

BATH AND NORTH EAST SOMERSET COUNCIL

Planning Committee

Date: 08 March 2023

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

ITEM 001

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
001	22/02863/FUL	Mill Barn, Millards Hill, Welton, Midsomer Norton

Following input from the Council's Legal Officers, the wording of the following sections of the Committee Report are updated in order to set out more fully the Planning Officer's reasoning and to make clear of the impact of this proposal on the setting of the listed buildings, the proposals benefits and reasons for departure from the development plan.

Additional paragraphs and updates following paragraph 13 are as the below:

The Council has a statutory requirement under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in considering whether to grant planning permission for development which affects a listed building or its setting to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Taking account of the above, it is considered that the development would result in less than substantial harm to the setting of each of the listed buildings. As such the scheme does not preserve the setting of the listed buildings and so does not meet this requirement. However, the development provides educational facilities which amount to a public benefit. The public benefit is considered to outweigh the harm caused to the setting of each listed building. Therefore, in this instance the proposed works be compliant with part 16 of the NPPF and be compliant with policy HE1 of the B&NES Placemaking Plan (2017).

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 desirability of preserving or enhancing the character or appearance of the surrounding conservation area when determining an application for planning permission. In this case by virtue of the design, scale, massing, position and the external materials of the proposed development it is considered that the development would result in less than substantial harm to the Conservation Area. As such this scheme does not preserve nor enhance this part of the Conservation Area and as such fails to meet this requirement. However, the provision of educational facilities in this instance is considered to be a public benefit which would outweigh the harm identified. Therefore, in this instance the proposed works would be compliant with policy CP6 of the adopted Core Strategy (2014) and policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 16 of the NPPF.

{\b Highways update}

A revised Transport Statement has been submitted to rectify previous inaccuracies made within the original statement. This revised statement has been reviewed by the Highways Officer and has confirmed the updates do not alter the previous comments made. The amendments do not have a material effect upon the recommendation to permit the application

Paragraph 3 is updated as follows:

The Statement confirms that the current application would result in eight additional children attending the site, with two full-time equivalent members of staff. This is the scale of change that has been considered as part of the application assessment, which also considers the potential for previous permissions to be fully implemented. Further traffic surveys were undertaken in October 2022, and comparisons made with the data collected as part of the 2016 planning process. A count of pedestrian movements was also completed. The traffic data enables the Statement to present a summary of trips associated with the existing site throughout the day, and this also allows a parking accumulation to be calculated. Finally, the flows have been used to review the operation of the Millard's Hill / Gladstone St / site access junction, and a traffic model has been used to review the peak periods.

Paragraph 6 is updated as follows:

The Transport Statement considers the future parking impacts associated with the scheme, and the parking accumulation results do indicate that there would be sufficient capacity at this time to accommodate a small increase in parking demand. The increase in 8 students and 2 members of staff could be accommodated without the implementation of the proposed parking as per the extant permissions. However, should the extant permissions be implemented, and number of students increased to full capacity of the extant permission, the parking requirement for the current application could also still be accommodated. Over time there will be a requirement for the previously approved parking layout to be implemented, however, this change does not need to be associated with the current proposals.

Ecology:

Paragraph 1 is updated as follows:

The council have now adopted the policies which were part of the Local Plan Partial Update (LPPU). The LPPU policies now include the requirement for measurable Biodiversity Net Gain (BNG) on site (Policy NE3a). The 'small sites metric' required by policy NE3a has not been submitted within this application and therefore the application presents insufficient information to be compliant with policy NE3a. At time of validation, BNG information was not required. In this case, a significant merit of the scheme results from the provision of educational services. A recommendation, considering the substantial benefit, was made prior to the adoption of the LPPU. In addition, a landscaping condition is recommended which would secure planting within the site. Whilst the scheme has not been supported by the submission of BNG information to show measurable net gain, the case officer is satisfied that planting can be secured to achieve measurable gain. Considering this in addition to the considerable benefits derived from the increase in educational services within the

locality, it is considered that the BNG information, in this instance, is not required and has therefore been advertised as a departure from the Development Plan.

Public Sector Equality Duty:

Additional section as follows:

In reaching its decision on a planning application the Council is required to have regard to the duties contained in section 149 of the Equality Act 2010, known collectively as the public sector equality duty

Section 149 provides that the Council must have due regard to the need to—

- (a) eliminate discrimination, harassment, victimisation
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular, to the need to—

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

Protected characteristics include disability.

As explained above, the B&NES Education and Inclusion Team believe that the proposals would be likely to increase the number of occasions on which children with special educational needs could be educated within their community rather than at out of county facilities. Children with special educational needs are more likely to have the protected characteristic of disability, so the proposals are likely to have a benefit for those with that protected characteristic by increasing their ability to access appropriate educational facilities locally. It is the planning judgement of officers that this public benefit should be given significant weight

Planning Balance and Conclusion:

Concluding paragraph replaced as follows:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the decision of whether or not to grant planning permission must be made in accordance with the development plan unless material considerations indicate otherwise.

The proposed development is considered to cause harm to the setting of the listed building as a result of development within an area which historically would have been left open. The spread of development would therefore be harmful to the setting of the listed building. In addition, the structures would diminish open features of the countryside around the farm, subsequently causing harm to the character of the Conservation Area. In the words of the NPPF, the development would result in less than substantial harm to the setting of the listed building and character of the conservation area.

There are however benefits to the scheme, including the provision of educational facilities. The increase of schooling provision within the local area is welcomed. This benefit is given significant weight as determined by paragraph 95 of the NPPF. This merit is considered to constitute a public benefit which would outweigh the less than substantial harm caused by the development, to both the setting of the listed building and conservation area.

This application was not supported by any information regarding Biodiversity Net Gain, a requirement of Local Plan Partial Update which was adopted 19th January 2023 (policy NE3a). This application was validated June 2022. At time of validation, BNG information was not required. In this case, as discussed above, a significant merit of the scheme results from the provision of educational services. A recommendation for approval was therefore reached prior to the adoption of the LPPU. In addition, a landscaping condition is recommended which would secure planting within the site. Whilst the scheme has not submitted BNG information to show measurable net gain, the case officer is satisfied that planting can be secured to achieve measurable gain.

As a result of this proposal being contrary to policy NE3a, it is considered not to be in accordance with the development plan as a whole. Taking into account the material considerations in favour of the proposal (provision of educational services and likely achievement of net gain) and the material considerations against, it is considered that the other material considerations as a whole weigh strongly in favour of the proposal and indicate that a departure from the development plan is appropriate.

Officer recommendation is therefore to PERMIT the application [unchanged from main report].

Conditions:

Additional condition recommended:

Landscape Design Proposals (Bespoke Trigger)

No development beyond slab level shall take place until full details of soft landscape proposals and programme of implementation have been submitted to and approved by the Local Planning Authority. These details shall include, as appropriate:

1. Planting plans
2. Written specifications (including cultivation and other operations associated with plant and grass establishment)
3. Schedules of plants, noting species, planting sizes and proposed numbers / densities

Reason: To ensure the provision of amenity and a satisfactory quality of environment afforded by appropriate landscape design, in accordance with policies D1, D2, D4 and NE2 of the Bath and North East Somerset Placemaking Plan.

External Lighting (Bespoke Trigger)

No new external lighting shall be installed until full details of the proposed lighting design have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. Lamp models and manufacturer's specifications, positions, numbers and heights;

2. Predicted lux levels and light spill on both the horizontal and vertical planes;
3. Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation and adjacent land.

The lighting shall be installed and operated thereafter in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with policy CP6 of the Bath and North East Somerset Core Strategy and policies NE.3 and D8 of the Bath and North East Somerset Placemaking Plan.