

BATH AND NORTH EAST SOMERSET COUNCIL

Development Management Committee

14th February 2018

**OBSERVATIONS RECEIVED SINCE THE PREPARATION OF THE MAIN
AGENDA**

ITEMS FOR PLANNING PERMISSION

| Item No. | Application No. | Address |
|-----------------|------------------------|---------------------------------|
| 001 | 17/05022/FUL | 10 Woodborough Hill Cottages |

The applicant has made the following changes to the proposal:

- 1) A doorway opening has been created at the first floor level linking the main dwelling to the two bedrooms and bathroom of the proposed.
- 2) The applicant has confirmed that the existing kitchen will be removed from the host dwelling and replaced with a utility room.
- 3) The window on the rear extension has been amended so that it is in proportion with the existing windows.
- 4) The parking plan shows space available for four cars.

Due to the changes to the scheme the Council are agreed to remove the condition regarding the separate planning unit. However, the second reason for refusal remains intact.

| Item No. | Application No. | Address |
|-----------------|---------------------------------|-------------------|
| 01 & 02 | 16/05548/MINW & 17/00329/FUL | Upper Lawn Quarry |

Summary of Further Representations

Following the publishing of the Committee reports relating to applications 16/05548/MINW and 17/00329/FUL the Council has received three further letters of objection. The reasons for objection can be summarised as follows:

1. The DMC deferred the applications in August because the committee report was not well-enough prepared. It is still inappropriate for the proposal to be presented to the Planning Committee in February, as a number of areas are unclear and others are yet to be sufficiently resolved. This lack of clarity should leave the Committee no option but to defer the application once again and seems to be a waste of Council

resources as well as giving continued uncertainty and upset for allotment tenants.

2. The Parks Department lodged a detailed objection in December to the most recent applications with a number of areas they identify as unresolved and inappropriately addressed. These concerns must be addressed in full before the application goes to the Committee.
3. Existing tenants as well as the Parks Department still do not know for certain which allotment plots will be destroyed by the application. The original application for 35m x 42m of land was never marked out and none of the parties concerned are clear about exactly which allotments are affected and where the boundaries will come. The boundary was supposed to be marked out on the site, but this has not been done. Allotment tenants have been given a blanket warning by Parks and Open Spaces that they may have to vacate their plots, but do not know which of them will be affected. As a result, some are not sure whether it is worth their while investing time, energy and money cultivating their plots and those plots now appear neglected.
4. Amendments to the original application show a clear "land grab", in which the original 35m applied for has been extended by at least 2 or 3 metres south, thereby destroying yet more existing allotment sites. Again the area has not been marked out and there is still no clarity as to which plots will be affected. The Committee should be asked to stand firm on the original 35m application, at which point the boundary fence should be erected and the quarry should begin inside that boundary. The applicant would hardly be affected commercially by this - it was after all their original application - but it would protect at least 2 - if not more - mature, cherished allotments from destruction. Referring the Committee to the Mastermap dated 2015, just a couple of metres is all it will take to protect one row if not two entire rows of allotments for the future. Requiring the applicant to place the boundary fence along a sensible line between existing allotment rows instead of encroaching on an entire row is the most sensible approach.
5. The Committee should be made aware that planning blight has now been occurring at the allotments since early in 2017 as a number of tenants who may (or may not) be affected by the application have lost heart in cultivating their plots due to the uncertainty and others who may have been on the waiting list feel disinclined to take up an allotment as there is no certainty as to their future.
6. Without knowing which plots will be affected, Parks have been offering plots that have come vacant on the existing site to any tenants that they think MIGHT be affected (including ourselves on Plot 8A2). However, we have been unwilling to take up the offer made in this random fashion as we still don't know whether or not we are affected by the application. Our own measurements would indicate not. We are

understandably very reluctant to leave our well-maintained plot in which we have invested significant time and effort over many years for a lesser-quality plot elsewhere on the site, especially when we believe we are personally unaffected but just don't know

7. One existing and heavily-used water trough will be lost by the application. It is the northernmost trough along the pipeline running up the allotments. This trough serves at least 18 allotment plots currently and should be relocated southwards so that it is adjacent to what will become the northernmost remaining allotment. Without having water available throughout the planting and growing seasons, allotments will become unviable.
8. The applicants' previous disregard for the planning conditions placed on them when they applied to extend the quarry workings in 2000/01 must be taken into consideration. They were required at that time by B&NES to return an area of land to viable allotment plots in replacement for the land they were taking as additional quarry. They did not do this, and that area of land, together with spoil heaps of what would have been topsoil, remains neglected but unavailable.
9. The latest amendments were not posted at the allotment entrance to the site, and so people who may have wanted to object could not do so.
10. The existing allotments are held on an annual one-year lease by B&NES with the owner, Mr Lovegrove. If this was widely known by allotment tenants, there may be those who would not wish to take up an allotment due to the annual risk and uncertainty of losing a cherished plot in which much time, effort and money will have been invested. Now is an appropriate point at which B&NES could seek to reduce future costs and uncertainty by extending the terms of the lease so that it does not have to be renegotiated every year. The lease on the adjacent Glen Field, over which the applicant also has mineral rights according to the Local Plan, has recently been renegotiated between the owner and Monkton Combe School. The same renegotiation and terms should be sought by B&NES over the Combe Down allotments and the proposed new extension. The Allotments Act 1950 requires all tenants and sub-tenants to be given a minimum of 12 months' notice to quit an allotment plot.
11. The agreement between the freeholder Mr Lovegrove and Bath City Council dated 1 July 1991 provides that: "Mr Lovegrove shall have ... upon giving the Council 3 months' previous notice in writing ... the power to re-enter the allotments if required to be used for mining ... making compensation for crops then growing on the property."
12. Maps that have been used during the planning application process to show the existing allotment plots have been out of date and a clear

picture has not always been represented as to the layout of the plots that may be affected.

13. The applicant has not pegged out the proposed allotment extension, and so there is no clarity as to where the site extends.
14. There is a wide belt of land that cannot be worked as allotments due to the excessive height of the leylandii hedge and its roots between the proposed new site and Oldfield Old Boys RFC. This has been referenced in some documents, but has not been clearly identified or marked out.
15. It does not appear that any allowance has been made for water troughs for the new extension which is essential to the viability of these allotments.
16. The proposed new sites will be a long way from the only entrance to the site which is off Glen Field. They will not be easily accessible but there are no secured areas on the site, which is subject to vandalism and theft. Tools have to be carried on and off each time a plot-holder makes a visit. This will make these sites less attractive to some groups of potential allotment holders.
17. The planning applications have been submitted with no plans for future restoration of the quarry, or for infilling and repair of the very large area of quarry that has already been worked out, or any plans to return the newly-applied-for area of quarry to allotments for community benefit and Local Green Space once it has been worked out.
18. Issues remain over the Construction Management Plan (CMP) and the creation of replacement plots. The CMP does not contain enough detail or milestones to ensure the equitable and problem-free vacation of affected plots and relocation to new replacement plots. Very importantly.
19. Enforcement of Conditions: Planning Policy's comment on the applications is "No objection subject to conditions". You will recall the August DMC was told that the applicants failed to fulfil the conditions of their 2000/2001 application; their agent made a comment in his statement that conditions did not necessarily have to be met. We are deeply concerned, given the agent's statement in August rejecting the conditions relating to the quality of the replacement plots and, secondly, the case officer's failure to take proper account of the Parks Department's detailed objection, that the Council will not be prepared to commit the resources to ensure that the CMP is made sufficiently robust and that conditions are enforced.

Further Officer Comments

It is Officers opinion that the additional information submitted by the applicant and their agent is sufficient to allow a detailed assessment of the proposals. Whilst there are elements of the proposals that could still be improved upon or

amended these are elements that can be secured or controlled by the attachment of appropriate planning conditions.

With regard to the Parks Departments comments whilst stating that the application was not acceptable in its current form they provided suggested amendments and conditions to address these issues. It should be noted that following the issue of an updated allotment layout by the Parks Department and confirmation of the conditions attached to the Committee Report for the allotment application they have confirmed that they find the application acceptable subject to the conditions proposed. In relation to the leylandii trees adjacent to the replacement allotments site the Parks Department have advised that as the replacement allotment land is larger than the land to be lost the overall area of land suitable for cultivation, taking account of the leylandii, would be equivalent to that being lost.

It should be noted that the planning application process requires applicants to submit scale drawings in support of planning applications. These drawings are capable of being measured by a scale ruler and the dimensions of a development determined. The drawings submitted by the applicant comply with these requirements as well as providing detailed annotation for further information. The planning regulations do not require applicants to mark out proposed development sites on the ground and this is not a requirement that the Council would hold any other applicant to. Moreover, when comparison is made of the submitted site location plan and the allotments mastermap provided by one of the allotment holders it is evident that the individual allotments to be affected by the development are easily identifiable, namely plots in rows 4-7. Whilst the applicant has increased the red line boundary relating to the quarry extension it should be noted that this was to bring the site location plan in line with the submitted site plan. Nevertheless all applicants are entitled to submit a planning application for the development they wish to undertake and as such the Council is duty bound to assess the acceptability of the proposals regardless of whether they will impact on a greater number of allotments. In this instance, when considering the allotment mastermap against, the current proposals would affect a larger proportion of row 7 than the location plan seen by the August Planning Committee but no additional plots would be affected.

Whilst it is appreciated that the allotment holders have felt a degree of uncertainty throughout the planning process the certainty of a planning decision cannot be realized until a decision has been issued by Committee and in this case when the Secretary of State has considered whether they need to call in the application.

It should be noted that planning conditions have been attached to both the quarry extension and allotment replacement applications that require the

replacement of the water trough to be lost to the quarry extension as well as a further water trough to be installed in the replacement allotments.

With regard to the applicants' compliance with the conditions attached to previous minerals permissions it should be noted that this is not a material planning consideration of either of the quarry extension or replacement allotment applications. However, planning legislation does hold provision for the enforcement of planning conditions if they are found to be in breach and the Council would advocate any local resident or allotment holder contacting the Council's Planning Enforcement Section so that they might investigate matters in relation to any existing or subsequent planning permissions.

In relation to the advertisement of amendments to the application scheme it should be noted that planning legislation requires the Council to post site notices for the initial publicity of the planning application. Following the initial publicity, where an application is amended it is up to the local planning authority to decide whether further consultation and publicity is necessary. In this instance subsequent site notices were posted in relation to the amended site location plan and application description for the quarry extension as the nature of the application had changed significantly. However, following that re-consultation and the increase in adjoining owner/occupiers to the red line boundary it was considered that a further re-consultation by mail of all adjoining owner/occupiers was sufficient for the amended / additional information submitted by the applicant. As such the Council has complied with its duties with regard to consultation.

Whilst it is appreciated that the lease agreement with the landowner of the allotments is of some concern to the allotment holders this is not a material planning consideration of the quarry extension or replacement allotment applications. In relation to the requirement of compensation for the loss of crops it should be noted that the planning application must be assessed against planning policy with any conditions supported by planning policy. In this instance Policy LCR8 of the BANES Placemaking Plan, whilst requiring the replacement of allotments, does not make provision for compensation for the loss of crops.

With regard to access to the replacement allotments sites it is considered that vehicular access would have a detrimental impact on the existing allotment site, requiring the removal of further plots to facilitate it. As such, given the distance of the proposed allotments from the existing vehicular access, on planning balance, a vehicular access is not considered necessary in this instance.

As with previous applications for extensions to the quarry conditions have been attached that require the restoration of the quarry at an appropriate time.

However, it should be noted that given the proposed increase in the extraction life of the quarry and the emergence of the Local Plan that will run until 2036 it is felt that a conditions that allows greater flexibility to the end use would be more appropriate in this instance. This is considered preferable to requiring the submission of a restoration scheme prior to determination that may not be fit for purpose when the extraction life of the quarry comes to an end.

In relation to the CMP it is considered that, when combined with the proposed conditions, these provide sufficient controls to ensure that the two developments are carried out in an appropriate manner and within a required order and timeframe.

| Item No. | Application No. | Address |
|-----------------|------------------------|--|
| 03 | 17/05748/FUL | Fairash Poultry Farm Compton Martin Road West Harptree |

The Council's ecologist has now confirmed that she has no objections to the proposals subject to conditions securing landscaping and controlling any external lighting.

| Item No. | Application No. | Address |
|-----------------|------------------------|---------------------------------------|
| 05 | 17/05316/FUL | Bloomfield House, 3 Braysdown Lane |

Additional comments of objection have been received from a neighbour as follows;

- Councillor Bevan's comment states that "This application will not affect the street scene or the visual amenity from Braysdown Lane". This is not the case as the southern aspect of the two story extension will be clearly visible from Braysdown Lane. It is also inaccurate to state that "The applicant has taken steps to advise neighbours of his plans", as no consultation has taken place outside of the standard BANES planning process so no assumed support should be inferred from her statement.
- Councillor Walker's support for the application is partially based on the fact that "There will be no loss of light to either neighbour adjacent to the property". This statement is not correct No. 1 will suffer a loss of light throughout the morning. To my knowledge Councillor Walker has not visited my property to be in a position to make such a statement of fact.

- The Parish Council's statement of support for the application is partially based on the fact that the planning application will not increase the number of bedrooms. This is incorrect as the plans clearly show 5 bedrooms where originally there were only 4. With the additional bedroom resulting from the creation of a self-contained annexe to provide accommodation for a nanny as mentioned in the design statement.