

Bath & North East Somerset Council

MEETING: **Development Control Committee**

MEETING DATE: **3rd August 2011**

AGENDA
ITEM
NUMBER

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

TITLE: **APPLICATIONS FOR PLANNING PERMISSION**

WARDS: ALL

BACKGROUND PAPERS:

AN OPEN PUBLIC ITEM

BACKGROUND PAPERS

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

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

The following notes are for information only:-

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

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

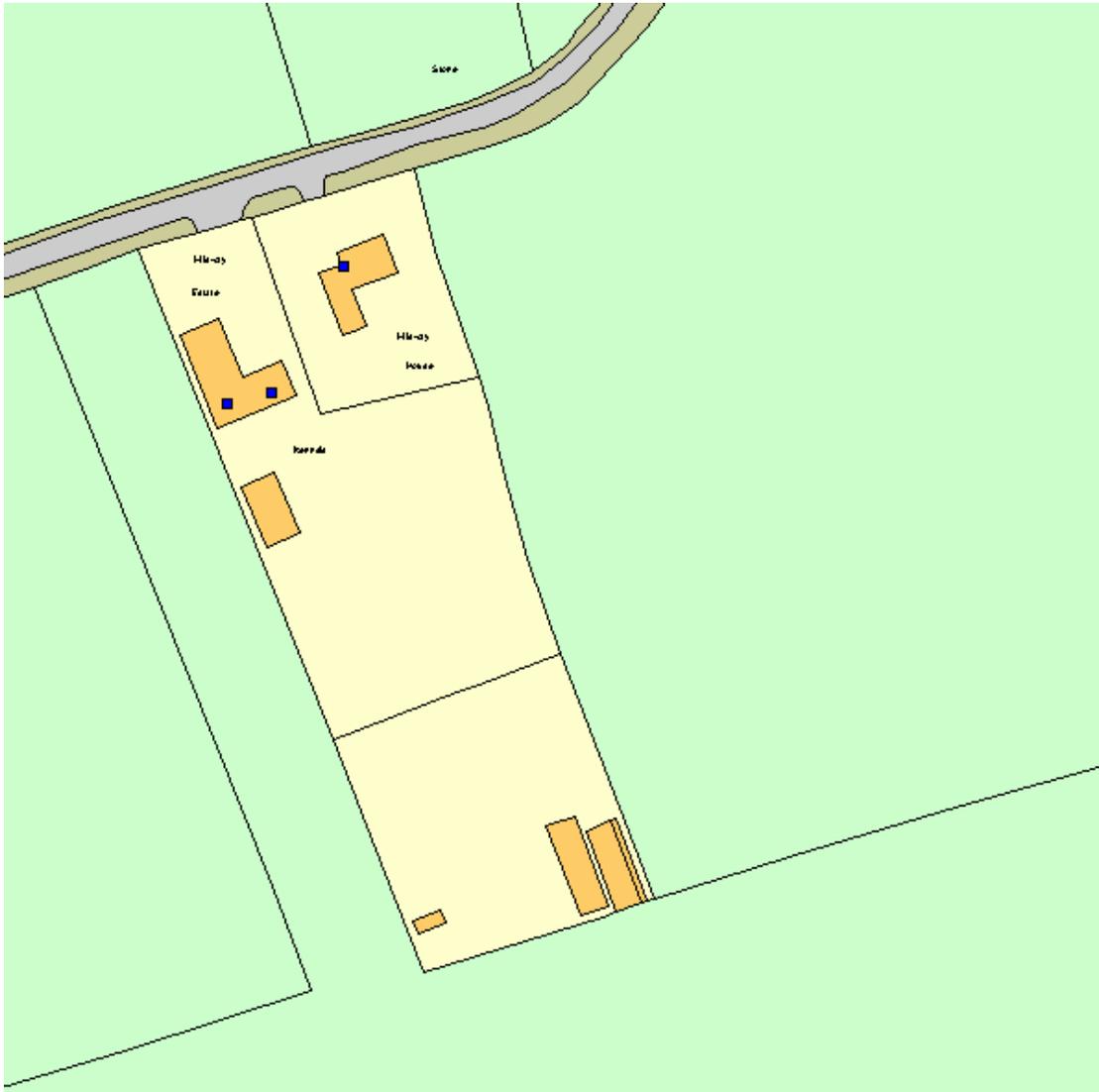
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting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

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01	10/05370/FUL 24 March 2011	Mr And Mrs Jim And Paula Talbot Midsomer Pet Lodge, Paulto' Hill, Paulton, Bristol, BA3 2XS Erection of replacement kennel building (Retrospective)	Paulton	Andy Pegler	PERMIT
02	10/05372/FUL 10 February 2011	Mr And Mrs James And Paula Talbot Midsomer Pet Lodge, Paulto' Hill, Paulton, Bristol, BA3 2XS Use of store/office/cattery building as a 2 bedroomed dwelling and office with alterations to existing external appearance	Paulton	Andy Pegler	REFUSE

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

Item No: 01
Application No: 10/05370/FUL
Site Location: Midsomer Pet Lodge, Paulto' Hill, Paulton, Bristol



Ward: Paulton **Parish:** Paulton **LB Grade:** N/A
Ward Members: Councillor J A Bull Councillor Liz Hardman
Application Type: Full Application
Proposal: Erection of replacement kennel building (Retrospective)
Constraints: Agric Land Class 1,2,3a, Coal fields, Forest of Avon,
Applicant: Mr And Mrs Jim And Paula Talbot
Expiry Date: 24th March 2011
Case Officer: Andy Pegler

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: This application is brought to the Development Control Committee at the request of Councillors John Bull and Liz Hardman in view of the history of the site.

DESCRIPTION OF SITE AND APPLICATION

The property is situated to the south of Paulto Hill, some 0.7km to the east of Paulton. Together with the adjacent land to the north, it comprises a kennel enterprise formerly known as Paulton Pets Hotel. The kennel building the subject of this application is situated in the south east corner of the site. The site is bounded to the west and east (part) by established hedgerow and to the south by post and wire fence. A residential property, 'Midway House', is adjacent to the access to the site which is, otherwise, surrounded by open farmland.

This is a retrospective application which seeks to regularise recent works to extend and modify the original kennels. The resulting kennel building is now fully enclosed by concrete block walls, under a shallow dual-pitched roof of profiled metal sheet. The original structure has been extended to the north and south by between 2 and 2.5 metres, to the east by approximately 1 metre, and by approximately 1 metre in height.

RELEVANT PLANNING HISTORY: In 1986 permission was granted for the use of the premises as kennels.

The current application is submitted by the current owners, who are the prospective purchasers of the building towards the north of the site, which is the subject of a further application seeking to regularise its use as a dwelling.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS: No highway objection is raised, having regard to the established/authorised use of the site.

LAND DRAINAGE: Suggest that ground conditions should be established, and infiltration testing completed, to ensure that soakaway drainage is a feasible option.

PAULTON PARISH COUNCIL: Support the proposal, subject to the works being completed in accordance with the submitted details, and within a reasonable timescale.

REPRESENTATIONS: A letter of objection has been received, on behalf of the occupier of the neighbouring property 'Midway House'. It points out that 'Midway House' was previously occupied by the operators of the kennel enterprise, and suggests that the continued or intensified use of the business should be reconsidered. Concern is expressed at the impact of the proposal upon the open countryside; and the noise and disturbance created by associated activities, compounded by the proposed arrangement of visitor parking spaces. It is further suggested that the impact on residential amenity is such that the business should now be controlled so that it runs down and is positively encouraged to relocate to a more sustainable location. It suggests that, under a previous

regime, the impact of the business was more 'low-key', and that the scale and materials of the present building are unacceptable in this landscape setting.

A further letter, from a resident of Paulton, expresses concern at the various activities on the site; the constant barking of dogs; the presence of rats; dog fouling; and the dazzling effect of a spot light.

POLICIES/LEGISLATION

Policy Context

Joint Replacement Structure Plan:

Policy 1 (Sustainable Development);

Policy 2 (Locational Strategy).

Bath & North East Local Plan 2007:

T.24 - General development control and access policy;

D.2 - General design and public realm considerations.

NE.1 - Landscape character

ES.5 - Drainage

National Policy/Guidance:

PPS 1 - Delivering sustainable development;

PPS 4 - Planning for sustainable economic growth;

PPS 7 - Sustainable Development in Rural Areas.

OFFICER ASSESSMENT

ISSUES: The principal issues are firstly, the impact of the proposal upon the open countryside; secondly, the traffic implications relating to its location; and thirdly, the impact upon the residential amenities of neighbouring occupiers.

USE: The principal use of the site, together with the adjacent land to the north (edged blue on the submitted drawings) is as a kennels, cattery and boarding establishment. When approved, in 1986, the establishment was operated by the (then) occupiers of the neighbouring dwelling 'Midway House'. This association between the house and the kennels ceased in 1996. The kennels, in principle, continue to be an acceptable rural use. It is recognised that the present owners are operating in a more efficient way, and that the extended kennel building is of greater visual impact. The building however contains the same number of pens as its predecessor and the use therefore has not significantly intensified.

VISUAL IMPACT: The building is larger than its predecessor and is of greater prominence. The extension to the south and east appears to have resulted in some loss of hedgerow which would otherwise have softened the building's appearance. The potential does exist however to enhance the setting, beyond that currently proposed. With appropriate finishes and landscaping, the building would not have a significantly greater impact.

TRAVEL: Development in this relatively remote location raises issues of unsustainable travel, although account has to be taken of the fact that the proposal relates to a long established kennel enterprise.

RESIDENTIAL AMENITY: The kennel enterprise predates the current occupation of the neighbouring house, and since the recent works have not resulted in a significant intensification in the use of the site, the amenities of that property are not considered to have not been significantly affected.

OTHER MATTERS: There is currently no evidence of activities on the site unrelated to the authorised use. The operation of the kennels is licensed by the Environmental Protection Team.

CONCLUSION: The building is of simple, utilitarian appearance which is, in principle, considered appropriate in the context of the authorised use of the site as a kennel/cattery, within a rural landscape. Its overall appearance would however be enhanced by an appropriate landscape scheme.

No significant intensification of the use of the site arises from this retrospective application and it is considered therefore that the existing amenities of the neighbouring residential property would not be significantly affected.

RECOMMENDATION

PERMIT with condition(s)

CONDITIONS

1 Notwithstanding the details submitted, within one month of the date of this permission a soft landscape scheme and a programme of implementation shall be submitted and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be implemented in accordance with approved details.

Reason: In the interests of the appearance of the development.

2 The external finishes shall be applied in accordance with the submitted details, within one month of the date of this permission, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the appearance of the development.

3 Within one month of the date of this permission a land drainage assessment shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the provision of an appropriate drainage infrastructure.

4 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: This decision relates to Design and Access Statement, photographs, location plan, drawing nos.1362/02 and /03 all stamped 16 December 2010 and drawing no.1362/09 date stamped 27 January 2011.

REASONS FOR GRANTING APPROVAL

1. The decision to grant approval has taken account of the Development Plan, relevant emerging Local Plans and approved Supplementary Planning Guidance. This is in accordance with the policies set out below at A.
2. All other material considerations, including the views of third parties, have been considered and they do not outweigh the reasons for approving the proposed development.
3. The building, the subject of recent works will not, with appropriate conditions, have a significant impact upon the appearance of the site on the landscape character of the surrounding area.
4. The building relates to an authorised use and existing residential amenities will not be significantly affected.

A

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

T.24 - General development control and access policy;

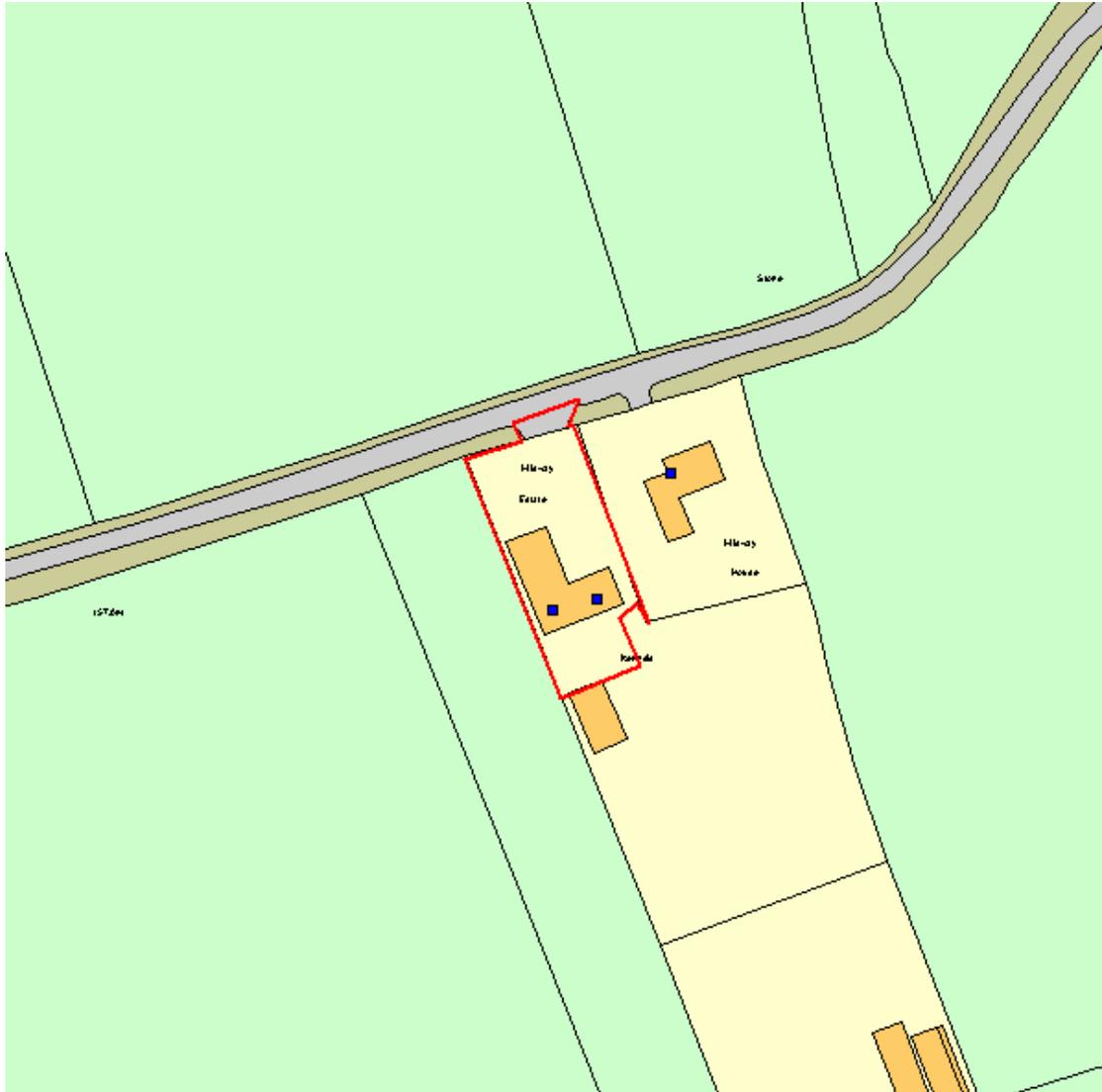
D.2 - General design and public realm considerations.

NE.1 - Landscape character

ES.5 - Drainage

INFORMATIVE: This permission relates to only to the replacement kennel building, and does not authorise the erection or placement of any other buildings or structures within the site.

Item No: 02
Application No: 10/05372/FUL
Site Location: Midsomer Pet Lodge, Paulto' Hill, Paulton, Bristol



Ward: Paulton **Parish:** Paulton **LB Grade:** N/A
Ward Members: Councillor J A Bull Councillor Liz Hardman
Application Type: Full Application
Proposal: Use of store/office/cattery building as a 2 bedroomed dwelling and office with alterations to existing external appearance
Constraints: Agric Land Class 1,2,3a, Coal fields, Forest of Avon,
Applicant: Mr And Mrs James And Paula Talbot
Expiry Date: 10th February 2011
Case Officer: Andy Pegler

REPORT

REASON FOR REPORTING APPLICATION TO COMMITTEE: This application is brought to the Development Control Committee at the request of Councillors John Bull and Liz Hardman in view of the history of the site.

DESCRIPTION OF SITE AND APPLICATION

The property is situated to the south of Paulto Hill, some 0.7km to the east of Paulton. Together with the adjacent land to the south, it comprises a kennel enterprise formerly known as Paulton Pets Hotel. The single storey building on the site - formerly used as a cattery/store/office - is currently part occupied as a dwelling.

The site is bounded to the north and west by open farmland, and to the east by a residential property, 'Midway House'.

It is proposed to regularise the use of the building as a 2 bedroomed dwelling; and to undertake external alterations comprising new windows, the installation of additional doors and partial cladding.

PLANNING HISTORY: The building (part) was erected in 1981, as a calf rearing shed; and shortly thereafter was extended under agricultural permitted development. At this time, the site, together with the land to the south, was associated with the adjacent dwelling now known as 'Midway House'.

In 1986 permission was granted for the use of the premises as kennels.

In 1988 permission was refused for the conversion of the building to a dwelling in association with the kennels. A subsequent appeal was dismissed.

In 1993 permission was refused for the conversion of the building to a residential annex. A subsequent appeal was dismissed.

In 1996 permission was refused for the conversion of the building to holiday accommodation. A subsequent appeal was dismissed.

In 1999 an Enforcement Notice was served on the owners, in respect of the unauthorised use of the building as a dwelling. A subsequent appeal was dismissed and the notice, which requires the cessation of the unauthorised use of the land as residential accommodation, remains extant.

The current application is submitted by the prospective purchasers, who have also submitted a retrospective application in respect of recent works to alter/extend the kennel building situated at the southern end of the adjacent land.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

HIGHWAYS: point out that the site is remote from services and employment opportunities, and poorly served by public transport; and that unless a the proposal can be considered as a rural workplace dwelling, it is contrary to the aim of reducing growth in the length and number of motorised car journeys.

PAULTON PARISH COUNCIL: support the proposal, subject to conditions relating to parking; deliveries; hours of opening; restricted occupation; and restricted sales.

REPRESENTATION: A letter of objection has been received, on behalf of the occupier of the neighbouring property 'Midway House'. It draws attention to the extant Enforcement Notice, and questions why the Council has not sought compliance with the requirements thereof. Concern is expressed at the impact of the proposal upon the open countryside; the lack of consultation by the applicant; and the noise and disturbance created by the current occupation.

POLICIES/LEGISLATION

Policy Context

Joint Replacement Structure Plan:
Policy 1 (Sustainable Development);
Policy 2 (Locational Strategy).

Bath & North East Local Plan 2007:
ET.9 - Re-use of rural buildings;
HG.10 - Housing outside settlements;
T.24 - General development control and access policy;
D.2 - General design and public realm considerations.

National Policy/Guidance:
PPS 1 - Delivering sustainable development;
PPS 4 - Planning for sustainable economic growth;
PPS 7 - Sustainable Development in Rural Areas.

OFFICER ASSESSMENT

ISSUES: The principal issues are firstly, the impact of the proposal upon the open countryside; secondly, the traffic implications relating to its location; thirdly, the impact upon the residential amenities of neighbouring occupiers; and fourthly, whether any adverse impact is mitigated or outweighed by a justification for a rural workplace dwelling.

USE: The principal use of the site, together with the adjacent land to the south (edged blue on the submitted drawings) is as a kennels, cattery and boarding establishment. When approved, in 1986, the establishment was operated by the (then) occupiers of the neighbouring dwelling 'Midway House'. This association between the house and the kennels ceased in 1996, at the time when the unauthorised occupation of the building the subject of this application commenced.

The planning history describes a series of attempts to secure planning permission for a residential conversion, all of which have been refused on appeal. Those decisions are a significant material consideration. In determining the appeals, the various Inspectors all considered the proposals to be materially harmful to the countryside.

The agent, on behalf of the applicant, recognises the restrictive policies relating to housing in the open countryside, but argues that there is justification for an occupationally tied dwelling. He points out that the previous refusals pre-date PPS 7; and suggests that the

existing kennels is an appropriate rural use, and that the proposed dwelling is essential to that use. The benefits of rural job creation are stressed; and it is suggested that the re-use of existing buildings in the countryside should be supported.

The previous separation of the dwelling from the kennel establishment clearly raises an issue. The Licence requires, inter alia, that someone should be resident at the premises at all times. This requirement, though, is not binding on the authority in exercise of its planning function, and does not mean that a main dwelling on the site is essential. In considering the merits of a proposed occupational dwelling, PPS 7 advises that the history of the land should be investigated to establish whether buildings suitable to fulfil the need have previously been disposed of; and that it is the requirements of the enterprise, rather than those of the owner/occupier, that are relevant.

The benefits of rural job creation are recognised. Employment relating to the kennel enterprise does not rely however on a permanent dwelling being on the site.

Policy ET.9 identifies the criteria relating to the acceptable re-use of rural buildings. It does not support a residential conversion in circumstances where there could be a suitable business use; where the building is in an isolated position; or where the conversion would be likely to result in replacement agricultural buildings or outside storage. It appears that the existing, unauthorised, occupation has displaced functions which are now accommodated in various sheds and portacabins, and in an extension of the kennel building (the subject of a separate application).

TRAVEL: Development in this relatively remote location raises issues of unsustainable travel. Account has to be taken of the fact that the established kennel enterprise will inevitably generate travel to and from the site. A dwelling would be likely however to generate, overall, a greater number of journeys and in the absence of any exception that might otherwise relate to a rural workplace dwelling, the proposal is unsustainable.

CHARACTER AND APPEARANCE: The applicant has sought to limit the residential curtilage; and to create a building of a more rural character and appearance. Overall however the proposed alterations are of limited benefit. The building is conspicuous from the road and, notwithstanding the proposed alterations, would remain suburban in appearance. It would continue to have a significant impact on the rural character of the area and - as determined by previous Planning Inspectors - be materially harmful to the countryside.

RESIDENTIAL AMENITIES: The authorised kennel enterprise remains the primary use of this site, notwithstanding the disposal of the adjacent dwelling. The proposed use of this building for primarily residential purposes would have no significantly greater impact on the amenities of the adjoining property than that resulting from the authorised use.

CONCLUSION: Whilst recognising the authorised use of the site as a kennel enterprise, no sustainable argument has been made in support of the proposal to convert the building to a rural workplace dwelling. It is not essential for the continued operation of the kennels; and would detract from the rural character of the area. Furthermore, it represents an unsustainable form of development.

RECOMMENDATION

REFUSE

REASON(S) FOR REFUSAL

1 The proposal would introduce an inappropriate residential use into this area of predominantly open countryside, to the detriment of its rural character, and contrary to Policies ET.9, HG.10 and D.2 of the Bath and North East Somerset Local Plan 2007; and to the aims of PPS 7 and PPG 13.

2 The proposal, located remote from services, employment opportunities and being poorly served by public transport and in the absence of an essential need, is contrary to the key aims of Planning Policy Guidance Note 13 which seeks to reduce growth in the length and number of motorised journeys.

PLANS LIST: This decision relates to Design and Access Statement, photographs, location plan and drawing nos.1362/04A, 05, 06A, 07B and 08 all date stamped 16 December 2010.