

**SECTION 2 – ITEM 8**

<b>Application No:</b>	19/P/2635/FUL	<b>Target date:</b>	18.12.2019
<b>Case officer:</b>	Judith Porter	<b>Extended date:</b>	29.01.2020
<b>Parish/Ward:</b>	Banwell Banwell and Winscombe	<b>Ward Councillors:</b>	Councillor Karin Haverson Councillor Ann Harley
<b>Applicant:</b>	Andrew Wilson Partnership & Opex One Ltd		
<b>Proposal:</b>	Erection of 2 No. two-storey dwellings including access and parking.		
<b>Site address:</b>	Land to the rear of The Ship Hotel, West Street, Banwell		

**REFERRED BY COUNCILLOR HARLEY**

**Summary of recommendation**

It is recommended that the application be **APPROVED** subject to conditions. The full recommendation is set out at the end of this report.

**Background**

There has been a succession of applications and appeals at this site. The latest appeal was dismissed but only for one reason: loss of privacy to neighbouring properties. This application seeks to resolve this issue.

**The Site**

This application relates to an irregular shaped parcel of land covering approximately 0.17 hectares. The site is located on an elevated position to the south west of, and significantly higher than, existing buildings and properties fronting onto West Street. To the south of the site, on higher ground and behind 2 to 3m high brick and natural stone retaining walls, there is a dwelling known as The Lawns. To the west of the site are the rear gardens of dwellings fronting School Close. To the east is a car park for The Ship (now converted to flats), which is a Grade II listed building. Vehicular access to the site is shared with the existing access for the flats in the converted listed building onto High Street.

**The Application**

Full permission is sought for:

- the erection of two 4-bed detached two-storey dwellings
- a new vehicular access from the existing car park to the rear of The Ship

**Relevant Planning History**

<b>Year</b>	<b>Reference</b>	<b>Proposal</b>	<b>Decision</b>
2019	18/P/3681/FUL	Erection of 2 dwellings, access and parking	Refused + Appeal dismissed
2015	14/P/2440/F	Erection of three detached dwellings, access and parking	Refused*
2009	09/P/1067/F	Erection of 3no live/work dwellings and associated parking	Refused**
2007	07/p/3031/F	Erection of 4 live work units	Refused *** Appeal dismissed
2006	06/P/1874/LB	Demolition of part of the boundary wall	Approved
2006	06/P/1875/F	Erection of four detached dwellings	Refused
2006	06/P/0740/F	Erection of four detached dwellings	Withdrawn
2006	06/P/0741/CA	Application for Conservation Area consent for part demolition of existing boundary walls to form vehicular access	Withdrawn
1999	99/1384	Change of use from public house to offices	Approved

+ due to impact on living conditions

\* due to impact on living conditions, inadequate parking/ turning, impact on protected species and concern for stability of boundary walls

\*\* due to ground stability concerns not being properly addressed

\*\*\* due to impact on one neighbour and issues of wildlife and ground stability

**Policy Framework**

The site is affected by the following constraints:

- Within the Banwell Conservation Area
- Inside the settlement boundary for Banwell
- Within setting of The Ship Grade II listed building

**The Development Plan**

The following policies are particularly relevant to this proposal:

**Policy Ref      Policy heading**

CS2              Delivering sustainable design and construction

CS3	Environmental impacts and flood risk management
CS4	Nature Conservation
CS5	Landscape and the historic environment
CS10	Transport and movement
CS11	Parking
CS12	Achieving high quality design and place making
CS13	Scale of new housing
CS14	Distribution of new housing
CS15	Mixed and balanced communities
CS32	Service Villages

Sites and Policies Plan Part 1: Development Management Policies (adopted 19 July 2016)

The following policies are particularly relevant to this proposal:

<b>Policy</b>	<b>Policy heading</b>
DM3	Conservation Areas
DM4	Listed Buildings
DM6	Archaeology
DM8	Nature Conservation
DM9	Trees
DM24	Safety, traffic and provision of infrastructure etc associated with development
DM28	Parking standards
DM32	High quality design and place making
DM37	Residential development in existing residential areas
DM42	Accessible and adaptable housing and housing space standards

Sites and Policies Plan Part 2: Site Allocations Plan (adopted 10 April 2018)

The following policies are particularly relevant to this proposal:

<b>Policy</b>	<b>Policy heading</b>
SA2	Settlement boundaries and extension of residential curtilages
SA6	Undesignated Green Spaces

**Other material policy guidance**

National Planning Policy Framework (NPPF) (February 2019)

The following is particularly relevant to this proposal:

<b>Section No</b>	<b>Section heading</b>
5	Delivering a sufficient supply of homes
6	Building a strong, competitive economy
7	Ensuring vitality of town centres
12	Achieving well designed places
14	Meeting the challenge of climate change, flooding and coastal change
15	Conserving and enhancing the natural environment

Supplementary Planning Documents (SPD) and Development Plan Documents (DPD)

- Residential Design Guide (RDG1) Section 1: Protecting living conditions of neighbours SPD (adopted January 2013)
- North Somerset Parking Standards SPD (adopted November 2013)
- Biodiversity and Trees SPD (adopted December 2005)
- North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: SPD (Adopted January 2018)

**Consultations**

Copies of representations received can be viewed on the council's website. This report contains summaries only.

**Third Parties:** 7 letters of objection have been received. The principal planning points made are as follows:

- Loss of privacy
- Obscure glazing could be removed
- Overlooking from wildlife area
- Overbearing
- Adverse impact on conservation area
- Highway safety

**Banwell Parish Council:** "At their meeting on the 2nd December 2019, Banwell Parish Council Planning Committee voted to object to this application as there is no material difference to the previous application.

The Parish Council are mindful of the Inspector's decision on the previous application and conclude that this application still has an adverse impact on adjacent properties in relation to overlooking, proximity and loss of light."

**Other Comments Received:**

Historic England

On the basis of the information available to date, does not wish to offer any comments.

**Principal Planning Issues**

The principal planning issues in this case are (1) the principle of development, (2) the impact on the living conditions of neighbours, (3) highways and parking, (4) design, impact on the character of the conservation area and the setting of the listed building, (5) the impact on protected species, (6) ground stability and (7) loss of green space.

### **Issue 1: The principle of development**

The site is within the settlement boundary for Banwell. Policy CS32 defines Banwell as a Service Village where proposals for residential development dwellings will be permitted.

The erection of two dwellings in this location is acceptable in principle in accordance with policy CS32 of the North Somerset Core Strategy.

### **Issue 2: The impact on the living conditions of neighbours**

The most recent appeal decision on application 18/P/3681/FUL makes it explicit that the appeal was dismissed only because of overlooking from two bedroom windows in the east elevations (one in each house). Other first floor windows in the east elevations could be obscure glazed, and adequate distances were found to exist in respect of windows in the north elevation.

It was considered by the appeal inspector that the two east elevation windows could not be obscure glazed due to being the only windows in the rooms concerned. The Inspector's conclusion was that:

*"Two of the proposed houses' facing first floor windows would serve bedrooms that would have other windows to provide alternative outlook, so that a condition could reasonably be imposed requiring these windows to be obscured. This would, however, leave 2 other bedroom windows that would give rise to undue overlooking".*

The council raised other reasons for refusal which related to overbearing impacts, loss of privacy from parking areas and noise and disturbance from manoeuvring vehicles. None of these were found by the appeal inspector to be unacceptable. Access to the wildlife area would be restricted and therefore would not cause additional loss of privacy.

The current application is identical to 18/P/3681/FUL, except that the unacceptable windows have been relocated to the rear. This overcomes the only reason that the appeal on 18/P/3681/FUL was dismissed.

The new location for the windows meets the tests set out in the Residential Design Guide part 1 and complies with Policy DM37 of the Sites and Policies Plan. It is therefore concluded that the proposed development is acceptable in terms of its neighbour impacts, subject to conditions on both houses requiring the obscure glazing of first floor windows in the east elevations and removal of permitted development rights for additional windows.

### **Issue 3: Highways and Parking**

The appeal inspector concluded that the access would not be unsafe and that additional traffic would be limited. The previous use as a pub car park would have resulted in higher volumes of traffic. There was no highways reason for refusal on the last application and the appeal inspector did not support submissions made on this point by local residents.

The parking plan shows two spaces adjacent to each proposed dwelling. Two further spaces have been allocated in a communal parking area (the further 12 spaces are required to be retained for the flats at The Ship). The spaces adjacent to the properties may require some manoeuvring however this should be achievable and appear to be usable spaces. Although gradients are steep, this is unlikely to cause a safety hazard.

The development would comply with advice in the Parking Standards SPD, Policy CS11 of the Core Strategy, Policies DM37, DM28 and DM 24 of the emerging Sites and Policies plan, and advice in the NPPF sections 4 and 7.

**Issue 4: Design, Impact on the character and appearance of the Conservation Area and the setting of the Listed Building**

The site is tucked away, separated from the listed building by the existing car park and is seen only from private viewpoints, not near public views. The roofscape is regular and would be seen only in distant views. Clay tiles are proposed. The development of the site would not therefore have an appreciable effect on the character or appearance of the conservation area or the setting of the listed building (The Ship). Listed building consent has previously been granted for the rebuilding of the wall bounding the car park and the principle of a gap for access has already been established. The design of the houses would be acceptable given the lack of public views, despite the use of PVCu windows.

**Issue 5: The impact on protected species and trees**

The character and location of the site is such that any impact on protected species, including bats, is manageable through planning conditions. Part of the site is proposed as a wildlife area to be managed by a management company in mitigation for the loss of habitat including that used by slow worms. The proposals would be acceptable subject to conditions and would comply with policy CS4 of the Core Strategy, and Policy DM8 of the Sites and Policies plan. No important trees will be adversely affected by this development.

**Issue 6: Ground stability**

Previous recommendations about the siting of development away from the boundaries to prevent excess loading onto supporting ground and walls have been incorporated into the current application, so the development should not adversely impact on ground stability. The development therefore complies with this aspect of Policy CS3 of the Core Strategy

Specific issues of possible damage to property (including walls) during or after construction would be a matter of civil law and would be the responsibility of a developer of the site.

**Issue 7: Loss of Green space**

The site is clearly important to the residents adjoining it, and the contribution that it makes to improve their perception of the area in which they live is recognised. However, the site is not seen in wider views or contribute to the wide character of the area. It therefore does not meet the criteria to be considered as undesignated green space under Policy SA6 of the Sites and Policies plan. There is therefore no refuse to refuse the application on this basis.

**Community Infrastructure Levy**

The Council's Community Infrastructure Levy (CIL) Charging Schedule took effect on 18 January 2018. This means that the development may be liable to pay the CIL. The Charging Schedule and supporting information can be viewed on the website at [www.n-somerset.gov.uk/cil](http://www.n-somerset.gov.uk/cil).

## **The Town and Country Planning (Environmental Impact Assessment) Regulations 2017**

The proposed development falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 – Column 1, Part 10 (Infrastructure Projects), but does not meet the thresholds set out in Column 2, nor does it fall within a ‘sensitive area’ as defined in the Regulations. A formal EIA screening opinion is not, therefore, required.

## **The Crime and Disorder Act 1998**

The proposed development will not have a material detrimental impact upon crime and disorder.

## **Local Financial Considerations**

The Localism Act 2011 amended section 70 of the Town and Country Planning Act 1990 so that local financial considerations are now a material consideration in the determination of planning applications. This development is expected to generate New Homes Bonus contributions for the authority. However, it is considered that the development plan and other material considerations, as set out elsewhere in this report, continue to be the matters that carry greatest weight in the determination of this application.

## **Conclusion**

As stated in the appeal decision on application 18/P/3681/FUL, the proposal would make good use of an unused site to provide new homes within the village centre, near to services and facilities. It would therefore bring minor economic and social benefits. As it would not harm the character or appearance of the area or the local ecology, its general environmental impact would be neutral. Now the adverse impact on the living conditions of neighbours has been reduced to acceptable levels, it is recommended that the application should be approved in accordance with the development plan and advice in the NPPF.

**RECOMMENDATION: APPROVE** (for the reasons stated in the report above) subject to the following conditions:-

1. The development hereby permitted shall be begun before the expiry of three years from the date of this permission.

Reason: In accordance with the provisions of Section 91 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be carried out in accordance with the approved plans and documents to be listed on the decision notice.

Reason: For the avoidance of doubt and in the interest of proper planning.

3. No construction of the external walls of the development shall commence until samples of all external walling and roofing materials to

be used have been provided on site and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved samples unless otherwise agreed in writing.

Reason: To ensure that the materials are acceptable in the interests of the appearance of the area and in accordance with policies CS5 and CS 12 of the North Somerset Core Strategy and policies DM3, DM32 and DM37 of the North Somerset Sites and Policies Plan part 1.

4. The development shall not take place except in strict accordance with the measures outlined in the Landscape and Ecological Management Plan. If amendments to the methodology or management company are required, details of the changes must be submitted in writing and agreed by the Local Planning Authority before relevant works proceed. The development shall then be implemented in accordance with the agreed changes.

Reason: to protect biodiversity and protected species in accordance with policy CS 4 of the North Somerset Core Strategy and Policy DM8 of the North Somerset Sites and Policies Plan part 1.

5. No access shall be permitted to any part of the ecological mitigation area except to manage it in accordance with the Landscape and Ecological Management Plan. The 1.8m stone wall/ fences/ gate which bound the ecological mitigation area shall be provided prior to the occupation of any dwelling. The gate shall be kept locked at all times.

Reason: to protect biodiversity and protected species and to prevent loss of privacy to nearby residents and in accordance with policy CS 4 of the North Somerset Core Strategy and Policies DM8, DM32 and DM 37 of the North Somerset Sites and Policies Plan part 1.

6. The dwellings shall not be occupied until a soft landscape scheme which accords with the provisions of the Landscape and Ecological Management Plan has been submitted to and approved in writing by the Local Planning Authority showing details of all trees, hedgerows and other planting to be retained; finished ground levels; a planting specification to include numbers, density, size, species and positions of all new trees and shrubs; and a programme of implementation. The landscaping scheme shall be carried out in accordance with the approved details, specifications and programme of implementation. Trees, hedges and plants shown in the landscaping scheme to be retained or planted which, during the development works or a period of ten years following full implementation of the landscaping scheme, are removed without prior written consent from the Local Planning Authority or die, become seriously diseased or are damaged, shall be replaced in the first available planting season with others of such species and size as the Authority may specify.

Reason: To ensure a satisfactory landscaping scheme is implemented and maintained in the interests of the character and biodiversity value



of the area and in accordance with policies CS4, CS5 and CS9 of the North Somerset Core Strategy, policies DM8, DM9, DM10 and DM32 of the North Somerset Sites and Policies Plan (Part 1) and the North Somerset Biodiversity and Trees SPD.

7. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
- (a) the parking of vehicles of site operatives and visitors
  - (b) loading and unloading of plant and materials
  - (c) storage of plant and materials used in constructing the development
  - (d) measures to control the emission of dust and dirt during construction
  - (e) measures to control noise from works on the site
  - (f) measures to keep access roads clear of vehicles
  - (g) routing restrictions

Reason: In order to preserve highway safety, local amenity and the living conditions of nearby residents with policy CS3 of the North Somerset Core Strategy and policy DM24 of the North Somerset Sites and Policies Plan (Part 1). The details are required prior to the commencement of development in order to ensure that construction works do not pose a threat to amenity, health or safety.

8. The development hereby approved shall not be occupied until the access and parking areas have been constructed in accordance with the approved plans and these parking spaces shall thereafter be permanently retained and shall not be used except for the parking of vehicles in connection with the development hereby approved, apart from spaces 1-12 which are for the use of the flats in the former Ship Hotel.

Reason: To ensure that the development is served by a suitable parking area in order to preserve highway safety in accordance with Policy CS 11 of the North Somerset Core Strategy and policies DM24 and DM 28 of the North Somerset Sites and Policies Plan part 1.

9. No development shall take place within the site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work, in accordance with a written scheme of investigation, which has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a controlled watching brief during groundworks on the site, with provision for excavation of any significant deposits or features encountered and shall be carried out by a

competent person or persons and completed in accordance with the approved written scheme of investigation.

Reason: To ensure that archaeological interests are properly dealt with in accordance with policy CS5 of the North Somerset Core Strategy and policy DM6 of the North Somerset Sites and Policies Plan (Part 1 - Development Management Policies). An agreed programme of archaeological work is required before any other development commences on site in order to set out and approve the method statement and ensure appropriate mitigation and contingency strategies are provided should significant remains be encountered during the watching brief.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order, with or without modification), no extensions to the dwellings shall be carried out.

Reason: To protect the living conditions of neighbouring residents in accordance with policies DM32 and DM37 of the North Somerset Sites and Policies Plan part 1.

11. Before the first occupation of the dwellings hereby permitted the first floor windows to the east elevations of Plots 1 and 2 shall be fitted with obscure glazing. The obscure glazing used shall provide a degree of obscuration no less obscure than that which is provided by privacy level 3 of the Pilkington Group Limited textured glass range as defined in publication "Pilkington Textured Glass Range" (published January 2010). This window shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order, with or without modification), neither the obscure glazing nor the method of opening shall be subsequently altered without the prior written permission of the Local Planning Authority.

Reason: To protect the living conditions of occupiers of adjoining properties residents in accordance with policies DM32 and DM37 of the North Somerset Sites and Policies Plan part 1.

12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order, with or without modification), no windows, rooflights or dormers (other than any expressly authorised by this permission) shall be inserted in any elevation without the prior written consent of the Local Planning Authority.

Reason: To protect the living conditions of occupiers of adjoining properties and in accordance with policies DM32 and DM37 of the

North Somerset Sites and Policies Plan (Part 1) and the North Somerset Residential Design Guide SPD (Section 1: Protecting living conditions of neighbours).

13. The dwellings hereby approved shall not be occupied until measures to generate 10% (less if agreed with the Local Planning Authority) of the energy required by the use of the development (measured in carbon) through the use of micro renewable or low carbon technologies have been installed on site and are fully operational in accordance with details that have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved technologies shall be permanently retained unless otherwise first agreed in writing by the Local Planning Authority.

Reason: In order to secure a high level of energy saving by reducing carbon emissions generated by the use of the building in accordance with paragraph 17 and section 10 of the National Planning Policy Framework and policies CS1 and CS2 of the North Somerset Core Strategy.

14. The dwellings shall not be occupied until space and facilities for the collection of waste and recycling materials have been provided in accordance with the approved plans and specifications. The said space and facilities shall thereafter be made permanently available for the collection of waste and recycling materials for the occupiers

Reason: To ensure that a suitable collection point is available where it can be accessed by refuse/ recycling vehicles and in accordance with policies CS1, CS3 and CS7 of the North Somerset Core Strategy and policy DM32 of the North Somerset Sites and Policies Plan (Part 1).

15. No dwelling shall be occupied until all walls, fences and other boundary treatments (as applicable) have been completed in accordance with the approved plans.

Reason: To protect the privacy of adjoining neighbours and in the interests of safety in accordance with policy CS3 of the North Somerset Core Strategy and policies DM32 and DM37 of the North Somerset Sites and Policies Plan (Part 1).