Forest of Avon, Hotspring Protection, MOD Safeguarded Areas, SSSI - Impact Risk Zones, World Heritage Site,  
**Applicant:** Mrs A Chippendale  
**Expiry Date:** 10th March 2017  
**Case Officer:** Emma Hardy

## REPORT

### Reason for reporting application to Committee:

The application is being referred to the Committee because Councillor Bob Goodman has called in the application if Officers are minded to recommend approval. The application has been referred to the Chair who agrees that the application should be considered by the Committee.

This application went to Development Management Committee on 8 March 2017. Members voted to defer determining the application to allow Members to undertake a site visit.

### Description of site and application:

The application relates to the rear garden of the residential property 14 Audley Grove which backs on to Edward Street in Bath. The site has a substantial upwards incline in the direction of Edward Street to the rear. The locality is primarily residential and is characterised by early to mid-Twentieth Century two storey houses constructed in Bath stone ashlar under tiled roofs. The site is located within the Bath Conservation Area and the City of Bath World Heritage Site.

Planning permission is sought to erect a two storey part-subterranean detached house located in the rear garden of 14 Audley Grove. The proposed dwelling would have a footprint of approximately 9.9m by 7.3m with a single storey front projection adding a further 1.95m in depth. The dwelling would comprise three bedrooms and a bathroom at upper ground floor level and a kitchen, open plan living and dining room, playroom/snug, utility room and WC on the lower ground floor. The building would have a hipped roof with parapet roof edge and rear dormer at first floor. The dwelling is proposed to be finished in buff brick walls, clay tiled roof and zinc cladding to dormer and entrance porch. Two parking spaces would be provided on hardstanding to be accessed from Edward Street via sliding fence screens. The existing rear fence line would be retained as the rear boundary of the site.

Amended plans have been received during the course of the application to show a neighbouring Sycamore tree retained and to slightly reposition the northern retaining wall to the parking area away from the root protection area of the tree.

#### Relevant planning history:

08/01789/FUL Retention of 2m high wooden fence to rear boundary. Withdrawn 18/7/2008. No enforcement action was taken.

15 Audley Grove:

08/01627/FUL - Erection of 2 no houses (Resubmission). Permitted 23/9/2008.

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

Councillor Goodman: I have spoken to several of the residents and indeed looked at the site in question. There are, I believe, good planning reasons for this Application to be referred to the DMC and for it to be rejected.

There is, I believe, a significant impact on the Conservation Area, particularly when viewing the site from the houses higher up.

I am also concerned regarding the parking for the adjoining residents. Not enough parking has been allowed for the development.

19 objections have been received from the owners/occupiers of the following addresses:

- Nos. 25, 26, 27, 35, 37, 38, 39, 42, 43, 44 and 45 Edward Street
- No. 15B Audley Grove (also owns Nos. 15, 15A and 16)
- No. 32 Audley Park Road
- No. 8 Haviland Grove
- No. 8A Southlands

-No. 33 Albany Road, Twerton

2 additional un-addressed objections have also been received.

The content of the objections is summarised below:

- Proposal constitutes overdevelopment;
- The development amounts to 'garden grabbing' which has been outlawed by Government;
- This will set a precedent for similar developments along Edward Street;
- An application for a new dwelling adjacent the substation on Edward Street has historically been refused on the grounds that such development would set a harmful precedent for further development along the street;
- Out of keeping with the surrounding buildings and pattern of development, fails to enhance the character and quality of the area;
- Harm to the Conservation Area and World Heritage Site;
- Object to use of buff brick;
- Dormer windows have previously been refused in this part of the conservation area;
- There are no houses along the west side of Edward Street and the street is historically and architecturally important for this reason. The proposal will alter the street pattern;
- Harmful to natural habitat and landscaping, loss of valuable green space;
- The impact of the development on bats has not been considered;
- Disruption and dangers for neighbours during the construction process;
- Highway safety concerns in regards to: the proposed parking spaces and access; access of heavy goods vehicles during construction and impact on the flow of traffic; enforceability of the recommended highways condition;
- Visibility splays rely on the acquisition of a strip of land from the rear garden of 13 Audley Grove, which hasn't yet happened and there is no guarantee this will take place;
- Concerns regarding increased demand for on street parking associated with the new dwelling and contractors parking on Edward Street;
- There is already a problem with people not complying with the double yellow lines along Audley Park Road;
- Harm to Edward Street neighbours' amenities, including: noise disturbance; harm to views; overlooking and loss of privacy.
- Harm to residential amenities of occupiers of Nos. 15, 15A, 15B, 16 and 14 Audley Grove, including: overlooking from proposed rear bedroom windows and side windows and to neighbouring windows and gardens; overbearing visual impact; loss of direct sunlight and reduced daylight; visual impact of parked cars for occupiers of Nos. 15 and 16;
- The proposal impinges Protocol 1, Article 1 and also Article 8 of the Human Rights Act;
- Notwithstanding an additional statement received from the applicant's agent, the dwelling will be visible from street level outside No. 43 Edward Street and the lower ground floor level and upper ground floor level of No. 43. The dwelling will also be visible to surrounding Edward Street neighbours and the residents of 15 Audley Grove;
- The proposed house would cast a shadow on the south face of No. 15 year round and this will increase that dwelling's carbon emissions;
- Potential for subsidence and damage to surrounding properties;
- It is unclear from the submission whether the proposed house would have 3 or 4 bedrooms;

- No dimensions stated on the plans, these should be clarified and neighbours notified before planning permission can be granted;
- An application for a new dwelling on Audley Grove was recently refused;
- The Council own a 4ft verge along the side of the road which must be maintained;
- The rear fence line of No. 14 was moved and a planning application for its retention (08/01789/FUL) was withdrawn. This needs to be rectified;
- Removal of a sycamore tree outside the application site is unacceptable (Officer note: this is now to be retained);
- There is an 11,000 volt cable believed to run from the sub-station on Edward Street, under the grass verge and under the pavement on the full south-north section of Audley Park Road.

One general comment has also been received from the other owner/occupier of 15B Audley Grove, summarised below:

- A slightly smaller and lower height house with a green/planted roof would be more appropriate;
- Vehicle access could be moved to Audley Grove instead of Edward Street;
- The current proposal overlooks the rear bedroom windows of No. 15B;
- The concerns of neighbours could be designed out with an amended scheme;
- The position of the rear boundary fence was moved closer to Edward Street by the previous owner and has not been reinstated since application 08/01789/FUL for its retention was withdrawn.

One comment of support has been received from the owners/occupiers of No. 41 Edward Street, summarised below:

- Regret that the original flat green roof design has been replaced but understand the reasoning for this;
- There is sufficient on-site parking provision to avoid increasing demand for on on-street parking;
- Proposal won't set a precedent as the other Audley Grove gardens become gradually shorter and steeper down the hill;
- Suggest additional tree planting adjoining the car park retaining wall to soften views from properties opposite;
- Suggest the construction management plan restricts the hours for heavier works outside peak hours of traffic on Edward Street;
- Supports a condition to agree final external materials but recommends changing buff brick to ashlar.

Conservation: No objection subject to conditions.

Highways: No objection subject to conditions.

Arboriculture: No objection.

Ecology: No objection.

## **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:

- Core Strategy (2014)
- Saved Policies in the B&NES Local Plan (2007)
- West of England Joint Waste Core Strategy (2011) which supersedes all 2007 Local Plan policies on Waste apart from Policies WM.4 and WM.9

The following policies of the Core Strategy (2014) are relevant to the determination of this application:

- B1: Bath spatial strategy
- B4: The World Heritage Site and its setting
- DW1: District wide spatial strategy
- SD1: Presumption in favour of sustainable development
- CP2: Sustainable construction
- CP6: Environmental quality
- CP10: Housing mix

The following saved policies of the Bath and North East Somerset Local Plan (2007) are also relevant to the determination of this application:

- SC.1: Settlement classification
- D.2: General design and public realm considerations
- D.4: Townscape considerations
- BH.6: Development within or affecting Conservation Areas
- NE.1: Landscape character
- NE.4: Trees and woodland conservation
- NE.10: Nationally important species and habitats
- NE.11: Locally important species and habitats
- T.24: General development control and access policy
- T.26: On-site parking and servicing provision

Following the Examination hearings the Inspector has now issued her Interim Statement and has advised the Council of her recommended Main Modifications required to make the plan sound. The Main Modifications and Minor Proposed Changes are now subject to public consultation prior to the Inspector issuing her Final Report. The following policies can now be given substantial weight:

- D.1: General urban design principle
- D.2: Local character and distinctiveness
- D.5: Building design
- D.6: Amenity
- D.7: Infill and backland development
- NE.2: Conserving and enhancing the landscape and landscape character
- NE.6: Trees and woodland conservation

The following policy can be given significant weight:

- HE.1: Historic environment
- ST.7: Transport requirements for managing development
- NE.3: Sites, species and habitats

National Policy:

The National Planning Policy Framework adopted March 2012

National Planning Practice Guidance

## **OFFICER ASSESSMENT**

### Principle of the development

The site is located within the built up area of Bath. The principle of new dwellings in this location is acceptable subject to compliance with other relevant policies.

### Design and impact on the Conservation Area

The site is located within the Bath Conservation Area. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the local planning authority shall pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. The character of the area is suburban with predominantly early/mid Twentieth Century residential linear development within relatively large garden plots.

It should be noted that the semi-detached pair of houses Nos. 15A and 15b were granted planning permission recently, which significantly reduced the plot length of No. 15.

Paragraph 60 of the NPPF states that planning policies and decisions should not attempt to impose architectural styles or particular tastes and they should not stifle innovation, originality or initiative through unsubstantiated requirements to conform to certain development forms or styles. It goes on to state that it is, however, proper to seek to promote or reinforce local distinctiveness. Whilst the modern design of the proposed house is very different to that of the adjacent Twentieth Century dwellings, the scale and massing of the development is considered in keeping with the surrounding buildings. The dwelling would be of an appropriate scale and would appear unobtrusive from public viewpoints. The proposed dwelling would be sited to continue the staggered building line of the set-back Audley Grove houses and would therefore respect the local pattern of development.

Third party comments regarding 'garden grabbing' are noted; however, this has not been 'outlawed' as suggested. At Paragraph 53 the NPPF sets out that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. As set out above, the proposed development is not considered to cause harm to the character of the local area.

Concerns have been raised that the proposal represents overdevelopment of the plot. The applicant has supplied a plot to build ratio analysis to address this. The proposed development would result in a build to plot ratio of approximately 27% (taking into account the visible ground level footprint). The submitted analysis indicates that the build to plot ratio for the adjoining No. 15 Audley Grove is approximately 29% and the existing dwelling immediately opposite the site on Edward Street has a build to plot ratio of around 34%. The neighbouring recent development at 15a Audley Grove has a substantially greater extent of development relative to the plot size, at approximately 54% of the plot area. It is



therefore considered that the proposed amount of development on the plot is in keeping with other houses in the vicinity of the application site.

Forthcoming Placemaking Plan Policy D.7 (now afforded substantial weight) states that backland development could be supported where: a) it is not contrary to the character of the area; b) it is well related and not inappropriate in height, scale, mass and form to the frontage buildings; c) there is no adverse impact to the character and appearance, safety or amenity of the frontage development; and d) it is not harmful to residential amenity as outlined in PMP Policy D.6. The matters of amenity and highway safety are discussed below. The proposed development is considered to relate appropriately to both No. 14 Audley Grove and the surrounding buildings in terms of height, scale, mass and form.

A condition is recommended requiring samples of the proposed external materials to be formally approved. Whilst the use of buff coloured brick is proposed for this modern design, it is a material that requires further consideration in the context of this application and its surrounds and a condition requiring samples of materials for consideration is recommended.

The proposed rear zinc-clad dormer would be an integral feature of the dwelling's upper ground floor. It is not directly comparable to the addition of a box dormer to the roof slope of a two storey house and is compatible with the contemporary design of the proposed building. Permitting the proposed dwelling would have no bearing on the acceptability of dormer window additions in the vicinity.

Overall, it is considered the proposed development would respond appropriately to the local context and would preserve the character and appearance of the Bath Conservation Area. The proposal complies with saved Local Plan Policies D.2, D.4, BH.6, Core Strategy Policy CP6 and the aims of the National Planning Policy Framework.

#### Impact on the World Heritage Site

Given the scale of the proposed development, its appropriate design and materials and unobtrusive appearance, it is not considered that the proposal would harm the Outstanding Universal Values of the World Heritage Site, its authenticity or integrity. The proposal therefore complies with Core Strategy Policy B4 and the aims of the National Planning Policy Framework.

#### Impact on residential amenities

Given the distance between the proposed dwelling and the existing houses on Edward Street, in addition to the difference in ground levels, it is not considered the proposal would cause unacceptable harm to the amenities of the occupiers of those dwellings through loss of light, overshadowing, overbearing visual impact, loss of outlook or loss of privacy.

Whilst the outlook, or visual enjoyment, that a property may have can be adversely affected by the close proximity and depth of a neighbouring extension or building, the right to or protection of a view is not a material planning consideration.

There would be a separation distance of approximately 20m between the rear elevation of the proposed dwelling and the upper floor rear windows at the existing dwelling at 14

Audley Grove. This is a greater distance than between the facing elevations of No. 15 and Nos. 15A and 15B Audley Grove which was recently permitted. Taking this into account, in addition to the difference in ground levels, it is not considered the proposed development would cause a harmful level of overlooking and loss of privacy for the occupiers of 14 Audley Grove.

Similarly, the distance between the proposed dwelling and the rear windows at 13 Audley Grove is considered adequate to avoid a harmful level of overlooking for the occupiers of that dwelling.

It is not considered that the proposed development would result in a significant increase in overlooking to the rear garden and windows of Nos. 15A and 15B Audley Grove compared to the existing relationship between Nos. 15 and the recent semi-detached pair of 15A and 15B. Furthermore, the rear bedroom windows would afford only angled views to the rear elevations of No. 13 and Nos. 15A and 15B.

The rear bedroom windows at the proposed dwelling would afford only angled views to the neighbouring garden at 15 Audley Grove, which is a common relationship in urban and suburban locations.

Given the modest height of the proposed house and the particular relationship with the surrounding properties, particularly the distance from those fronting Audley Grove, it is not considered that the development would cause a harmful impact for the occupiers of neighbouring Audley Grove properties through visual impact, loss of light or overshadowing.

One upper ground floor window is proposed to each side elevation. Whilst the proposals state that these would be fitted with louvres to prevent overlooking, a condition is recommending requiring these to be obscurely glazed and non-opening below 1.7m above internal floor level in order to protect the privacy of neighbouring occupiers.

Overall, it is considered that the proposed development would maintain an acceptable standard of amenity for the occupiers of all neighbouring dwellings in accordance with the relevant provisions of Local Plan Policy D.2.

In regards to the residential amenity provided by the proposed dwelling, all habitable rooms would benefit from an acceptable level of daylight and outlook. Useable private amenity space would be provided to the rear of the proposed dwelling. The proposed dwelling and garden would not experience an unacceptable level of overlooking from any neighbouring property. Overall, the proposed dwelling would provide an acceptable standard of amenity for future occupiers.

#### Car parking, access and highway safety

The proposed development would be accessed from Edward Street. The proposed access arrangements are considered acceptable. It is also noted that there are two existing dropped kerbs on this side of Edward Street in the vicinity of the application site and access to a parking/garage forecourt further up the road opposite Audley Park Road.

It is noted that the visibility splay would be achieved by purchasing a strip of verge to the rear of 13 Audley Grove and the requisite notice has been served as part of the planning application. It is not uncommon for visibility splays within built up areas to be reliant on verges. The proposed access arrangements are therefore considered acceptable.

Two car parking spaces would be provided, which meets the policy requirement for the proposed three bedroom house as set out in saved Local Plan Policy T.26. Parking provision would remain unchanged for the existing property. Emerging parking standards in the Placemaking Plan are a consideration but are not afforded full weight. ST7 requires 2 spaces for a 3 bed dwelling in the outer zone.

A query has been raised regarding the position of the existing rear fence line in relation to the highway verge. It appears from OS data that the position of the rear boundary has shifted rearwards at some point to line up with the adjoining boundary at 13 Audley Grove. However, Title Deeds and a Title Plan have been provided by the applicant to demonstrate ownership of the strip of land in question. Notwithstanding the proposed visibility splay arrangements outlined above, it is therefore not considered that the proposed development results in encroachment onto land outside the ownership of the applicant.

Conditions are recommended requiring: approval of a Construction Management Plan; the parking area to be kept clear of obstruction and used for parking for the proposed dwelling only; and the proposed access to be constructed with a bound and compacted surfacing material. Subject to these conditions, it is considered that the proposed development would not be prejudicial to local highway safety and the free flow of traffic, in accordance with saved Local Plan Policies T.24 and T.26 and the aims of the National Planning Policy Framework.

### Trees and landscaping

No trees of arboricultural significance would be removed to accommodate the proposed development. There is no objection to the loss of the Purple Plum as indicated.

There is a Sycamore located on the adjoining land to the north of the application site. This tree is not a suitable candidate for a Tree Preservation Order in view of the location in which it is growing and the presence of overhead wires radiating from a nearby telegraph pole. There is no objection in regards to potential impact on this tree.

Soft landscaping is proposed as part of the development including a screen of pleached Red Robin trees along the boundary with the existing dwelling at 14 Audley Grove. The proposed landscaping is considered acceptable. Given the existing landscape value of No. 14's rear garden, it is not considered that the proposals would have an unacceptable impact on the landscape character of the area.

### Ecology

The proposal affects an area of existing residential garden and would involve removal of structures such as a garden shed and a greenhouse. Whilst the site is likely to be used by a range of common wildlife that typically occurs in gardens, and this is likely to include bat activity, the site does not appear to support any features or habitat that would provide

potentially suitable roosting opportunities. Bat surveys are therefore not considered justified in this case, and the proposal can proceed using the precautionary approach.

The proposal would not harm bat activity. Furthermore, it is not considered that the addition of a single dwelling in a residential area would deter bat activity in the locality. The habitat value of vegetation at the site is not capable of being of sufficient value to be reliant for bat activity. Sensitive lighting would, however, be appropriate as excessive lighting can deter bats and other wildlife; this can be secured by condition.

Verbal comments at the previous Development Management Committee raised concerns regarding the presence of a pond within the site. No written objection has been received in regards to this, and no evidence has been submitted to demonstrate that Great Crested Newts (the only protected form of pondlife) are active in the area. The applicant has stated that the pond in question is dry and has been for several years and photos have been provided to demonstrate this. In the absence of evidence demonstrating Great Crested Newt activity in the area, the risk of this protected species being present on site is considered sufficiently low as to not warrant a protected species survey being submitted.

### Other matters

The submitted plans and drawings are accurately scaled. There is no requirement for dimensions to be stated on the plans.

Potential structural impact on neighbouring property is a private property matter and not a material planning consideration.

A degree of disruption is to be expected from any construction project; however, this is not sufficient justification to refuse an otherwise acceptable application for planning permission.

In regards to precedent, every case must be assessed on its own planning merits. In this case, no material planning harm has been identified as a result of the proposed development, which is considered to comply with both local and national planning policy.

A neighbour living opposite the site on Edward Street argues that his and his family's right of respect for family/private life and their right of property in terms of the Human Rights Act would be breached by the proposed development. Whilst their rights might be interfered with, they would not be violated by the proposed development since those rights are not absolute. Case law demonstrates that the responsibility of a planning decision maker in regards to Human Rights concerns is to take a proportional approach to the balancing exercise of the planning assessment, which is considered to be addressed above.

## **RECOMMENDATION**

PERMIT

## **CONDITIONS**

### **1 Standard Time Limit (Compliance)**

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 permission

## **2 Plans List (Compliance)**

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 Highways - Parking (Compliance)**

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: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

## **4 Highways - Bound/Compacted Surface (Pre-occupation)**

No occupation of the development shall commence until the vehicular access and parking area shown on drawing No. P 001 P02 have been constructed with a bound and compacted surfacing material (not loose stone or gravel).

Reason: To prevent loose material spilling onto the highway in the interests of highways safety in accordance with Policy T.24 of the Bath and North East Somerset Local Plan.

## **5 Highways - Construction Management Plan (Pre-commencement)**

No development shall commence until a Construction Management Plan has been 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, working hours, site opening times, wheel wash facilities and site compound arrangements. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policies T.24 and D.2 of the Bath and North East Somerset Local Plan. This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

## **6 Materials - Submission of Schedule and Samples (Bespoke Trigger)**

Notwithstanding the information shown on the application forms and submitted drawings no construction of the external walls of the 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 approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policies D.2 and D.4 of the Bath and North East Somerset Local Plan and Policy CP6 of the Bath and North East Somerset Core Strategy.

### **7 External Lighting (Bespoke Trigger)**

No new external lighting shall be installed without full details of proposed lighting design being first submitted and approved in writing by the Local Planning Authority; details to include lamp specifications, positions, numbers and heights; details of predicted lux levels and light spill, and details of all necessary measures to limit use of lights when not required and to prevent light spill onto nearby vegetation and adjacent land; and to avoid harm to bat activity and other wildlife. The lighting shall be installed in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with policies NE.10 and NE.11 of the Bath and North East Somerset Local Plan.

### **8 Obscure Glazing and Non-opening Window(s) (Compliance)**

The proposed upper ground floor side windows shall be obscurely glazed and non-opening unless the parts of the window which can be opened are more than 1.7m above the floor of the room in which the window is installed. Thereafter the window shall be permanently retained as such.

Reason: To safeguard the residential amenities of adjoining occupiers from overlooking and loss of privacy in accordance with Policy D.2 of the Bath and North East Somerset Local Plan.

## **PLANS LIST:**

This decision is based on the following drawings and information:

352 - S 001 Location Plan, 352 - S 002 Existing Site Plan, 352 - S 301 Existing Section AA, 352 - P 101 Lower Ground Floor Plan, 352 - P 102 Upper Ground Floor Plan, 352 - P 201 Boundary Elevation from 13 Audley Grove, 352 - P 202 South Facing Boundary Elevation, 352 - P 203 Boundary Elevation from 15 Audley Grove, 352 - P 204 North Facing Boundary Elevation, 352 - P 211 South Facing Elevation, 352 - P 212 North Facing Elevation, 352 - P 213 West Facing Elevation, 352 - P 214 East Facing Elevations, 352 - P 301 Section AA, Design and Access Statement, Parking and Technical Note, Structural Assessment, Construction and Environmental Management Plan received 16/12/2016, 352 - P 001-P02 and 352 - P 103-P02 Roof Plan received 31/1/2017, statement from PlanningSphere and Plot Ratio Assessment received 15/3/2017 and photographs of former pond received 23/3/2017.

### **Condition Categories**

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development.

The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit a conditions application and pay the relevant fee, details of the fee can be found on the "what happens after permission" pages of the Council's Website. You can submit your conditions application via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or send it direct to [planning\\_registration@bathnes.gov.uk](mailto:planning_registration@bathnes.gov.uk). Alternatively this can be sent by post to The Planning Registration Team, Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

### **Community Infrastructure Levy**

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](http://www.bathnes.gov.uk/cil)

### **Decision Making Statement**

In determining this application the Local Planning Authority considers it has complied with the aims of paragraphs 186 and 187 of the National Planning Framework.





Plan, and material consideration to be fully discussed as I think the report makes impact on the openness of the Greenbelt debatable.'

The application was first discussed at the planning Committee held on the 8th March 2017 and was deferred in order for Members to undertake a site visit.

A Revised Site Plan was received on the 16th of March 2017, clarifying the assisted wheel chair route into the property. This information received does not alter the recommendation made to refuse permission.

Description:

3 Streamside is a detached dwelling located on the edge of Chew Magna. The site is within the Conservation Area and the Bath and Bristol Greenbelt.

The application is seeking planning permission for the erection of a front and side extension to create access to the dwelling from road level, and a rear single storey extension and associated works.

Relevant Planning History:

DC - 01/01815/FUL - PERMIT - 20 September 2001 - Single storey extension to form residential annexe.

DC - 16/05793/CLEU - LAWFUL - 17 January 2017 - Change of use of agricultural land as residential garden (Certificate of lawfulness for an existing use)

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Summary of Consultation/Representations:

Consultation Responses:

Chew Magna Parish Council: Chew Magna parish Council supports this application that proposes the addition of extensions to the existing dwelling that are intended to improve accommodation to the rear of the property and to provide improved pedestrian access to street.

Although the additions are fairly extensive, we do not consider that the scheme will adversely affect either the street view or the amenity presently enjoyed by the immediate neighbours.

Cllr Richardson: I write to give my support to the above application.

The owners of this property have considered various ways in which they can improve the accessibility of their property in such a way as to enable them to stay in the village. This application seeks to improve the accessibility of the property. Can I please request that if you are minded to refuse this application it be referred to the DM committee.

No.3 Streamside is predominantly a single storey property, built into the hillside above its garage. The design ensures it has been well equipped to escape any flooding to living accommodation despite its proximity to the Winford Brook, however the current access

from street level to the main building is designed in such a way that it cannot be easily modified to an access that can be adapted to assist with disabilities.

The main purpose for Mr and Mrs Jones wishing to undertake work on their property is to modify accessibility from the street level into the property in a way that enables it to become easier for their ongoing use and is suitable for further disability adaptation should it be required.

The property is in a spacious location and the rear of the property is not overlooked by neighbouring properties. No objections have been received in relation to impact on residential amenity.

The proposed modifications improve accessibility and are not harmful to the character of the neighbourhood, the appearance is in keeping with the existing building and that of the neighbouring properties.

Chew Magna Parish Council supports this application, and like them while accepting the additions are fairly extensive, I do not consider that the scheme will have any adversely affect and I feel the plot is sufficient in size to accommodate the proposed changes.

Representations Received:

None received.

## **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:

- Bath and North East Somerset Core Strategy (July 2014)
- Saved policies from the Bath and North East Somerset Local Plan (2007)
- West of England Joint Waste Core Strategy (2011)

Core Strategy:

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

CP6: Environmental Quality

DW1: District Wide Spatial Strategy

CP8: Green Belt

Local Plan:

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

BH.6: Development within or affecting Conservation Areas  
D.2: General design and public realm considerations  
D.4: Townscape considerations  
GB.2: Visual Amenities of the Green Belt  
HG.15: Dwelling Extensions in the Green Belt

#### Placemaking Plan:

Following the Examination hearings the Inspector has now issued her Interim Statement and has advised the Council of her recommended Main Modifications required to make the plan sound. The Main Modifications and Minor Proposed Changes are now subject to public consultation prior to the Inspector issuing her Final Report. The following policies can now be given substantial weight:

D1: General Urban Design Principles  
D2: Local Character and Distinctiveness  
D.3: Urban Fabric  
D.5: Building Design  
D.6: Amenity  
GB1: Visual Amenities of the Green Belt

The following policies are given significant weight:

GB3: Extensions and alterations to buildings in the Green Belt.

The Chew Valley Neighbourhood Plan:  
HDE2: Settlement Build Character  
HDE8: Parking for Domestic Dwellings  
HDE9: Sustainable Drainage to Minimise Flooding  
HDE13: Green Corridors and Biodiversity  
HD15: Dark Skies Policy

Existing Dwellings in the Green Belt SPD 2008.

The National Planning Policy Framework (NPPF) was published in March 2012 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

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**

3 Streamside is a detached dwelling located on the edge of Chew Magna. The property is set into the rising ground; the living area and bedroom are found on the upper level with a garage set below at the lower level. The property appears two storey from the front

elevation and single storey from the rear. The property is a mix of stone and render. The site is within the Conservation Area and the Bath and Bristol Greenbelt.

In relation to the Green Belt the main issues to consider with this application are:

- Whether the proposal would constitute inappropriate development in the Green Belt
- The effect of the proposal on the openness of the Green Belt
- If the proposal is inappropriate development, whether there are any very special circumstances that outweigh the harm.

Green Belt:

The primary issue to consider is whether the proposal represents inappropriate development in the Green Belt.

Saved Policy GB.2 and HG.15, Core Strategy Policy CP.8 and emerging Placemaking Plan Policy GB.3 follow the general principles given in section 9 of the NPPF in terms of inappropriate development within the Green Belt. The Council's SPD on extensions to existing residential dwellings in the Green Belt states that: 'While each application will be considered on its own merit, and not all extensions may be acceptable, in many circumstances a well designed extension resulting in a volume increase of about a third of the original dwelling would be more likely to be acceptable.'

Volume calculations have been provided by the agent. The original volume of the dwelling is calculated at 595.31cu.m. A previous extension has been constructed above the garage, this has a volume of 111.94cu.m (this is a volume increase of 18.8%). The proposed additions result in a further volume increase of 187.76cu.m, this plus the previous extension is a total volume increase of 299.7cu.m which is equal to 50.3%. A fifty percent increase is clearer materially greater than a third and is therefore considered to constitute inappropriate development in the Green Belt. Although the SPD also refers to the factor of the character of the dwelling and its surroundings, the key factor concerning harm due to inappropriateness for the purposes of the NPPF is proportionality and size rather than visual impact.

Openness

The Government attaches great importance to maintaining the essential characteristics of the Green Belt, including its openness. The existing dwelling is detached with extensive garden land. There is a reasonable separation gap between each of the neighbours to the east, south and west, the plot has fields to the rear (north). It is considered that this contributes to the openness of the Green Belt. Despite the relatively small scale of the proposal in relation to the Green Belt, the increased bulk of the extensions combined would result in a reduction of the openness of the Green Belt.

Overall the proposal is considered to impact on the openness of the Green Belt contrary to the Saved Local Plan and emerging Placemaking Plan policies.

Very Special Circumstances:

Inappropriate development is only acceptable in the Green Belt if Very Special Circumstances exist which clearly outweigh the harm to the Green Belt and any other harm identified. No such very special circumstances have been put forward by the applicant and there are only limited private benefits of the proposal in terms of providing additional living accommodation. It is therefore considered that the very special circumstance do not exist to outweigh the harm and to justify the development.

#### Character and Appearance:

The proposal is not considered to impact on the character and appearance of the locality as it will be in keeping with the design and materials of the host dwelling and surrounding properties. Nor is the development considered to harm the character and appearance of the Conservation Area, particularly as the larger extension is to the rear of the property and not overly visible from the wider Conservation Area. The development is found to be in line with policy HDE2: Settlement Build Character of the Chew Valley Neighbourhood Plan regarding local design.

Under Section 72 of the Planning (Listed Buildings and Conservation Areas) 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 refuse the proposed works.

#### Residential Amenity:

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with saved policy D.2 of the Bath and North East Somerset Local Plan (2007) and paragraph 17 and part 7 of the NPPF.

#### Highways and Parking:

Whilst the garage is proposed to be extended minimally out from the principle elevation there are no proposed changes to the access. Taking these factors into account, it is considered that the proposal would have an acceptable impact on the safe operation of the local highway network.

The proposal does not see the creation of additional bedrooms, although there are internal alterations it will remain a four bedroom property, therefore the proposal is not considered to conflict with Policy HDE8b: Parking -Domestic Dwellings of the Chew Valley Neighbourhood Plan.

#### Drainage and Flooding:

Chew Valley Neighbourhood Plan Policy HDE9a states that the neighbourhood plan will support development that has fully sustainable drainage systems for surface water disposal incorporated into the design. Had the recommendation been to grant planning permission for the proposed development a condition would have been recommended requiring submission and approval of drainage details.

#### Ecology:

The site falls within the Green Infrastructure Corridors designated in the Chew Valley Neighbourhood Plan as such consideration must be given to Policy HDE13: Green corridors and biodiversity, which states that the Neighbourhood Plan will support planning applications that protect the green corridors identified and biodiversity within them. As the application does not include the removal of any vegetation it is considered to comply with Policy HDE13. It is also considered that the addition of a domestic extension is of a scale that should not create adverse light spill that would impact on bats or other species in line with Policy HDE15 of the Chew Valley Neighbourhood Plan.

#### Other Issues:

The agent has recently provided plans showing what could be achieved through permitted development. The extension shown as permitted development would in fact not meet permitted development requirements as the eaves height is in fact higher than the eaves of the original house. The agent has also showed that a covered pool could be achieved under permitted development, however the plans submitted provide insufficient details as to whether this could be achieved.

#### Conclusion:

In conclusion the proposal constitutes inappropriate development within the Green Belt. The proposal is therefore contrary to policies GB.2 and HG.15 of the Bath and North East Somerset Local Plan, Core Strategy Policy CP.8 and emerging Placemaking Plan Policy GB.3 and guidance in the National Planning Policy Framework. Therefore the application is recommended for refusal.

### **RECOMMENDATION**

REFUSE

### **REASON(S) FOR REFUSAL**

1 The proposal constitutes inappropriate development within the Green Belt. The proposal is therefore contrary to saved policies GB.2 and HG.15 of the Bath and North East Somerset Local Plan, including minerals and waste policies, adopted October 2007, Core Strategy Policy CP.8, emerging Placemaking Plan Policies GB.1 and GB.3, and guidance in the National Planning Policy Framework.

### **PLANS LIST:**

This decision relates to the following plans:

02 Dec 2016 Location Plan  
16 Mar 2017 200 REV 1 Revised Site Layout  
02 Dec 2016 Sca 1607 005 Rev0 Proposed Floor Plan  
02 Dec 2016 Sca 1607 006 Rev0 Proposed Roof Plan  
02 Dec 2016 Sca 1607 007 Rev0 Proposed Elevations

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. The Local

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