

Public Document Pack

Contact: Michèle Chesterman
Direct Dial: 01275 888097
E-mail: michele.chesterman@n-somerset.gov.uk
Date: Tuesday, 10 January 2023

Attention is drawn to Update Sheets which include the latest information on a planning application. Please check the council's website for any supplementary dispatches which will include Update Sheets if available.

Dear Sir or Madam

**Planning and Regulatory Committee – Wednesday, 18 January 2023, 2.30 pm
– New Council Chamber - Town Hall**

A meeting of the Planning and Regulatory Committee will take place as indicated above.

Please Note that this meeting is a face-to-face meeting being held in the New Council Chamber, Town Hall and will not be livestreamed.

The agenda is set out overleaf.

Yours faithfully

Assistant Director Legal & Governance and Monitoring Officer

Councillors (13):

James Tonkin (Chairman), John Crockford-Hawley (Vice Chairman), Mike Bird, Peter Bryant, Caroline Cherry, Peter Crew, Ann Harley, Stuart McQuillan, Robert Payne, Timothy Snaden, Mike Solomon, Richard Tucker, Richard Westwood

Agenda

1. **Public speaking at planning committees (Standing Order 17 & 17A) (Agenda Item 1)**

Please note that following changes to SO17A, public speaking about applications for planning permission will be at the start of relevant agenda items rather than at the start of the meeting. Time limits and notification deadlines remain unchanged, as set out below.

To receive and hear any person who wishes to address the Committee. The Chairman will select the order of the matters to be heard. Each speaker will be limited to a period of five minutes for public participation on non-planning matters (up to a maximum of 30 minutes) and three minutes for the applicant/supporters and three minutes for objectors on a planning application (up to a maximum of 30 minutes).

If there is more than one person wishing to object to an application, the Chairman will invite those persons to agree a spokesperson among themselves. In default of agreement the Chairman may select one person to speak.

Requests to speak must be submitted in writing to the Assistant Director Legal and Governance and Monitoring Officer, or to the officer mentioned at the top of this agenda letter, by noon on the day before the meeting and the request must detail the subject matter of the address.

Please ensure that any submissions meet the required time limits and can be read out in five minutes for public participation on non-planning matters (up to a maximum of 30 minutes) and three minutes for applicant/supporter statements and three minutes for objector statements on a planning application (up to a maximum of 30 minutes). Members of the public are advised that 400 words at normal speaking speed equate to a three minute statement.

2. **Apologies for absence and notification of substitutes (Agenda item 2)**

3. **Declaration of Disclosable Pecuniary Interest (Standing Order 37) (Agenda Item 3)**

A Member must declare any disclosable pecuniary interest where it relates to any matter being considered at the meeting. A declaration of a disclosable pecuniary interest should indicate the interest and the agenda item to which it relates. A Member is not permitted to participate in this agenda item by law and should immediately leave the meeting before the start of any debate.

If the Member leaves the meeting in respect of a declaration, he or she should ensure that the Chairman is aware of this before he or she leaves to enable their exit from the meeting to be recorded in the minutes in accordance with Standing Order 37.

4. **Minutes 14 December 2022 (Agenda Item 4)** (Pages 5 - 16)
14 December 2022 to approve as a correct record (attached)
5. **Matters referred by Council, the Executive, other committees etc (if any)**
6. **Planning Application No: 21/P/3185/FUL Erection of additional building at Busy Buddies Nursery, to increase the capacity of existing nursery, Cowslip Lane, Hewish, Banwell (Agenda item 6)** (Pages 17 - 24)
Section 2 report of the Director of Place Directorate (attached)
7. **Planning Appeals 18.01.23 (Agenda item 7)** (Pages 25 - 28)
Section 3 report of the Director of Place Directorate (attached)
8. **Urgent business permitted by the Local Government Act 1972 (if any) (Agenda item 8)**

For a matter to be considered as an urgent item, the following question must be addressed: "What harm to the public interest would flow from leaving it until the next meeting?" If harm can be demonstrated, then it is open to the Chairman to rule that it be considered as urgent. Otherwise the matter cannot be considered urgent within the statutory provisions.

Exempt Items

Should the Planning and Regulatory Committee wish to consider a matter as an Exempt Item, the following resolution should be passed -

"(1) That the press, public, and officers not required by the Members, the Chief Executive or the Director, to remain during the exempt session, be excluded from the meeting during consideration of the following item of business on the ground that its consideration will involve the disclosure of exempt information as defined in Section 100I of the Local Government Act 1972."

Also, if appropriate, the following resolution should be passed –

"(2) That members of the Council who are not members of the Planning and Regulatory Committee be invited to remain."

Mobile phones and other mobile devices

All persons attending the meeting are requested to ensure that these devices are switched to silent mode. The chairman may approve an exception to this request in special circumstances.

Filming and recording of meetings

The proceedings of this meeting may be recorded for broadcasting purposes.

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting, focusing only on those actively participating in the meeting and having regard to the wishes of any members of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Assistant Director Legal & Governance and Monitoring Officer's representative before the start of the meeting so that all those present may be made aware that it is happening.

Members of the public may also use Facebook and Twitter or other forms of social media to report on proceedings at this meeting.

Emergency Evacuation Procedure

On hearing the alarm – (a continuous two tone siren)

Leave the room by the nearest exit door. Ensure that windows are closed.

Last person out to close the door.

Do not stop to collect personal belongings.

Do not use the lifts.

Follow the green and white exit signs and make your way to the assembly point.

Do not re-enter the building until authorised to do so by the Fire Authority.

Go to Assembly Point C – Outside the offices formerly occupied by Stephen & Co

Minutes

of the Meeting of

The Planning and Regulatory Committee

Wednesday, 14 December 2022

New Council Chamber - Town Hall

Meeting Commenced: 2.30 pm

Meeting Concluded: 3.15 pm

Councillors:

John Crockford-Hawley (Vice-Chairman)

Mike Bird
Peter Bryant
Timothy Snaden
Mike Solomon
Richard Westwood

Apologies: Councillors: James Tonkin (Chairman), Caroline Cherry, Peter Crew, Ann Harley, Stuart McQuillan, Robert Payne and Richard Tucker.

Also in attendance: Councillors Lisa Pilgrim, Roz Willis.

Officers in attendance: Richard Kent (Head of Planning, Place Directorate), James Wigmore (Lead Transport Planner), Roger Willmot (Service Manager Strategic Development, Place Directorate), Sue Buck (Solicitor - Litigation Team Leader) and Chris Nolan (Delivery and Enforcement Services Manager, Place Directorate) and Michèle Chesterman (Committee Services Senior Officer)

PAR Chairman's Welcome

33

The Vice Chairman announced that In the absence of Councillor Tonkin, he would be presiding as Chairman at the meeting in accordance with Standing Order No 10.

He welcomed everyone to this face-to-face meeting of the Planning & Regulatory Committee in the New Council Chamber.

He explained the new arrangements in place for speaking on planning applications under Standing Order 17A, with speakers to be invited to address the committee immediately before an application rather than at the start of the meeting.

The Chairman then introduced those officers present at the meeting.

PAR Public speaking at planning committees (Standing Order 17 & 17A) (Agenda Item 1)

34

It was noted there were no speakers under Standing Order 17.

Two requests to speak had been received under Standing Order 17A and the speakers would be invited to address the committee immediately prior to the consideration of the application in question (agenda item 6).

PAR 35 Declaration of Disclosable Pecuniary Interest (Standing Order 37) (Agenda Item 3)

None.

PAR 36 Minutes 16 November 2022 (Agenda Item 4)

Resolved: that the minutes of the meeting dated 16 November 2022 be approved as a correct record.

***** Change to Agenda Order *****

PAR 37 Planning Application No: 21/P/3185/FUL Erection of additional building at Busy Buddies Nursery, to increase the capacity of existing nursery, Cowslip Lane, Hewish, Banwell (Agenda item 7)

The Chairman agreed a change to agenda order, to consider Agenda item 7 next.

Resolved: the application be **DEFERRED** until the next meeting.

PAR 38 Planning Application No: 21/P/3529/OUT Outline planning application for a residential development of up to 70no. dwellings and associated infrastructure and landscaping, with access for detailed approval and matters of appearance, scale, layout and landscaping reserved for subsequent approval - Land off Anson Road, Kewstoke (Agenda item 6)

At the invitation of the Chairman, Jax Hampson, local resident addressed the committee speaking against the application.

At the invitation of the Chairman, Sophie Bridges, Applicant, addressed the committee speaking in favour of the application.

The Director of Place's representative presented the report. He also drew attention to the update sheet published the previous day which provided clarification regarding the bus services. Bus service 5 had been terminated, however the replacement bus service was the no 50. Officer comments were that Bus service 50 ran to the same location as the application site as the previous bus service 5. In addition clarification was provided in relation to comments from Highways and Transport. The original comments from Highways and Transport had stated that Queensway had a 30mph speed limit to the east of the proposed access and this was quoted on page 9 of the committee report, however the speed limit was 40mph. Officer comments were that the visibility splays had been based on recorded speeds, and therefore the assessment of the proposed access

was accurate despite the error in speed limit having been quoted.

The Director of Place's representative drew attention to the introduction of an additional requirement (e) for further consideration of the compliance of the proposal with Core Strategy policy CS20 and, if required, the securing of an appropriate financial contributions through the S106 agreement to secure compliance with the relevant policy guidance.

At the invitation of the Chairman, ward members, Councillors Roz Willis and Lisa Pilgrim addressed the committee.

Following debate it was:

Resolved: Subject to

- (a) The receipt and consideration of the comments of the North Somerset Drainage Board on the amended drawings and documents;
- (b) the completion of a Habitat Regulation Assessment;
- (c) the completion of a section 106 legal agreement securing financial contributions towards affordable housing, green infrastructure and highway and transport improvements;
 - i. The provision of 30% on site affordable housing;
 - ii. The provision of 966 m2 of neighbourhood open space;
 - iii. The provision of 1610 m2 of woodland as indicated on submitted drawings;
 - iv. The provision of 1932 m2 conservation Site (rural) would be enhanced by the proposal;
 - v. The provision of Green Corridors;
 - vi. The provision of 400 m2 play area;
 - vii. Contribution of £50,000 for pedestrian safety improvements along Kewstoke Road;
 - viii. Contribution to public transport of £20,000 per annum for a period of 3 years to support and grow a scheduled bus service;
 - ix. Contribution of £50,000 for the replacement and upgrade of bus shelters;
 - x. Contribution of £3,600 for a TRO application for a speed limit location change; and
 - xi. Sustainable travel vouchers totalling £120/dwelling.
- (d) the completion of a section 278 agreement securing highways works to be delivered by the developer;
 - i. A signal-controlled crossing on Queensway; and
 - ii. Removal and replacement of speed limit signs.
- (e) further consideration of the compliance of the proposal with Core Strategy policy CS20 and, if required, the securing of an appropriate financial contributions through the S106 agreement to secure compliance with the relevant policy guidance.

The application be **APPROVED** (for the reasons stated in the report) subject to the following conditions:

1. Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiry of three years from the date of this permission.

Reason: in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

2. The development hereby permitted shall be begun before the expiry of two years from the date of approval of the last of the reserved matters to be approved.

Reason: in accordance with the provisions of Section 92 of the Town and Country Planning Act 1990.

3. Approval of the details of the scale, layout, appearance of the buildings and the landscaping of the site (hereinafter called "the reserved matters" shall be obtained from the Local Planning Authority, in writing before any development is commenced.

Reason: The application was submitted as an outline application in accordance with the provisions of Article 4 of the Town and Country Planning and Regulatory Committee 8 August 2018 Planning (Development Management Procedure) Order 2010 and in accordance with Policies DM32 of the Sites and Policies Plan Part 1 and Policy CS12 of the North Somerset Core Strategy.

4. The development hereby permitted shall be carried out in general accordance with the approved plans and documents;

ARN-APG-XX-ZZ-DR-A 0000 P01 - Location Plan
ARN-APG-XX-ZZ-DR-A 0001 P04 - Illustrative Masterplan Design
05729.TPP Rev A 17.05.22 - Tree Protection Plan
05729 TCP 29.10.2021 - Tree Constraints Plan
2838/05 Rev B - Landscape Masterplan
216071_AT01 Rev F - Site Access and Horizontal Visibility Splay
216071_PDL_01 P01 - Preliminary Surface Water Drainage Strategy

Lighting Assessment, S22-746/LA, August 2022
Arboricultural Impact Assessment Report, 17 December 2021
Flood Risk Assessment and Drainage Strategy, December 2021
Flood Risk Assessment Addendum, 216071, 20th May 2022
Project Design for an Archaeological Trial Trench Evaluation,
ACW1405/2/0, May 2022
Tree Survey, 05729, 28th October 2021

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

5. No more than 70 dwellings shall be erected on the application site.

Reason: To avoid an overdevelopment of the site which would be likely to result in a form of development that is out of keeping with the character and appearance of the site and surrounding area in accordance with Policy CS28 of the Core Strategy and DM32 of the Sites and Policies Plan Part 1.

6. No work shall be commenced until samples of the materials to be used in the development have been submitted to and approved, in writing, by the Local

Planning Authority. The development shall be carried out in the approved materials 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 section 7 and paragraph 17 of the National Planning Policy Framework.

7. The dwellings shall not be occupied until details of a scheme for providing space and facilities for the storage and collection of waste have been submitted to and approved in writing by the Local Planning Authority and the approved scheme has been implemented. Thereafter the approved space and facilities for the storage and collection of waste shall be permanently retained unless otherwise agreed in writing with the local planning authority.

Reason: The local planning authority wishes to encourage sustainable waste collection initiatives in the interests of local amenity and sustainable waste shall be permanently retained unless otherwise agreed in writing with the Local Planning Authority.

8. The development hereby permitted shall not be carried out except in accordance with the approved Arboricultural Method Statement Report and Tree Protection Plan. No occupation of the approved development shall commence until a signed certificate of compliance by the appointed Arboriculturalist has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the trees to be retained are not adversely affected by the development, in the interests of the character and biodiversity value of the area, and in accordance with Policies CS4 and CS9 of the North Somerset Core Strategy, Policies DM8, DM9, DM10 and DM19 of the North Somerset Sites and Policies Plan Part 1 and the North Somerset Biodiversity and Trees SPD.

9. Trees, hedges and plants shown in the landscaping masterplan and strategy to be submitted with the reserved matters application for landscaping, that are to be retained or planted which, during the development works for 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 in accordance with DM9 and DM10 of the Sites and Policies Plan Part 1.

Reason: To ensure as far as possible that the landscaping scheme is fully effective and in accordance with Policy DM9 and DM10 of the Sites and Policies Plan Part 1.

10. All landscaping works should be carried out during the months of October to March inclusive following occupation of the dwellings or completion of the development, whichever is the sooner.

Reason: To ensure that a satisfactory landscaping scheme is implemented in

accordance with policy CS9 of the North Somerset Core Strategy and policy DM9 of the North Somerset Sites and Policies Plan Part 1.

11. Any lighting shall be installed and operated in accordance with the lighting strategy design as set out in the Lighting Assessment S22-746/LA August 2022, Rev 6.2_C. If amendments to the type and location of the proposed lighting, or specifications are required, details of the changes must be submitted in writing, supported by updated proposed lux levels and lighting contour plans, 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 reduce the potential for light pollution in accordance with Policy CS3 of the North Somerset Core Strategy and to protect bat habitat in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), Wildlife and Countryside Act 1981 (as amended), policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1).

12. The development shall not take place except in strict accordance with the mitigation measures outline in the appropriate assessment prepared by Clarkson and Woods, dated August 2022. If amendments to the mitigation 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 bat habitat in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended), Wildlife and Countryside Act 1981 (as amended), policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1).

13. The development shall not take place except in strict accordance with the measures outlined in Ecological Impact Assessment Whites Croft, Norton December 2021 and the Ecological Addendum White Croft, Norton, June 2022. If amendments to the methodology 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 ensure compliance with the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1).

14. A Construction Environmental Method Statement (CEMP) shall be submitted to and approved by the Local Planning Authority before works commence. The CEMP will include measures to protect ecological features during the construction phase. Details shall cover, but not limited to:
 - Protection measures and detailed methodology during construction
 - Protection of trees and hedgerows

- Sensitive lighting strategy, including street lighting
- Full and final specifications for protected species methodology including seasonal timing and site clearance methodology (RAMs dormice, reptiles, breeding birds, and other notable species).

Works shall be implemented in strict accordance with the approved methodology.

Reason: To ensure compliance with the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife and Countryside Act 1981 (as amended), policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1).

15. Before the development hereby approved is brought into operation, a 30 year ecological management plan for the site shall be submitted to and approved in writing by the Local Planning Authority. This shall include objectives, prescriptions, and a table of works, including monitoring. Ongoing management shall be carried out in accordance with the approved details. The LEMP shall include details of ecological enhancement measures (including management, bat and bird boxes and hedgehog connectivity measures) and a monitoring strategy.

Reason: To ensure the development contributes to the protection and enhancement of the site's ecology in accordance with policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1).

16. None of the dwellings hereby approved shall be occupied until the new site access to Lower Norton Lane / Queensway has been constructed and the related visibility splays have been provided in accordance with the approved details. The approved visibility splays shall be maintained free of vegetation or other obstruction above 600mm above the nearside carriageway level at all times thereafter.

Reason: In the interests of highway safety and in accordance with policy DM24 of the Sites and Policies Plan Part 1.

17. No dwelling hereby permitted shall be occupied until the access serving the dwelling has been completed in accordance with the details shown on the approved plans.

Reason: In the interests of highway safety and in accordance with policy DM24 of the Sites and Policies Plan Part 1.

18. Prior to the occupation of each dwelling, the relevant number of parking spaces for that dwelling will be provided in accordance with the North Somerset Parking Standards SPD.

Reason: To ensure that each dwelling has the necessary on-site parking provision and in accordance with the North Somerset Parking Standards SPD.

19. Prior to the commencement of development, a Construction Method Statement shall be 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:
- i. The method and duration of any pile driving operations to include expected starting date and completion date
 - ii. The hours of work, which shall not exceed the following: construction and associated deliveries to the site shall not take place outside 07:00 to 19:00 hours Mondays to Fridays, and 08:00 to 16:00 Saturdays, nor at any times on Sundays or Bank Holidays
 - iii. The arrangements for prior notification to the occupiers of potentially affected properties
 - iv. The responsible person (e.g. site manager / office) who could be contacted in the event of complaint
 - v. measures to control the emission of dust and dirt during construction
 - vi. Details of wheel washing facilities
 - vii. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - viii. A scheme for recycling/disposing of waste resulting from demolition and construction works
 - ix. The parking of vehicles of site operatives and visitors

Reason: In the interests of residential amenity and to ensure the safe operation of the highway and to minimise disruption.

20. Prior to the commencement of the development hereby permitted, a road safety audit for the proposed works to Lower Norton Lane / Queensway shall be undertaken and submitted to and approved in writing by the Local Planning Authority, including details of any mitigations required. Any mitigations required shall be implemented in accordance with the approved details.

Reason: In order to preserve highway safety and amenity and in accordance with policy CS3 of the North Somerset Core Strategy and policy DM24 of the North Somerset Sites and Policies Plan (Part 1).

21. Prior to first occupation of the development, a travel plan which shall include clear objectives and modal split targets, together with a time-bound programme of implementation, monitoring, regular review and update; and be based on the particulars contained within the approved plans and documents, shall be submitted to and approved in writing by the Local Planning Authority and thereafter operated in accordance with the agreed details.

Reason: In order to secure sustainable modes of travel and in accordance with policies CS1 and CS10 of the North Somerset Core Strategy, policy DM26 of the North Somerset Sites and Policies Plan (Part 1) and the North Somerset Travel Plans SPD.

22. No development shall take place until surface water drainage works have been implemented in accordance with details that have first been submitted to and approved in writing by the local planning authority. This shall provide

for a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, associated Planning Practice Guidance and the non-statutory technical standards for sustainable drainage systems, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the system shall be designed such that there is no surcharging for a 1 in 30-year event and no internal property flooding for a 1 in 100-year event + 40% allowance for climate change. The submitted details shall:

- a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site to greenfield run off rates and volumes, taking into account long-term storage, and urban creep and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; temporary storage facilities, means of access for maintenance
Planning and Regulatory Committee 8 August 2018
(4 metres minimum to sustainable drainage elements) to prevent flooding.
- b) Any works and calculations required off site to ensure adequate discharge of surface water without causing flooding to existing properties and highways or pollution (which should include refurbishment of existing culverts and headwalls or removal of unused culverts where relevant)
- c) Flood water exceedance routes both on and off site
- d) Details of the management of the surface flow route through the site, so existing and new properties do not flood.

Reason: To secure a working drainage system to the approved strategy that shall therefore be implemented and retained in accordance with paragraph 17 and sections 10 and 11 of the National Planning Policy Framework, Paragraph 103 of the National Planning Policy Framework; and the Technical Guidance to the National Planning Policy Framework and the Core Strategy policy CS3 and paragraph 1 of policy DM1: Flooding and Drainage of the North Somerset Council - Sites and Policies Plan Part 1 Development Management Policies.

23. The drainage works hereby permitted shall be maintained by the developer prior to being offered to an approved body (approved by the LPA or LLFA) for maintenance, this must include all open watercourses. The system will then be maintained by the approved body for the lifetime of the development. In accordance with submitted details:
 - a) As built drawings
 - b) Maintenance schedule and Operational manual.
 - c) Detailed plan of the drainage system, annotated with who maintains which parts including watercourses
 - d) Name and address of the operator and maintenance company
 - e) The developer will rectify any defects prior to hand over to an approved body within the set timetable.

Reason: To ensure that maintenance of the sustainable drainage system

can be carried out for the lifetime of the development.

24. No development shall take place until a programme of archaeological work including a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and;
1. The programme and methodology of site investigation and recording (for the area in red on the attached plan)
 2. The programme for post investigation assessment
 3. Provision to be made for analysis of the site investigation and recording
 4. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 5. Provision to be made for archive deposition of the analysis and site investigation
 6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

No development shall take place other than in accordance with the approved Written Scheme of Investigation.

The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the approved Written Scheme of Investigation and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

Reason: To make provision for a programme of archaeological mitigation, so as to record and advance understanding of any heritage assets which will be lost, 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).

25. The dwellings hereby approved shall, unless otherwise first agreed in writing by the Local Planning Authority, not be occupied until measures to generate 15% of the on-going energy requirements of the use (unless a different standard is agreed) through micro renewable or low carbon technologies have been installed and are fully operational in accordance with the approved details that have been first 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: To proactively support the wider transition towards a low carbon future through the use of renewable and low carbon energy in accordance with policy CS1 and CS2 of the North Somerset Core Strategy and policy DM2 of the North Somerset Site and Policies Plan Part 1.

26. If, during construction, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with, and that the strategy has been approved, in writing by the Local Planning

Authority. The remediation strategy shall be implemented as approved.

Reason: To prevent pollution of the land and water environment and in the interests of the living conditions of occupiers in accordance with Policy CS3 of the Core Strategy.

27. The dwellings hereby approved shall be built in accordance with the Nationally Described Space Standards, and a minimum of 17% of the dwellings shall be constructed to comply with the requirements of The Building Regulations 2010 Volume 1 M4(2) Category Two: Accessible and adaptable dwellings.

Reason: The NDDS is the appropriate space development standard for new and market housing and to ensure that sufficient accessible housing is provided in accordance with Policy DM42 of the North Somerset Sites and Policies Plan Part 1 Development Management Policies, and the North Somerset Accessible Housing Needs Supplementary Planning Document April 2018.

28. All residential units hereby approved shall be constructed to comply with, as a minimum, the equivalent of the requirements of Code Level 4 of the Code for Sustainable Homes. This equates to a 19% improvement on Part L of the Building Regulations. Unless otherwise first agreed in writing by the Local Planning Authority, and prior to the commencement of the development of any dwelling hereby approved, a copy of a Design Stage SAP Assessment for each dwelling, issued by a suitably qualified and accredited energy expert (SAP Assessor), shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, each dwelling shall be constructed in accordance with the approved Design Stage SAP Assessment unless a revised Assessment has first been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of promoting good design and sustainable construction and in accordance with policies CS1 and CS2 of the North Somerset Core Strategy and the council's 'Creating sustainable buildings and places' Supplementary Planning Document.

29. Prior to the commencement of any onsite works, a section 278 agreement securing a signal-controlled crossing on Queensway and removal and replacement of speed limit signs to be delivered by the developer shall be formally completed.

Reason: In the interests of highway and pedestrian safety.

PAR 39 Planning Appeals 14.12.22 (Agenda item 8)

The Director of Place's representative reported on appeal decisions and appeals that had been lodged since the date of the last meeting.

Resolved: that the report be noted.

PAR 40 Local Enforcement Plan Update (Agenda item 9)

The Director of Place’s representative reported on the updated Local Enforcement Plan and Advertisement Protocol. A Local Enforcement Plan was required to guide the priorities for enforcement action and was one of the key tools for managing expectations about what the service could deliver as identified in the recent Peer Review of the planning service.

The plan was originally approved by the committee in July 2012 and was subsequently updated and approved by the committee in May 2017 and November 2019. The plan had been updated again to reflect current operational practice and team names and was attached as Appendix A. The existing Advertising Protocol had also been updated and reproduced as Appendix B for reconfirmation.

Resolved: that the updated Local Enforcement Plan and the Advertisement Protocol set out in Appendix A and Appendix B of the report be approved with immediate effect.

PAR 41 Urgent business permitted by the Local Government Act 1972 (if any) (Agenda item 10)

None

Chairman

SECTION 2 – ITEM 6

Application No: 21/P/3185/FUL

Proposal: Erection of additional building at Busy Buddies Nursery to increase the capacity of existing nursery

Site address: Busy Buddies Nursery, Puxton Park, Cowslip Lane, Hewish, Banwell

Applicant: Puxton Ltd

Target date: 07.02.2022

Extended date: 20.01.2023

Case officer: Simon Exley

Parish/Ward: Banwell and Winscombe

Ward Councillors: Councillor Karin Haverson, Councillor Ann Harley

REFERRED BY COUNCILLOR HARLEY

Background

The application was deferred by the Committee at its December meeting.

Summary of recommendation

It is recommended that the application be **REFUSED**. The full recommendation is set out at the end of this report.

The Site

The application site is a field located to the south-west of the existing Busy Buddies nursery, which is located on the edge of the Puxton Park complex. A significant hedgerow with hedgerow trees and ditches along Bulls Barn Lane, a narrow, unadopted lane to the north separates the site from the rest of the Puxton Park complex. The only built form associated with Puxton Park south of Bulls Barn Lane is the existing nursery, in a converted agricultural building. The existing nursery is served by car parking on the northern side of Bulls Barn Lane, with pedestrian access to the nursery.

The Application

Full permission is sought for an additional building of 550 square metres (the existing nursery has a floorspace of approximately 155 square metres). The new building would be physically separate from the existing nursery and also served by a pedestrian access from the existing car park on the northern side of Bulls Barn Lane.

Relevant Planning History

Year: 2020

Reference: 20/P/0701/FUL

Proposal: Erection of 4no. buildings: 1no. building to be for Use Class B8 (Storage and Distribution) and 3no. buildings to be for indoor sport, recreation or fitness uses together with access roads, paths and parking for 36 cars, including 5 parking spaces for the adjoining children's day nursery (part retrospective).

Decision: Approved

Year: 2018

Reference: 18/P/3778/CSA

Proposal: Prior approval for the change of use from 1no. agricultural building and land to children's day nursery

Decision: Approved

Year: 2017

Reference: 16/P/2634/F

Proposal: Change of use of first floor offices to children's day nursery

Decision: Refused – Appeal dismissed

Policy Framework

The site is affected by the following constraints:

- Outside settlement boundaries
- Flood zone 3a
- Bat protection area

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 |
| CS10 | Transport and movement |
| CS11 | Parking |
| CS12 | Achieving high quality design and place making |
| CS20 | Supporting a successful economy |
| CS25 | Children, young people and higher education |
| CS27 | Sport, recreation and community facilities |
| CS33 | Smaller settlements and countryside |

West of England Joint Waste Core Strategy (adopted 25 March 2011)

None of the saved policies are particularly relevant to this proposal.

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 |
| DM8 | Nature Conservation |
| DM10 | Landscape |
| DM24 | Safety, traffic and provision of infrastructure etc associated with development |
| DM28 | Parking standards |
| DM32 | High quality design and place making |
| DM53 | Employment development on greenfield sites in the countryside |
| DM55 | Extensions, ancillary buildings or the intensification of use for existing businesses located in the countryside |
| DM69 | Location of sporting, cultural and community facilities |

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

The following policies are particularly relevant to this proposal:

| | |
|-----|---|
| SA2 | Settlement boundaries and extension of residential curtilages |
| SA8 | Allocated/safeguarded community uses |

Other material policy guidance

National Planning Policy Framework (NPPF) (2021)

The following sections are particularly relevant to this proposal:

- 2 Achieving Sustainable Development
- 6 Building a strong, competitive economy
- 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)

- North Somerset Parking Standards SPD (adopted November 2021)
- North Somerset Landscape Character Assessment SPD (adopted September 2018)
- 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:

50 letters of support have been received. The principal planning points made are as follows:

- Additional space for children
- Additional employment would be created
- Insufficient nursery places available locally
- Open air experience at this nursery very welcome
- Will benefit the local community

Banwell Parish Council: “Support the application”.

Other Comments Received:

Environment Agency

No objection, subject to the inclusion of conditions, provided that the Local Planning Authority is satisfied the requirements of the Sequential Test under the National Planning Policy Framework are met.

North Somerset Internal Drainage Board

Reiterates standing advice and raises no objection – requests the inclusion of an advice note.

Principal Planning Issues

The principal planning issues in this case are (1) the principle of the development, including whether it amounts to sustainable development, (2) the effect on the character and appearance of the area and (3) flooding.

Issue 1: The Principle of the Development

Application 16/P/2634/F, for a nursery at Puxton Park, was refused and dismissed at appeal. The Inspector concluded that Puxton Park was outside the settlement boundary, in a location that was not genuinely accessible by a choice of transport modes, and not well related to the community it was intended to serve.

Subsequent to that appeal decision, the applicants took advantage of permitted development rights to change of use of an existing agricultural building into a children’s day nursery of approximately 155 square metres (18/P/3778/CSA). This nursery is now open as “Busy Buddies” and sits south of Bulls Barn Lane, separated by that lane from the rest of the facilities at Puxton Park. The new nursery building would be served from the existing car park north of Bulls Barn Lane, in the same way as the existing nursery.

The current application is to erect a new, free standing nursery building to allow Busy Buddies to expand. The proposal is for a building of some 550 square metres (over 3 times larger than the existing nursery) and set in a green field approximately 20 metres away from the existing nursery. The applicants and those supporting the application argue that there is a demand for the expansion and that the existing nursery is very popular.

However, as noted by the Inspector in the 2017 appeal, the application site is not well served by public transport and is likely to be largely served by journeys in private cars, some of which may be from a considerable distance. This is not to say that no local children attend the existing nursery, because some do, but the very nature of a nursery is that many children are dropped off on the way to a parent's work. Given the location of this nursery, and its good connections by road to population centres, these car-borne journeys would often be from some distance away. This can be illustrated by the fact that amongst the supporters of the application, two were from Wick St Lawrence, two were from St Georges, three were from Banwell, eight were from Worle, 31 were from Weston-super-Mare and one from Backwell. Two were from outside the district completely.

Policy DM69 of the Sites and Policies Plan (Part 1) deals with the location of sporting, cultural and community facilities, and says that these will be permitted within settlement boundaries, provided that a number of criteria are met. One is that "*the site is well related to the community it is intended to serve*", whilst another is "*the site is in a sustainable location, genuinely accessible by a choice of transport modes and to disabled people*". It goes on to say that "*facilities will only be permitted outside settlement boundaries where it is demonstrated that the scale, character or potential impact of the facility would be appropriate taking into account the above principles.*"

This application site is not within (or close to) a settlement boundary, and, as the Inspector noted in the 2017 appeal decision, is not well related to the community it is designed to serve, and not genuinely accessible by a choice of transport modes. The fact that a much smaller nursery already exists on site is not a good reason to allow a much larger nursery building to be constructed when it would amount to unsustainable development. The proposal is therefore contrary to policy DM69.

Policy DM53 deals with employment development in the countryside. However, its text makes clear that this policy deals with, "*development proposals for new buildings for business use (B1, B2 or B8 use)*". This proposal for a nursery does not fall within any of these use classes, and the policy is therefore not relevant to this proposal. Even it were considered relevant, the policy says that, to be acceptable, the proposal must relate to "*processing locally grown produce or other land based rural business*", which this use plainly does not.

Policy DM55 of the Sites and Policies Plan (Part 1) deals with extensions, ancillary buildings or the intensification of use for existing businesses located in the countryside. This policy says that "*replacement buildings, extensions to buildings, ancillary buildings or the intensification of use for existing businesses, located in the countryside will be permitted*", provided that a number of criteria are met. One is that "*the scale of the proposal is not harmful to the character and appearance of the countryside*". This issue is considered later in this report. Policy DM55 also says that "*the re-use of existing buildings is given priority over new development; only where no suitable buildings are available will new development be acceptable*", and that "*proposals to extend outside the curtilage into surrounding countryside will need to be fully justified and not be harmful to the character and appearance of the countryside*". This policy could be argued to give some support to the proposal. However, the proposal does extend outside the existing curtilage of the nursery into the surrounding countryside, and insufficient justification exists for such a large addition (550 square metres) to a relatively small existing business (155 square metres).

Policy CS33 of the Core Strategy is also relevant to this application. This says that development outside settlements will be strictly controlled in order to protect the character of the rural area and prevent unsustainable development. In relation to community facilities, it says that, where the need for these cannot be met within or adjacent to settlement boundaries, consideration will be given to sites outside, where they are well related to the community which they are intended to serve. Given the conclusions above, the proposal is also clearly contrary to policy CS33.

Policy CS25 of the Core Strategy is also relevant. It says that new schools, children and young people facilities will be sited in a location that would facilitate safe routes to the venue and be directly accessible to a pedestrian and cycle way network. The proposal would not be directly accessible to a pedestrian and cycleway network, contrary to policy CS25. This conclusion was also reached by the Inspector in the appeal in 2017.

On this issue, it is considered that the proposal is therefore contrary to a number of important policies (Policy DM69 of the Sites and Policies Plan (Part 1) and Policies CS33 and CS25 of the Core Strategy). Policy DM55 of the Sites and Policies Plan (Part 1) could be considered relevant, but provides little support for the proposal, given its scale compared to the existing business.

It is concluded that the proposal is unacceptable in principle and amounts to unsustainable development.

Issue 2: Character and Appearance

The proposal involves the erection of a large new building on a green field site and would spread the built form of Puxton Park further into open countryside. The application site is currently separated from the main Puxton Park complex by Bulls Barn Lane and its hedgerows. This proposal would not respect the historic field patterns on site and would appear as an intrusion into open countryside and would adversely harm the rural character of the area.

The proposed building would be located to the south of the existing development which comprises Puxton Park. The surrounding area is characterised by an open, remote pastoral character with dispersed development comprising of agricultural and other rural buildings. The proposed site falls within the *A1 Kingston Seymour and Puxton Moors* Landscape Character Area. The council's Landscape Character Assessment SPD (LCA SPD) identifies the area as being flat, open lowland which has a strong sense of ruralness and remoteness. Page 33 of the LCA SPD advises that planning applications within the type A moors, should seek to minimise the encroachment of visually intrusive land uses and should preserve the remoteness and openness. The proposed development would result in a significantly larger building being erected on an undeveloped field and so would be contrary to the guidance contained in the LCA SPD.

The proposed building would be significantly larger than the existing building onsite. The existing building has a floor area of 155sq metres. Furthermore, the existing nursery was a re-use of a rural building and so its appearance is representative of the rural character. In comparison, the proposed building would have a floor area of 550 sq metres. The proposed building would be sited further south than the existing building, away from the main site. The proposed, size, bulk and scale, together with the associated paraphernalia

would result in encroachment into the open countryside to the detriment of the rural landscape.

The proposed building would be out of keeping with the pattern of the surrounding rural development and would conflict with landscape character by encroachment into the open countryside. The proposal would therefore be contrary to policy DM32 and DM10 of the Sites and Policies Plan (Part 1) and contrary to the North Somerset Landscape Character Assessment SPD (adopted September 2018).

Issue 3: Flooding

The site is within an area of flood risk – within flood zone 3a. Policy CS3 of the Core Strategy says that *“Development in zones 2 and 3 of the Environment Agency Flood Map will only be permitted where it is demonstrated that it complies with the sequential test set out in the National Planning Policy Framework and associated technical guidance and, where applicable, the Exception Test”*, unless it is within one of two categories that are not applicable to this proposal.

The applicants point out that the purpose of the sequential test is to examine if there are reasonably available sites in an area that is appropriate for the proposed development.

National Planning Policy Guidance gives advice on the subject and says that *“For individual planning applications subject to the Sequential Test, the area to apply the test will be defined by local circumstances relating to the catchment area for the type of development proposed. For some developments this may be clear, for example, the catchment area for a school. In other cases, it may be identified from other Plan policies. For example, where there are large areas in Flood Zones 2 and 3 (medium to high probability of flooding) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives. Equally, a pragmatic approach needs to be taken where proposals involve comparatively small extensions to existing premises (relative to their existing size), where it may be impractical to accommodate the additional space in an alternative location.”*

There is no overriding need for a nursery to be provided in the flood zone, and the proposal is not for a *“comparatively small extension”* to existing premises; the new building would be over three times as large as the existing building.

The submitted document dealing with Flood Risk Assessment concludes that *“The site requires the host building to carry out functions within the nursery so locating the building away from this location is considered wholly impractical. As all the immediate land surrounding the site is within Flood Zone 3 the proposed location is considered Sequentially preferable.”* As a result, the submitted sequential test does not consider any alternative sites or carry out an exceptions test.

The need for robust sequential testing has been supported on appeal. For example, in a recent appeal case in respect of The Elms Farm, East Hewish Lane, Hewish (ref no. 21/P/2949/FUL) the lack of evidence required to demonstrate that the sequential test has been passed was a key issue contributing to the case being dismissed in November 2022 as conflicting with Core Strategy Policy CS3, the Council's Flood Risk Advice Note (2019), and national policy and guidance. Another even more recent appeal for a site in Wick St Lawrence (ref 21/P/3522/FUL) was also dismissed on 22nd December. The inadequacy of

the sequential test was a key factor in that decision despite the proposal being for two new dwellings in place of an existing building which already had approval to be converted to two dwellings. In that instance, the Inspector concluded that
“...given that the appeal site is located within Flood Zone 3a, where there is a high probability of flooding, I consider it imperative that flood risk is thoroughly and robustly assessed, in order to properly minimise associated risk. In turn, I attach significant weight to the policy conflicts in this regard. Unfortunately, the benefits of the scheme would not be sufficient to outweigh the potential harm in this regard.”

In this current application for a nursery also in flood zone 3a, it considered that the requirements in relation to a sequential test have not been met, and that the application should be refused on those grounds. In addition, it should be noted that an exceptions test assessment has not been carried out.

Issue 4: Setting of Listed Building

The proposal does not affect the setting of any listed buildings.

RECOMMENDATION: REFUSE for the following reasons:

1. The proposed children’s day nursery would not be well related to the community it is intended to serve and is not genuinely accessible by a choice of modes of transport other than the private car. It does not amount to sustainable development and is contrary to policies CS33 and CS25 of the North Somerset Core Strategy, and policy DM69 of the North Somerset Sites and Policies Plan (Part 1).
2. The proposed new building would unacceptably intrude into open countryside, adversely impacting upon the character of the area and would not respect the historic field patterns in the area, contrary to policy DM10 of the North Somerset Sites and Policies Plan (Part 1) and section 6 of the North Somerset Landscape Character Assessment SPD (adopted September 2018).
3. The site is located within Flood Zone 3 (a High risk zone), and the submitted sequential test assessment does not consider alternative sites at a lower risk, nor has an exceptions test assessment been carried out. It has therefore not been adequately demonstrated that the proposal would not result in an unacceptable additional risk of flooding. The proposal is not considered to have passed the sequential and exceptions tests contrary to policy CS3 of the North Somerset Core Strategy, paragraphs 159, 162 and 163 of the National Planning Policy Framework and policy DM1 of the North Somerset Sites and Policies Plan (Part 1).

**PLANNING AND REGULATORY COMMITTEE – 18 JANUARY 2023
REPORT OF THE DIRECTOR OF PLACE**

A - PLANNING APPEAL DECISIONS

1. Enforcement Number 21/00106/UAW

Site: Broadoak House, Broadoak Hill, Dundry

Description: Without planning permission, the material change of use of land to a use as residential garden, including the construction of an enclosed sports pitch with access steps and the regrading of the land.

Recommendation: Enforcement Notice

Appeal Dismissed 5 Dec 2022

Type of appeal: Written Representation

Officer: Chris Joannou

Appellant: Mr Tony Barry and Mrs Tammy Barry

The main issues that were identified by the Planning Inspector were 1) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework (the Framework) and any relevant development plan policies; 2) the effect of the proposal on the openness of the Green Belt; 3) the effect of the proposal on the character and appearance of the area; and 4) whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal.

2. Planning Application Number 21/P/1820/LDE

Site: Orchard Lodge, Brinsea Batch, Congresbury

Description: Certificate of Lawfulness for the existing use as a residential dwelling without compliance with the agricultural occupancy condition.

Recommendation: Refused

Appeal Dismissed 6 Dec 2022

Type of appeal: Written Representation

Officer: Julie Walbridge

Appellant: Mrs Sheila Stuckey

The main issue that was identified by the Planning Inspector was whether the authority's decision to refuse to grant an LDC was well-founded. This turns on whether the appellant can show, on the balance of probabilities, that the relevant occupancy condition has been

**PLANNING AND REGULATORY COMMITTEE – 18 JANUARY 2023
REPORT OF THE DIRECTOR OF PLACE**

continuously breached for a period of 10 years prior to the date of the application for the LDC, such that the application of that condition would no longer be lawful.

3. Planning Application Number 21/P/3522/FUL

Site: Chicken Barn, Cedar Farm, Wick Road, Wick St Lawrence

Description: Demolition of existing agricultural building and the erection of 2no. dwellings and associated carports

Recommendation: Refused

Appeal Dismissed 20 Dec 2022

Type of appeal: Written Representation

Officer: Ellena Fletcher

Appellant: Mrs A Jacobsen

Page 26

The main issues that were identified by the Planning Inspector were 1) whether the proposal has adequately addressed flood risk; 2) whether the location of the proposed development would be acceptable with regard to development plan policy; and 3) the effect of the proposal on the character and appearance of the area.

B – PLANNING APPEALS RECEIVED SINCE LAST COMMITTEE

1. Planning Application Number 22/P/0912/FUH

Site: 7 Bruton Close, Nailsea

Description: Erection of first floor extension over existing garage, plus a two storey front extension.

Date of Appeal: 12 Dec 2022

Type of appeal: Fast Track Appeal

Case Officer: Charles Cooksley

Appellant: Mr Tom Densley

**PLANNING AND REGULATORY COMMITTEE – 18 JANUARY 2023
REPORT OF THE DIRECTOR OF PLACE**

2. Planning Application Number 22/P/0599/FUL

Site: Garage to the rear of 35 Swiss Road, Weston-super-Mare

Description: Change of use from commercial car repair garage (Use Class B2) to 1no. dwelling (Use Class C3). Work to include demolition of single storey building and creation of a first floor within existing building.

Date of Appeal: 16 Dec 2022

Type of appeal: Written Representation

Case Officer: Ellena Fletcher

Appellant: Mr Ben Whitcombe

C- INQUIRIES/HEARINGS DATES AND VENUES

None

Page 27

Summary Performance April 22 – March 23

Appeals received 31
Appeals decided 39
Appeals dismissed 31
Percentage dismissed of appeals decided 79.5%

Appeals Allowed April 22 – March 23

Delegated Decision 7
Committee Decision 1

Costs awarded against the Council

Delegated Decision: 0
Committee decision: 0
Total: 0

Costs awarded to the Council

Delegated Decision: 0

This page is intentionally left blank