

BATH AND NORTH EAST SOMERSET COUNCIL

Planning Committee

10th April 2024

**UPDATE REPORT AND OBSERVATIONS RECEIVED SINCE THE
PREPARATION OF THE MAIN AGENDA**

ITEMS FOR PLANNING PERMISSION

Item No.	Application No.	Address
3.	23/03554/FUL	Greenways Stoneage Lane Tunley Bath

Update:

Report Wording.

The Very Special Circumstances section is amended as follows:

“Very Special Circumstances

As discussed above, the proposal is inappropriate development in the Green Belt and in accordance with paragraph 154 of the NPPF should only be approved if very special circumstances existing. Paragraph 152 goes on to state that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The applicant has demonstrated that a series of extensions and outbuildings can be developed on site through permitted development rights. Additionally, the proposal includes sustainability features including energy generation (solar panels) and insulation and thermal efficiency measures.

The addition of these sustainability benefits do not require such a significant enlargement of the dwelling and could **reasonably** come forwards on a scheme that does not represent inappropriate development in the green belt. As such, these measures **are not** Very Special Circumstances.”

There is no change to the Officer recommendation.

Item No.	Application No.	Address
5.	22/02169/EOUT	Parcel 4234 Combe Hay Lane Combe Hay Bath

Update:

Wansdyke Crossing / Alternative

It should be noted that the phase 1 development granted in 2019 included an obligation upon the applicant to use reasonable endeavours to provide a footpath crossing over the Wansdyke to Cranmore Place/Frome Road. The proposal for the current application seeks an obligation to put in place a shared use pedestrian/cycle path crossing in the same location (in place of the footpath).

The committee report acknowledges that the proposed shared use path crossing of the Wansdyke to the north of the application site, if delivered, would meet the relevant part of Placemaking Principle 7. Specifically, it would meet the requirement to:

“Provide a sensitively designed and improved pedestrian/cycle link, following the desire line to Cranmore Place/Frome Road to allow access to Threeways School and the Supermarket.”

The delivery of the Wansdyke crossing is dependent upon the grant of Scheduled Monument Consent (SMC) which falls outside of the control of the Council and the applicant. Therefore, whilst delivery of the Wansdyke Crossing cannot be guaranteed, there has been positive engagement with Historic England and SMC has already been granted for archaeological investigation (linked to the phase 1 requirement for a footpath crossing). Further SMC will be required for the design of any crossing. The agreed site investigation works are scheduled to take place on 6th May and it is clear that the applicant is taking the necessary steps to progress this option. Furthermore, there will be appropriate triggers included within the s106 agreement to ensure that applications for SMC are applied for in a timely manner. The applicant has suggested that such applications should be made prior to the construction of the 1st home above slab level, but the precise trigger will be agreed as part of the s106 negotiations.

The report also refers to an alternative route should SMC not be forthcoming. This would run east from the application site towards Southstoke Lane before turning north to connect with Midford Road thereby avoiding the need for SMC. It is acknowledged that, whilst this alternative route would provide a connection to

Threeways School and the Supermarket, it would not follow the obvious desire line and therefore breaches the above aspect of Placemaking Principle 7. However, it is acknowledged that the alternative route is the next best option should SMC not be forthcoming.

The alternative route would very likely require the grant of further planning permission, the outcome of which cannot be pre-determined. However, although the land falls across Green Belt and AONB land, there is a reasonable prospect that the provision of a sensitively designed, pedestrian/cycle path could be delivered. Such a path would be considered an engineering operation and therefore would not be inappropriate development in the Green Belt (in accordance with the NPPF) provided that it did not adversely impact upon the openness or purposes of the Green Belt. Furthermore, subject to an appropriately, sensitive design there would be no in principle impact upon the AONB. Furthermore, there will be appropriate triggers included within the s106 agreement to ensure that applications for planning permission are applied for in a timely manner should SMC not be forthcoming. The applicant has suggested that such applications should be made prior to the occupation of 50th home, but the precise trigger will be agreed as part of the s106 negotiations.

It is therefore considered that there is a reasonable prospect of either the Wansdyke Crossing or the alternative route being delivered. Notwithstanding this, should neither option be delivered this would not alter the officer recommendation that the development is acceptable despite a conflict with this part of Placemaking Principle 7 and that the proposals are in conformity with the development plan, when taken as a whole.

Secondary Health Contributions

The committee report refers to the RUH NHS Foundation Trust's request for contributions towards secondary health care. The Trust have submitted evidence of the NHS governance/funding arrangements.

In any given year, the level of NHS funding is set by central Government through a Comprehensive Spending Review process. The process estimates how much funding the NHS will receive from central sources. The monies are then allocated to NHS England/Improvement, which in turn allocate the funds to Integrated Care Boards (ICB)

The Bath and North East Somerset, Swindon and Wiltshire Integrated Care Board (BSW ICB) and NHS Bristol, North Somerset and South Gloucestershire Integrated Care Board (BNSSG ICB) and NHS England then commission the Trust to provide acute healthcare services to the local population.

The ICBs then commission most services from NHS provider through NHS standard contract and using nationally determined formula. The ICBs commission planned and emergency acute healthcare from the Trust and agree a contract, including activity volumes and values on an annual basis. The ICBs have no responsibility for providing direct healthcare services to the public.

The commissioning does not take into consideration the local housing need, housing projections or existing planning permissions.

Whilst the current funding arrangements and the Trust's inability to unilaterally amend or change these are recognised, there has been no evidence provided that such governance/funding arrangements are mandated by statute. As there is no reason in theory that an exception could not be made to usual practice/arrangements to ensure the NHS Trust does not experience a shortfall. There is no evidence that the NHS Trust has requested of its funders that such an exception be made and that this has been refused.

In these circumstances, as a matter of planning judgement, the necessity test (CIL 122) is not considered to be met as it is not appropriate for a developer to pay for contributions in relation to a cost that the NHS has to meet in any event and that its funding system could and should be able to address if applied in a reasonably flexible manner.

Planning Balance

To provide further clarity, the planning balance and conclusions section of the committee report is updated and set out below:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *{\i "where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise".}*

When considering whether development proposals accord with the development plan it is necessary to make this judgement with regard to the development plan as a whole.

Whilst there is conflict with Placemaking Principle 8 of policy B3a, this is justified due to the latest admissions figures demonstrating that there is sufficient primary school capacity in the locality. There remains a degree of uncertainty in respect of one aspect of Placemaking Principle 7 related to the delivery of the shared use path over the Wansdyke which is beholden to the grant of SMC. Furthermore, should SMC not be delivered the alternative route would breach an aspect of Placemaking Principle 7 due to a failure to follow the desire line to Cranmore Place/Frome Road. However, this would represent the next best option should a direct crossing of the Wansdyke not be possible. It also remains possible that neither option are delivered (although unlikely) and this would also conflict with this aspect of Placemaking Principle 7.

The proposals are otherwise considered to comply with all the Placemaking Principles of B3a and also comply with the other core policies of the development plan.

It is therefore considered that the development proposals accord with the development plan as a whole and, in accordance with the s38(6) duty, should be approved unless material considerations indicate otherwise.

In complying with the development plan, the proposals have been found to have the following positive aspects:

1. 40% affordable housing with the Council's preferred tenure mix of 75% social rent and 25% shared ownership representing a substantial contribution to the delivery of new affordable homes in Bath.
2. The creation of a network of new and enhanced pedestrian and cycle paths across the allocation improving access to the plateau and various points of interest, e.g. Millennium Viewpoint.
3. Biodiversity Net Gain comprising an increase of 10.22% habitat units and 10.34% hedgerow units including long term management and maintenance obligations through the LEMP and BNG plan requirements.
4. A contribution towards increasing capacity of primary health care in the locality (e.g. extension to an existing surgery or reconfiguration of existing buildings.).
5. Several on-site and off-site sustainable transport measures which will encourage a modal shift to active travel measures and reduce reliance of the site's inhabitants upon private motor vehicles. This includes proportionate contributions towards two strategy sustainable travel projects: Somer Valley Links and Scholars Way Scheme.

Additionally, the proposals have been found to have the following benefits:

1. New homes making a significant contribution to the Council's housing supply and delivery position and providing homes for 290 individuals, families, couples, and other household groupings.
2. Economic benefits arising from jobs created during the construction phase including benefit to local suppliers and contractors. The creation of opportunities for NETs in the construction industry through the Targeted Recruitment and Training obligations. These benefits will be largely temporary for the duration of the construction.
3. The creation of a residential development in a highly sustainable location, close to the Odd Down Park and Ride and a range of services and shops.

Against these benefits, there are several harms and material considerations arising from the proposed development that weigh against the proposal:

1. Less than substantial harm to the setting of the City of Bath WHS. Great weight is afforded to this matter in accordance with the NPPF.

2. Less than substantial harm to the setting of the Great Spa Towns of Europe WHS. Great weight is afforded to this matter in accordance with the NPPF.
3. Less than substantial harm to the setting of the Wansdyke SAM. Great weight is afforded to this matter in accordance with the NPPF.
4. Less than substantial harm to the setting of the Cross Keys Pub listed building (Grade II). Great weight is afforded to this matter in accordance with the NPPF and the duty under s66 of the Planning (Listed Buildings and Conservation Areas) Act.
5. Minor harm to the significance of Sulis Manor through harm to its setting.
6. Adverse effects on landscape character at levels ranging from moderate to slight.
7. Adverse visual effects from a variety of viewpoints, including a number at the moderate/substantial level.
8. Slight/Moderate adverse impact on the special qualities of this part of the AONB. Great weight is afforded to this matter in accordance with the NPPF.
9. Removal of 69 individual mature trees and 4 tree groups within the grounds of Sulis Manor (although compensatory planting provided in 30 Acres) to accommodate the spine road.
10. Harm to ecologically valuable habitats within the SNCI, albeit the harm has been minimised.
11. Some additional queuing and inconvenience to motorists using the southern approach to the Odd Down P&R Roundabout, but not representing in a severe impact on the road network.

It is considered that in the above harms have been appropriately minimise whilst still enabling the delivery of the allocation. Whilst conscious of the various statutory duties and planning policy requirements to give these matters considerable or great weight in the planning balance, it is considered that these matters, both individually and cumulative, do not amount to material considerations which outweigh the compliance of the proposals with the development plan as a whole.

It is therefore concluded that, in accordance with paragraph 11(c) of the NPPF, the application should be approved without delay, subject to conditions and a s106 agreement.

Recommendation

For clarity, point 16c of the proposed Heads of Terms for the Wansdyke Crossing is supposed to refer not only to an alternative cycle route but to an alternative pedestrian/cycle route. Point 16 of the Heads of Terms is therefore updated to state:

16. Wansdyke Crossing

- a. Reasonable endeavours to secure Schedule Monument Consent*
- b. Delivery of Wansdyke Crossing, subject to SMC*
- c. Agree and deliver alternative pedestrian/cycle route if SMC is refused*