

SECTION 1 – ITEM 6

Application No: 20/P/2000/R3

Proposal: Erection of 52 no. dwellings and one substation building, with the provision of car parking, landscaping and other associated works.

Site address: Land south of The Uplands, Nailsea

Applicant: North Somerset Council

Target date: 14.12.2020

Extended date: 28.02.2021

Case officer: Sally Evans

Parish/Ward: Nailsea/Nailsea West End

Ward Councillors: Councillor James Tonkin

REFERRED BY COUNCILLOR TONKIN

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

An all member briefing on was held 18th November explaining the background, proposals, issues and comments received to date in relation to this application.

The Site

The application site is a roughly 2 hectare 'L' shaped area of grassland located adjacent to the south western edge of Nailsea. There is an existing vehicle access and separate footpath access from The Uplands which is an unclassified adopted highway. At the eastern side of the site is a small woodland and at the south is a bridleway/cyclepath set within mature trees and a hedgerow. At the northern boundary are single storey houses, separated from the site by a low stone wall and hedge. Adjacent to the western boundary are single storey houses, the vehicle access and protected Red Oak trees. The site slopes downwards to the south and is crossed by a dilapidated stone wall. An adopted public right of way gives pedestrian access to the site from the north between no's 20 and 22 the Uplands.

The Application

To support the Council's declared Climate Emergency in February 2019, this application proposes a highly sustainable, low carbon housing development using award winning

architects and in consultation with the South West Design Review Panel. The site layout is designed to use elements of local vernacular architecture from the town centre and agricultural farmsteads, incorporating green approaches to local infrastructure, building and increasing green and wild spaces. The proposals have been designed to accord with the main principles of Secure By Design, including natural surveillance of open spaces; private rear gardens with secure enclosures

Full permission is sought. The main elements of the proposals are set out below:

- A high quality, low carbon, highly sustainable, energy efficient housing development in a landscaped garden environment, incorporating a mix of house types, private and community gardens, shared courtyards and community areas with seating;
- Houses designed to PassivHaus standards, incorporating high levels of insulation, triple glazing, low carbon construction, timber frames, solar panels on every house, no gas boilers, all energy is electric, electric car charging facilities provided for every house.
- 52 dwellings (reduced from the original proposal for 54 by amended plans dated 18th January) in the following variety of house types and units:
 - (i) 4 x 1 bed single storey (all wheelchair accessible);
 - (ii) 4 x 2 beds single storey (all wheelchair accessible);
 - (iii) 8 x 2 bed 2 storey;
 - (iv) 28 x 3 bed 2 storey;
 - (v) 8 x 4 bed, 2 and 2.5 storey.
- 30% on site affordable housing comprising 12 no social rent and 3 no shared ownership.
- Overarching development density excluding the woodland of 26 dwellings per hectare (dph). The surrounding area is 14 dph and the average for edge of settlement new housing developments is 35 dph.
- External building materials to be a mix of pre-cast stone detailing, rendered walls, brick, terracotta tiles and stone boundary walls.
- Car parking: 79 standard sized spaces (including 1 car club space) and 16 disabled spaces, totalling 95.
- The majority of car parking spaces to be finished in reinforced grass paving.
- The north-south public right of way through the site linking The Uplands at the north to the Bridleway at the south is retained and expanded to include cycle usage, rerouted and resurfaced.
- With the exception of some birch trees and one Ash tree suffering from dieback (located at the centre southern boundary) the trees are retained. The majority of Ash trees at site edges are to be managed and re-pollarded.
- 10m wide green, dark buffer at the southern boundary to protect an important bat corridor and the addition of bat boxes on nearby units.
- The eastern woodland (0.5 ha) to be retained and managed, and a path link created to the bridle/cycleway.
- The development will include Net biological gain.
- New electricity sub-station.

Relevant Planning History

Year: 1976

Reference: 1575/96

Proposal: Residential development of land.

Decision: Refuse.

Year: 1978

Reference: 2313/78

Proposal: Change of use from agricultural land to Public Open Space

Decision: Approved

Policy Framework

The site is allocated for approximately 50 houses in the Adopted Sites and Policies Plan (part 2).

It is affected by the following constraints:

- Adjacent to the settlement boundary for Nailsea.
- Protected trees at the east, west and southern sides and woodland at the eastern site boundary (Various species – TPO's 632 and 1043)
- Low flood risk, within flood zone 1.
- Coal Authority development land, low risk area.
- Bridleway/Footpath LA13/4/50 at southern boundary.
- Bristol Airport consultation zone (buildings over 90m in height.)
- Environment Agency ground water source protection area ref 2c.
- NS and Mendip Horseshoe Bats zone B.
- Within setting of Holy Trinity Church off Church Lane (Gd I LB)

The Development Plan

North Somerset Core Strategy (NSCS) (adopted January 2017)

The following policies are particularly relevant to this proposal:

- CS1 Addressing climate change and carbon reduction
- CS2 Delivering sustainable design and construction
- CS3 Environmental impacts and flood risk management
- CS4 Nature Conservation
- CS5 Landscape and the historic environment
- CS9 Green infrastructure
- 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
- CS16 Affordable housing
- CS25 Children, young people and higher education
- CS26 Supporting healthy living and the provision of health care facilities
- CS27 Sport, recreation and community facilities
- CS31 Clevedon, Nailsea and Portishead
- CS34 Infrastructure delivery and Development Contributions

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

The following policies are particularly relevant to this proposal:

- DM1 Flooding and drainage
- DM2 Renewable and low carbon energy
- DM4 Listed Buildings
- DM6 Archaeology
- DM8 Nature Conservation
- DM9 Trees
- DM10 Landscape
- DM19 Green infrastructure
- DM24 Safety, traffic and provision of infrastructure etc associated with development
- DM25 Public rights of way, pedestrian and cycle access
- DM26 Travel plans
- DM28 Parking standards
- DM32 High quality design and place making
- DM33 Inclusive access into non-residential buildings and spaces
- DM34 Housing type and mix
- DM35 Nailsea housing type and mix
- DM36 Residential densities
- DM37 Residential development in existing residential areas
- DM42 Accessible and adaptable housing and housing space standards
- DM68 Protection of sporting, cultural and community facilities
- DM69 Location of sporting, cultural and community facilities
- DM70 Development infrastructure
- DM71 Development contributions, Community Infrastructure Levy and viability

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

The site is allocated for approximately 50 houses

The following policies are particularly relevant to this proposal:

- SA1 Allocated residential sites (10 or more units)
- SA2 Settlement boundaries and extension of residential curtilages

Other material policy guidance

National Planning Policy Framework (NPPF) (February 2019)

The following sections are particularly relevant to this proposal:

- 1 Introduction
- 2 Achieving Sustainable Development
- 3 Plan-making
- 4 Decision-taking
- 5 Delivering a sufficient supply of homes
- 6 Building a strong, competitive economy

- 8 Promoting healthy and safe communities
- 9 Promoting sustainable transport
- 10 Supporting high quality communications
- 11 Making effective use of land
- 12 Achieving well designed places
- 14 Meeting the challenge of climate change, flooding and coastal change
- 15 Conserving and enhancing the natural environment
- 16 Conserving and enhancing the historic 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)
- North Somerset Landscape Character Assessment SPD (adopted September 2018)
- Biodiversity and Trees SPD (adopted December 2005)
- Creating sustainable buildings and places SPD (adopted March 2015)
- Travel Plans SPD (adopted November 2010)
- Affordable Housing SPD (adopted November 2013)
- North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: SPD (Adopted January 2018)
- Accessible Housing Needs Assessment SPD (Adopted April 2018)
- Development contributions SPD (adopted January 2016)

Consultations

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

Third Parties: 151 letters of objection have been received.

The principal planning points made are as follows:

- Close proximity to existing houses, overlooking, overshadowing, loss of light and overbearing.
- Insufficient car parking provision on site and roads too narrow.
- Increased traffic in neighbourhood and nearby lanes. Hazardous highway access from The Uplands, insufficient visibility for neighbouring properties.
- The development should have more green open space and will impact on ecology.
- Overdevelopment and out of character with neighbourhood. New houses are too high
- Insufficient community facilities for new residents.
- Loss of public open space, dog walking and sports area.
- Too many houses in neighbourhood in combination with sites at Youngwood and Engine Lane.
- Increased flood risk and pollution.

Following reconsultation on amended plans, on 19 January, an additional 32 letters of objection had been received at the time of report writing, reiterating the objections above.

Nailsea Town Council:

“Recommend refusal (comments dated 28th October 2021) on the grounds that:

- 1) the proposed development is not in keeping with the street scene
- 2) the area is used by the community
- 3) it is overcrowded and not conducive for families
- 4) unattractive design
- 5) not beneficial to Nailsea”

Additional comments received 3rd February following notification of amended plans:

“Recommend refusal on the grounds that the proposed development is not in keeping with the street scene, that the development would lead to a loss of community open space, the development is overcrowded with not enough capacity for families, it is an unattractive development, which is not beneficial to Nailsea.”

Tickenham Parish Council:

“Tickenham Parish Council is very concerned about this proposed development. 54 dwellings will generate at least 108 vehicles, possibly more, all of which will use not only the immediate surrounding roads but also those beyond as they attempt to access Bristol, Clevedon and the M5 J20. Those proceeding to Clevedon and the M5 will use the Causeway, an ancient road built on reed faggots: it is already over-used and requires constant maintenance. The B3130 through Tickenham is in a sorry state: the drains are damaged, the surface is breaking up and it has already reached capacity. If this development and others planned for Engine Lane and Youngwood Lane go ahead the traffic on surrounding roads will be intolerable. Tickenham Parish Council urges NSC to seriously consider the effect that proposals for development the South West of Nailsea will have on neighbouring communities, not least in terms of hugely increased vehicular movement.”

Other Comments Received:

Environment Agency

No response received.

Officer comment. The EA was consulted in relation to the groundwater source protection area designation. Comments are generally only made to potentially highly polluting development.

Natural England

Welcome the proposed off site mitigation as part of the HRA Appropriate Assessment. Details of the chosen site location, its habitat values, current and proposed management, potential linkages to the Bats SAC, potential benefits to bats and surrounding wildlife areas remain outstanding.

Officer comment: This is being addressed through the Habitat Regulations Assessment process.

North Somerset Internal Drainage Board.

No comments.

Avon Fire Brigade.

Four hydrants are required on site and a sum of £1,500 per hydrant for future maintenance.

Avon and Somerset Police, Neighbourhood Support Team

Paragraphs 91, 95 and 127 of the National Planning Policy Framework (adopted July 2018) require crime and disorder and the fear of crime to be considered in the design stage of a development. The amended plans address previous comments.

Sport England

The proposed development does not fall within either our statutory or non-statutory remit therefore no detailed response is provided. If a sports facility is to be lost, the advice in the NPPF para 97 should be followed. If the proposal is for additional housing which generates an increased demand for sports facilities and if the existing sports facilities do not have sufficient capacity then new or improved facilities should be secured in accordance with any relevant local plan policy. New development should consider and accord with section 8 of the NPPF and the Health and Wellbeing advice in the NPPG to provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England's Active Design Guidance provides 10 principles to ensure design and layout help achieve this. No further comments following reconsultation.

Wessex Water

It is confirmed that there is adequate capacity in the public foul sewers to accommodate this development.

Bristol Water

No objections in principle.

The Coal Authority

The application site is located within a Low Risk Area, therefore standard advice notes should be attached to the decision.

Principal Planning Issues

The principal planning issues in this case are (1) principle of development, (2) highways and transport, (3) sustainable urban design, (4) arboricultural impacts, (5) biodiversity and habitat regulations assessment, (6) drainage and flooding, (7) accessible and adaptable housing and housing space standards, (8) environmental protection and acoustic assessment, (9) setting of heritage asset, (10) historic coal mining use risks, (11) archaeology, (12) third party comments and (13) development contributions and Community Infrastructure Levy.

Issue 1: Principle of development

The site lies adjacent to the settlement boundary for Nailsea at its northern side. It is allocated for approximately 50 dwellings in the adopted Development Management Plan, Part 2, Sites Allocations (SAP), and excludes the eastern woodland from the developable

area. The principle of development is therefore in accordance with an up-to-date adopted local plan.

Policy SA1 schedule 1 sets out site specific requirements that (i) access is to be from The Uplands; (ii) hedgerow boundaries are to be retained; (iii) new dwellings should provide a mix of units in accordance with policy DM35; (iv) impacts on the Bats SAC must be addressed and (v) a high standard of surface water attenuation is required. Subject to the completion of the Habitat Regulations Appropriate Assessment (HRA) the application complies with these requirements.

Policy CS31 of the Core Strategy supports the principle of development. It states that at Nailsea “new housing development within and adjoining settlement boundaries which is of an appropriate scale and of a high-quality design that respects each town’s distinctive character and local environment, delivers necessary infrastructure improvements and enhances overall sustainability will be supported. Residential proposals must have regard to local housing needs.” The proposals comply with these requirements.

Policy CS31 also requires that proposals must be capable of being integrated into the existing fabric of the settlement, not create significant adverse impacts in relation to services facilities and infrastructure including any cumulatively significant adverse impacts and that it must have safe and convenient walking routes to schools and other services and facilities within the town within a reasonable walking distance. The proposed development is considered to comply with these aspects of the policy. Compliance is enhanced by the approved development of land to the south, which has outline planning permission for 450 dwellings (ref 16/P/1677/OT2) and reserved matters approval (ref 20/P/2347/RM) for the first phase. This development will deliver improvements to sustainable transport links to the railway station and town centre and a new bus services for all nearby residents.

Objections have been received to the proposed development on the grounds of loss of public open space which has occasionally been used for sports. Sport England advised that the application does not fall within either its statutory or non-statutory remit to comment, as specified in the Town and Country (Development Management Procedure) Order 2015 (as amended), and that an assessment of the application should consider local plan policies, para 97 of the NPPF and any Council Playing Pitch or Built Sports Strategy. The most relevant local plan policy is Sites and Policies Plan part 1 policy DM68 which sets out that land in existing or last used for a sporting, cultural or community purpose is protected for that use *unless* the land is allocated for another purpose in another planning document. In this case, the adopted Sites and Policies Sites Allocations Plan allocates it for residential development. Para 97 of the NPPF requires that existing open space and sports land should not be built on unless an assessment has taken place which shows it to be surplus to requirements or it will be replaced elsewhere. This assessment underpinned the residential allocation of the site at the Sites Allocations Plan Examination hearing in April 2017, and the plan was subjected to full public consultation. Furthermore additional public open space and sports facilities are planned to be provided through CIL payments from new major housing schemes including this one. On this basis it is concluded that the proposed development complies with properly considered adopted local plan policies, and the NPPF and is acceptable.

Issue 2: Highways and Transport

To support the Council's intention to create a highly sustainable, low carbon development, the design and layout prioritises pedestrian and cycle movements. Secure and covered cycle storage space is provided throughout the site, either in back gardens or out buildings. Parts of the highway network road widths are narrower than standards set out in the adopted NSC Highways Development Design Guide but are designed with measures incorporated to prevent on street and verge parking, allowing traffic to pass unrestricted by cars. The plans have not yet demonstrated that fire appliances can turn safely within the limits of the highway and amended tracking plans for junctions have been sought. Subject to this minor revision, the highway widths are concluded to be accepted.

Each dwelling will be allocated one car parking space with its own electric car charging point. There are 95 car spaces, including 16 disabled access and 42 visitor spaces. No garages are proposed because they seldom add to available parking provision. A residents' electric car club, and personalised Sustainable Travel Plans will be implemented by residents to maximise walking, cycling, car sharing and the use of public transport. As there is a variety of sustainable travel options and incentives, the Council's parking discount tool may be applied. This permits a 15% reduction in the number of parking spaces required. On this basis, the parking provision is acceptable and accords with the principles underlying policies CS11 and DM28 and the Parking SPD.

Given the restricted nature of the local highway network, the implementation of an Environmental Construction Management Plan will be required by planning condition to control construction impacts to highways, neighbouring residents and the environment.

It is acknowledged that vehicle access to the site from The Uplands, is narrow but it conforms to minimum highway width standards in the adopted Highways Development Design Guide. Use of the access could be impeded with on street car parking and vehicle turning movements at the access to no's 14 a and b, which is adjacent to the site entrance. To address this, parking restrictions (such as yellow lining) could be added to The Uplands and a financial contribution for the associated TRO will be included in the S106 agreement. Amended plans have been sought to demonstrate how suitable visibility splays will be created at no's 14 a and b The Uplands.

In conclusion, subject to the receipt of a suitably amended plan demonstrating no adverse impacts to the access to no's 14 a and b The Uplands, and an additional condition ensuring the creation of acceptable visibility splays, and vehicle tracking demonstrating proper site access for fire appliances, it is concluded the application will deliver a highly sustainable development, be in accordance with policy DM24 which requires that new development should not prejudice highway safety nor access by emergency or services vehicles and is acceptable.

Issue 3: Sustainable urban design

Adopted Local Plan policies support the creation of high quality sustainable developments and have been boosted recently by the Governments drive to create beautiful places through initiatives such as the National Design Codes. By 2025 all new buildings should be designed to operate at net zero carbon therefore more housing should be designed on the principles of this application.

Core Strategy policies CS12 and CS31 require that new developments provide high quality and locally distinctive designs, creating an individual character and identity. Development Management Policy DM32 also supports high quality, distinctive, functional and sustainable places and the Council's Residential Design Guide Part 1 in respect of protecting residents from overlooking, overshadowing and overbearing impacts. The development has paid due regard to these policies and complies with them. Policies CS1 and CS2 require a minimum of 15% of future energy needs to be generated on site. The housing layout makes the most efficient use of solar orientation to maximise the energy gain from solar pv panels on all south facing roof slopes and exceeds this target.

Details of external materials will be agreed through planning conditions and will be used to tie the development further into the character of the town and local area. Designs for the terraced elements of the layout were beneficially amended recently to introduce more variety and local character to the scale, massing and details. The design and layout benefit from a high quality series of landscaped spaces, a mix of public and private and community gardens, securely accessible by residents only and the layout complies with the main principles of Secure By Design. Existing footpaths crossing the site will be retained and surfacing enhanced.

To protect the privacy of neighbours and new residents, facing rear elevations are a minimum of 21m within the site and 25m distant from existing houses, which accords with the adopted SPD. Permitted development rights for the insertion of new upper floor windows will be withdrawn at plots 25 and 40 to protect neighbours from overlooking. An overshadowing assessment has demonstrated that these properties would not be unacceptably affected. Additional tree planting will be added to the boundaries to filter views of the development from neighbours and existing hedges retained. Details of a proposed Local equipped area for play will be conditioned. The development incorporates a high level of opportunities for an active lifestyle, with cycle, walking and horse riding opportunities and routes. The application is therefore concluded to comply with the Local Plan policies and is acceptable.

Issue 4 - Arboricultural impacts

There are a significant number of trees on and adjacent to the site protected by Development Management plan policy DM9 and Tree Preservation Orders. Amended plans removed one plot at the western side to protect a group of Red Oaks, and one plot at the east to protect a mature oak tree and smaller holly and ash trees. The north – south footpath was also rerouted to protect smaller trees. Most eastern and southern boundary trees are Ash and unfortunately some show die back symptoms. One at the south has to be removed, several others will be managed through pollarding. Detailed works to the trees are under discussion and will be controlled by planning condition, and on this basis, it is concluded the scheme complies with policy DM9 of the Development Management Plan, part 1.

Issue 5 – Biodiversity and Habitat Regulations Assessment

The Natural Environment and Rural Communities (NERC) Act 2006 places a duty on Local authorities to have regard to the conservation of biodiversity in exercising their functions and it is confirmed that the terms of the Act have been complied with in this respect. Development Management Plan policy DM8 requires that biodiversity and important species are protected.

The site is within Zone B of the North Somerset and Mendip Bats Special Area of Conservation (SAC). The EU directive on the conservation of natural habitats of wild flora and fauna (The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) as amended, requires decision makers to undertake Appropriate Assessment where a development would have a likely significant effect on a European site. The HRA/AA requires additional information relating to site light spill and fencing, it is being produced and will be discussed with Natural England. It is likely that off site mitigation will be required, by financial contributions for creation of enhanced bat foraging areas, which may be combined with similar requirements from nearby developments.

The site layout includes 10m wide unlit buffers at the southern boundary and smaller spaces at the east and west. The designs are being finalised as required by the HRA/AA but are likely to only require minor revisions to garden boundary treatments or additional landscaping. The community gardens will also provide an ecological resource. The site has been fully surveyed and no European protected species were found inhabiting although it provides a foraging area for numerous bats. An equipped area for play has been removed from the eastern woodland to protect its nature conservation value and for child safety. A new site has not yet been suggested and this will be addressed by planning condition or planning obligation. Subject to the resolution of concerns with light spill into dark corridors (which are likely to be able to be addressed through higher fencing and planning conditions controlling residents garden lighting) and the location of the play area; and completion of the HRA/AA, the application will comply with DM8 and the Habitat Regulations.

Issue 6: Drainage and flooding

Policies DM1 and CS2 require that the potential for site flooding and drainage requirements are properly addressed. The site is at low risk of fluvial or tidal flooding but is a groundwater source protection area and there is a SSSI to the west which requires protection from water run-off. The drainage design details include a number of water infiltration features across the site including roadside swales, soakaways and permeable paving. Plans have been amended and at the time of writing are being reviewed. Provided the details are satisfactory, the proposed SUDS scheme and Construction Management Plan will address these concerns and there will be no objections. Wessex Water has confirmed that off site connections are permissible in principle and details will be addressed through Building Regulations. The pipeline crossing the site has been retained and given protection by the layout.

Issue 7: Accessible and adaptable housing and housing space standards

Policy DM42 of the Development Management Plan part 1, and the associated adopted SPD requires that a minimum of 17% of new housing should be constructed to the Category 2 Standards (accessibility and adaptability for all ages and abilities) under Part M of the Buildings Regulations 2015. Additionally all dwellings should conform to the minimum space standards set out in the Nationally Described Space Standards for overall floorspace and certain room sizes, where practical and viable. Subject to suitable design details for disabled parking bays and paving materials, which will be ensured by planning condition, the proposals comply with this policy.

Issue 8: Environmental Protection and acoustic assessment

Policy CS3 requires that the potential for environmental impacts both to and from developments are addressed. Concerns have been raised with the potential noise pollution from Bristol Airport. However the site lies outside the area encompassed by contour plans of noise associated with the airport activities, so there is no evidence to support concerns. It is therefore concluded that the proposals comply with this policy

Issue 9: Setting of heritage asset

The proposal falls within the setting of Holy Trinity Church off Church Lane, a Grade I Listed Building. However, the proposal is not considered to have an adverse impact on the setting of this Listed Building because it is sufficiently distant from it to not be viewed in the same context. The proposal is therefore in accordance with policies CS5 and ECH/4 of the North Somerset Replacement Local Plan, policy DM4 of the Sites and Policies Plan (Part 1), section 16 of the NPPF and section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

Issue 10: Historic coal mining use risks

The site lies within an area of Low Level coal mining risks. A full risk assessment is not required but an advice note is proposed notifying the developer that if any evidence of coal mining activities is found they should notify the Coal Authorities. The application therefore complies with the requirements of Core Strategy policy CS3.

Issue 11: Archaeology

Development Management Plan policy DM6 requires that archaeology interests be fully considered and taken into account in determining planning applications. The site has been investigated and assessed by geophysical survey and trenching. The only feature found was a relatively modern ditch. It is therefore concluded that no further archaeological requirements are necessary and the proposals comply with the relevant adopted plan policy.

Issue 12: Third party comments

Neighbouring residents and the Town Council's objection to the development proposals are detailed in this report. They have been addressed in the preceding issues sections. Other matters have been raised by neighbours namely loss of views, devaluation of property, noise and nuisance. Such matters carry little weight in the determination of planning applications and are not controlled under adopted plan policies.

Issue 13: Development Contributions and Community Infrastructure Levy

Policy CS34 of the Core Strategy and Policy DM71 of the Sites and Policies Plan Part 1 set out the requirement and mechanism to seek developer contributions to mitigate the impacts of a development. This application is for 52 new dwellings and is therefore subject to developer contributions.

A S106 agreement is required to provide the following Heads of Terms:

- (a) 30% on site affordable housing in accordance with policy CS16; and
- (b) £1,500 per fire-fighting water hydrant for future maintenance.
- (c) Public rights of way: £19,695 for future management and maintenance and £1,500 for footpath dedication processes;
- (d) £32,528 towards the implementation of off-site transport infrastructure improvements; £33,000 for the implementation of a car club; £3,600 for a TRO; £600 to implement parking control measures at The Uplands and (costs to be ascertained) implementation of a sitewide travel plan;
- (d) If required, off site mitigation measures to comply with the Habitat Regulations and Appropriate Assessment.

S106 agreements deliver planning obligations which are required to mitigate against impacts of a development and make it compliant with adopted planning policies. The agreement must be legally enforceable against the person(s) who enters into it and future landowners, although usually excludes householders. The Planning Policy Guidance advises that it is possible to use a negatively worded planning condition (Grampian condition) to require that the S106 is entered into prior to commencement of development in exceptional circumstances. The condition must pass the 6 tests set out in paragraph 206 of the NPPF, the wording and the principle heads of terms must be agreed with the applicant.

In this case, the Council is applicant, landowner, decision maker and may be the developer and the exceptional circumstances are that the Council is not able to enter into a S106 agreement with itself as it would be contracting with itself and the agreement could be unenforceable. A previously used solution is for a negatively worded planning condition to be added to the permission, preventing development from commencing until a third party developer has entered into a S106 agreement with the Council, and which it will be contractually required to do upon taking a legal interest in the site. However if the Council does decide to implement the development and build the houses itself, the condition may need to be varied to secure the mitigations through other mechanisms. These could include potentially the delivery of works instead of sums of money, or the use of phased Grampian conditions requiring specific actions or sums of money to be made available for works at specific phases of development. Suitable wording of the condition is being formulated with appropriate legal advice and the Committee will be updated.

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

The proposed development has been screened separately under the above Regulations and has been found not to constitute 'EIA development'. An Environmental Statement is not, therefore, required.

The Crime and Disorder Act 1998

The Crime and Disorder Act places a Duty on Local Authorities to have regard to crime and disorder issues in exercising their functions. The proposed development will not have a material detrimental impact upon crime and disorder due to high quality design, community and Council management.

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

The principle of this application has been established through the adopted local plan allocation which identifies the site for residential development. The proposed development is highly sustainable, energy efficient and landscape led, incorporating a large proportion of green open space, trees and gardens consistent with Council's climate change commitments. The interests of protected trees, species and neighbours have been adequately addressed, subject to the completion of the HRA/AA and imposition of planning conditions. The designs were generally supported by the Design Review Panel and are acceptable. The proposals will provide a good quality sustainable development which will be likely to be relied upon in the future to reduce carbon emissions and comply with Government targets, and subject to the resolution of outstanding matters as specified in the report the application is concluded to be acceptable.

RECOMMENDATION:

Subject to

- (a) the completion of the Habitat Regulations Appropriate Assessment submission and
- (b) receipt and consideration of suitably revised plans and details demonstrating:
 - i) acceptable visibility splays at the site access and no's 14 a and b The Uplands;
 - ii) satisfactory tracking for fire appliances;
 - iii) HRA compliant dark corridors and buffers; and
 - iv) the location of the proposed play area.

the application be APPROVED (for the reasons stated in the report above) subject to the following conditions and any other additional or amended conditions as may be required in consultation with the Chairman and Vice Chairman and local member together with a condition, if required, securing a S106 agreement:

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 dwelling shall be occupied until details of an electric car charging point serving that dwelling have been submitted to and approved in writing by the Local Planning Authority and implemented in full.

Reason: In order to secure sustainable modes of travel and in accordance with policies CS1 and CS10 of the North Somerset Core Strategy.

4. No dwelling shall be occupied until details of the design and construction of the foot/cycle path link to be located between plots 10 and 11 and which shall link to the existing bridlepath at the southern boundary, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details.

Reason: In the interests of pedestrian and highway safety in accordance with policies CS3 and CS10 of the North Somerset Core Strategy and policy DM24 of the North Somerset Sites and Policies Plan (Part 1).

5. 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 resulting in an increase to the height of the dwellings hereby permitted shall be carried out without the permission, in writing, of the Local Planning Authority.

Reason: The Local Planning Authority wish to retain control over extensions in order to maintain the integrity and appearance of this development, to reduce landscape impact in accordance with the outline planning permission and in accordance with policy CS12 of the North Somerset Core Strategy and policy DM32 of the North Somerset Sites and Policies Plan (Part 1).

6. All means of enclosure shall be in strict accordance with the approved details and, 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 additional gates, fences, walls or other means of enclosure shall be erected or constructed forward of any wall of any dwelling which fronts onto a highway without the prior written permission of the Local Planning Authority.

Reason: The Local Planning Authority wish to retain control over means of enclosure in the interests of the character and appearance of the area and in accordance with policy DM32 of the North Somerset Sites and Policies Plan and policies CS5 and CS12 of the North Somerset Core Strategy.

7. 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 garages shall be erected without the permission, in writing, of the Local Planning Authority and the approval by them of the design, siting and external appearance of such garage and of the means of access thereto.

Reason: The Local Planning Authority wish to retain control over new garages in order to maintain the integrity and appearance of this development and protect the

living conditions of neighbouring residents/, and in accordance with policy CS12 of the North Somerset Core Strategy and policies DM38 and DM32 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).

8. No dwellings shall be occupied until details of the design and location of fire hydrants to be added to the site have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented prior to the occupation of the final dwelling on site.

Reason: To maintain the integrity and appearance of this development and protect the living conditions of neighbouring residents, and in accordance with policy CS12 of the North Somerset Core Strategy and policies DM38 and DM32 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).

9. No dwelling shall be occupied until the access, parking spaces and turning spaces shown on the approved plans have been constructed in such a manner that each dwelling unit is served by a properly consolidated and surfaced footpath and vehicle access between the dwelling and the existing highway, in accordance with the approved plans.

Reason: To ensure adequate parking is available for each occupier and in accordance with policy CS10 of the North Somerset Core Strategy and policy DM24 of the North Somerset Sites and Policies Plan Part 1.

10. No dwelling shall be occupied until secure parking facilities for bicycles have been provided for it in accordance with plans and specifications to be first submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be permanently retained and kept available for the parking of bicycles at all times.

Reason: To ensure that secure cycle parking are provided in order to encourage the use of more sustainable transport choices and in accordance with policies CS1 and CS11 of the North Somerset Core Strategy, policies DM 28 and DM32 of the North Somerset Sites and Policies Plan (Part 1) and the North Somerset Parking Standards SPD.

11. No building construction work above ground level shall be commenced until full details of the proposed treatment for all retaining structures including materials, design, and land levels and a phasing scheme for implementation have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in complete accordance with the approved details and phasing scheme.

Reason: In the interests of the visual appearance of the area, the protection of important trees and neighbour's amenity in accordance with policies DM3, DM9 and DM32 of the North Somerset Sites and Policies Plan Part 1 and policy CS12 of the North Somerset Core Strategy.

12. The finished floor, ground and ridge height levels shall not exceed those shown on the approved plans.

Reason: In order to ensure that the height of the development is appropriate in the interests of the character and appearance of the area, and in accordance with policy CS12 of the North Somerset Core Strategy and policy DM32 of the North Somerset Sites and Policies Plan (Part 1).

13. Notwithstanding the approved plans development shall be commenced above ground level until sample panels of the materials to be used in the construction of the external surfaces of the buildings to which they relate have been constructed on site and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority. These details may be submitted for the whole, or part of a phase.

Reason: In the interests of the visual appearance of the area and in accordance with policy DM32 of the North Somerset Sites and Policies Plan Part 1 and policy CS12 of the North Somerset Core Strategy.

14. Provisions for the storage of refuse shall be constructed and made available for use in accordance with details to be submitted and approved by the Local Planning Authority prior to the occupation of each dwelling that they serve and thereafter shall be made permanently available for use for the storage of refuse only.

Reason: In the interests of the local environment and in accordance with policy DM32 of the North Somerset Sites and Policies Plan Part 1 and policy CS12 of the North Somerset Core Strategy.

15. No dwelling shall be occupied until the designs of access control measures required to be constructed at the foot/cyclepath accesses to the site, have been submitted to and approved in writing by the Local Planning Authority and fully implemented in accordance with the approved details.

Reason: To ensure a safe, satisfactory and high quality design to public rights of way and paths in accordance with policy CS12 of the North Somerset Core Strategy and policy DM32 of the North Somerset Development Management Policies Sites and Policies Plan Part 1.

16. No development shall commence until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:-
- a) the number and frequency of construction vehicle movements;
 - b) construction operation hours;
 - c) construction vehicle routes to and from the site with distance details;
 - d) construction delivery hours;
 - e) vehicle parking for contractors;
 - f) specific measures to be adopted to minimise and mitigate construction impacts on the environment (including effects of noise, dust, vibration, waste disposal, piling, ground works and rock removal, and infrastructure improvements if appropriate);

- g) a detailed site traffic management plan to control traffic movements within the site during the construction phases;
- h) a detailed working method statement to avoid/minimise impacts on protected and notable species and important habitats; and
- i) a plan showing measures for habitat protection and retention.

The approved Plan shall be implemented and adhered to at all times, unless any amendments are first agreed in writing with the Local Planning Authority.

Reason: In order to preserve the living conditions of nearby residents and to protect road safety in accordance with policy CS3 of the North Somerset Core Strategy and policy DM24 of the North Somerset Sites and Policies Plan Part 1.

17. No dwellings shall be occupied until the detailed design and surfacing of all footpaths within the site have been submitted to and approved in writing by the Local Planning Authority and have been adopted as public rights of way by the Authority if required.

Reason: To ensure a safe, satisfactory and high quality design to public rights of way and paths in accordance with policy CS12 of the North Somerset Core Strategy and policy DM32 of the North Somerset Development Management Policies Sites and Policies Plan Part 1.