

WARD: Eastville **CONTACT OFFICER:** Catherine Tyrer
SITE ADDRESS: 14/15 Clay Bottom Bristol BS5 7EH

APPLICATION NO: 15/03095/F Full Planning
EXPIRY DATE: 31 August 2015

Erection of 4 x two storey detached dwellinghouses.

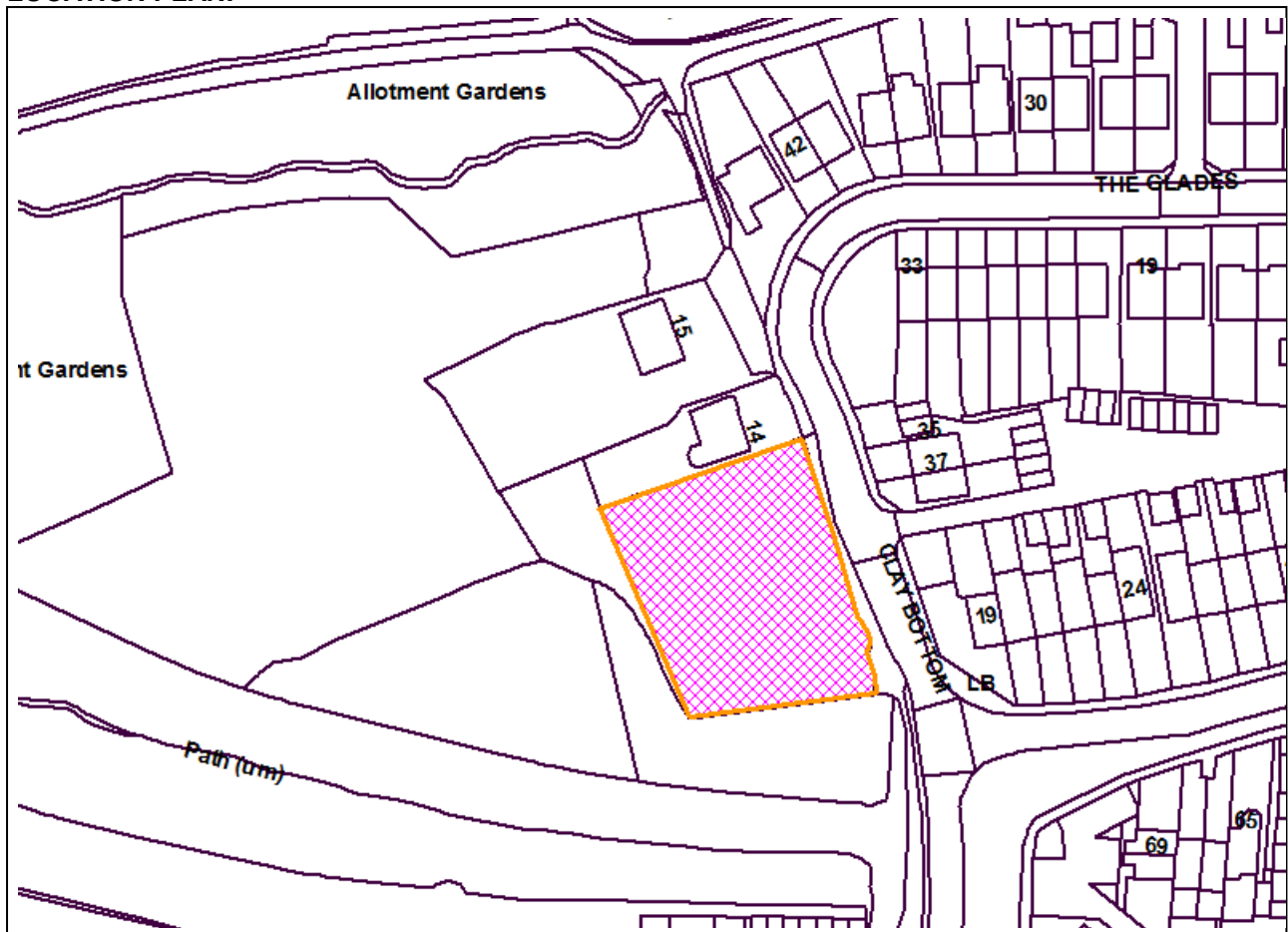
RECOMMENDATION: Grant subject to Condition(s)

AGENT: Tetlow King Planning
Unit 2 Eclipse Office Park
High Street
Staple Hill
Bristol
BS16 5EL

APPLICANT: Mr & Mrs C & N Martin
15 Clay Bottom
Bristol
BS5 7EH

The following plan is for illustrative purposes only, and cannot be guaranteed to be up to date.

LOCATION PLAN:



Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

SUMMARY

The application has been referred to committee because there have been twenty objections from local residents.

Planning permission is sought for the erection of four, three bed houses with a shared access drive, with a single point of access onto Clay Bottom.

An application for the same development was refused last year solely on highways grounds. The principle of the development and all other matters were considered to be acceptable. This decision forms a material consideration. Since that time, the applicants' have provided the information they understood was required to overcome the previous reason for refusal, an amendment has been made to the proposed scheme providing a pedestrian refuge and since that time a 20mph speed limit has been introduced in Clay Bottom.

The primary issue relates to highways, as this was the only reason for refusal when the previous application was determined.

The application has been assessed against Policy BCS9 and BCS23 of the Core Strategy and Policies DM17, DM21 and DM23 of the Site Allocations and Development Management Policies, along with relevant design, conservation and sustainability policies.

Given the previous reason for refusal, Officers are satisfied, on balance, that the applicant has overcome the concerns previously raised. It is the view of your officers that the application be approved, subject to conditions.

SITE DESCRIPTION

The site is located on the western side of Clay Bottom, which comprises a small residential neighbourhood alongside The Glades, Coombe Book Lane and Dubbers Lane separated from the surrounding areas (except through Public Rights of Way/cycle path) by the Royate Hill Nature Reserve and Clay Bottom/Dubbers Lane allotments to the west/north and the Bristol-Bath Railway Path to the south/east.

The application site comprises former garden land associated with No. 15 Clay Bottom, whilst it is understood that site had been left to become overgrown, it had been cleared up to the boundary hedge by the time of the officer's site visit. The site is located to the south of no. 14 Clay Bottom.

The site is designated as Important Open Space, with the Royate Hill Nature Reserve that bounds the site to the south/west being designated as a Site of Nature Conservation Interest. The Royate Hill/Clay Bottom Allotments that bound the site to the west (northern portion) are located within a wildlife corridor.

Two oak trees on the site frontage and one oak tree to the rear are subject to Tree Preservation Orders. The site is also located within a Low Risk Coal Mining Area. There are no other site specific designations.

PLANNING HISTORY

An application for an identical development was refused last year (ref: 14/00412/F), for the following reason:

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

"The scheme due to the retained boundary hedge/trees causing insufficient visibility for vehicular traffic to safely exit the site, would result in unacceptable highway safety harms contrary to Policy BCS10 of the adopted Bristol Core Strategy (June 2011) and Policy DM23 of the adopted Bristol Site Allocations and Development Management Policies (July 2014), as well as section 4 of the National Planning Policy Framework (March 2012)."

There was a previous outline planning permission (0880P/85N), which was renewed under permission 88/00954/R, for five new houses. A reserved matters application was submitted for only one of these (now no. 14 Clay Bottom), ref 88/02407/M which is owned and occupied by the applicant's son. Reserved matters applications were not submitted for the other four units and outline planning application has now lapsed. BCC Legal has previously confirmed this position (i.e. that the original outline permission is no longer extant).

APPLICATION

The application seeks planning permission for four two storey, three bedroom houses arranged in two blocks with arranged garages. Bicycle storage is provided within sheds to the rear of the proposed properties. A refuse/bin store is shown adjacent to the access point with Clay Bottom.

A single access is proposed from Clay Bottom and the proposed dwellings will be accessed via a separate access drive, with two separate driveways leading off this, each serving two of the proposed dwellings. An off-street parking space is also proposed in front of each garage.

The majority of the existing hedgerow will be retained, aside from the removal of a small section to create the single point of entry.

Amended plans have been received which provide a pedestrian refuge area on the southern corner of the site access. This includes the relocation of the proposed refuse/recycling store to the opposite side of the junction with Clay Bottom.

Contaminated Land Environmental Protection has commented as follows:-

Information held within our offices has shown sites in this area to contain elevated heavy metals. The property address appears to have been gardens and allotments throughout the twentieth century, with a former railway line to the south of the site. The Coal Mining Risk Assessment identifies the possibility of shallow surface mining and deposits which are also a cause for concern with respect to contamination. The proposal is for a sensitive end use therefore we recommend standard conditions B11 B12 B13 and C1 are applied to any future planning consent.

City Design Group has commented as follows:-

Refer to policy and guidance

RESPONSE TO PUBLICITY AND CONSULTATION

Neighbouring properties have been consulted and 20 objections were received.

These raised the following issues, which are summarised as follows:

Highways (addressed within Key Issue B)

- Concern regarding increased volume of vehicles
- Insufficient visibility from site entrance, with a blind bend from The Glades to Clay Bottom.
- Parking already restricted and vehicles already park on the narrow road, allotment users also park in

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

the area

- Large vehicles, such as emergency vehicles, need to drive on the verge to clear parked vehicles around the bend
- There is only one pavement
- 20mph speed limit had little effect and makes no actual difference to traffic conditions.
- Traffic survey does not appear to be accurate - speeds are greater than average shown in submitted survey
- Speed survey submitted does not address previous reasons for refusal
- Traffic survey so limited in its scope as to be without value, undertaken between 8-9am, when most people have left for work. It should have covered a much longer time period.
- There is no safe access or egress from the proposed site other than adjacent to a side road which is on a blind bend and poses significant health and safety risk to pedestrians, cyclists and motorists
- Crucial access point into/out of Clay Bottom
- Area cannot cope with impact of more housing, traffic and on street parking

Wildlife/Nature Conservation (addressed within Key Issue c)

- Impact on wildlife and loss of wildlife haven, it is a prime site for owls, bats, badgers, foxes, slow worms and may other species
- Potential opening for further application being made which would have an even greater impact on the wildlife and local community
- Further squeezes the green corridor in this valley and will impinge on the bordering nature reserve
- Applications on Green Land should not be considered if we are to remain as the European Green Capital.
- Policy BCS9 prohibits development on wildlife/green corridors [addressed within Key Issue A]. Request that the loss of the C1 grade tree with 2 replacements [from Bristol Tree Forum].

Other Issues

- the Coal Mining Report is more than 18 months old [the Coal Authority has reviewed the document and raised no objection, subject to a condition being attached requiring site investigations are undertaken]

The following issues were raised that are not material planning considerations:

- Surprised that a second application submitted less than a year after the previous proposal was refused [applicant is entitled to submit a second application within these timescales, and benefits from a "free go" as it is within 12 months of a refusal]
- Disruption and inconvenience to local people

No comment has been received from ward members.

OTHER COMMENTS

Transport Development Management (TDM) has commented as follows:-

Updated comments (following receipt of amended plans): TDM does not object and the amended plans overcome previous objections, subject to use of relevant conditions to protect the visibility splays and requiring the submission of detailed plans.

The crossing point will involve highway works, as the verge on this side is adopted and there should be tactile paving on both sides. It will require a Minor Works Agreement to be dealt with by condition and informative.

There must be a condition to protect the visibility splay. I suggest the following:

“Within the designated visibility splay vegetation shall be kept to a height of 1m or lower, and tree

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

canopies shall be maintained to a height of 2m or greater, and no wheelie bins shall be placed within the visibility splay”.

This may mean that the refuse point shown will have to be enlarged and moved back a little. This could be done by a further details condition.

Initial comments received from TDM:

This proposal is unacceptable having failed to fully address the reasons for refusal associated with the previous applications on this site.

Previous proposals: As part of planning permission 88/00954/R for 5 houses (including the current No 14) the developer was required to construct a footway alongside the site frontage. A small part of this has been constructed for No 14, but the rest of the land where the footway would be is occupied by trees. Much of this land is adopted highway and therefore should be retained as such to provide pedestrian access to any new dwellings, as per previous requests of the TDM team. As a result of the above, application reference 14/00412/F was refused for the lack of footway provision and the resulting lack of visibility for pedestrians exiting the site.

Current proposal: Despite the submission of a speed survey and visibility splays which consider motorists' sightlines, this does little to alter the view that the current scheme fails to provide safe access for all users. The submission is accompanied by a peak hour speed survey which indicates speeds to be largely within the 20mph limit present in this area. Unfortunately this is not justification for a lack of footway, nor does it automatically propel Clay Bottom to the status of a shared space. Were similar evidence to be considered acceptable on other sites across the city we would as a result be compelled to approve all residential proposals which failed to provide a footway. This is clearly an unacceptable precedent.

Regardless of the attendant highway conditions, a property is still required by policy to provide safe and segregated access for the most vulnerable users, namely children, the elderly and disabled, many of whom are reliant upon buggies, scooters and may also have visual impairment. The lack of footway provision is a clear example of where such protection is lacking with this application and fails to comply with Core Strategy Policy BCS10, which requires as follows:

"proposals will be determined and schemes will be designed to reflect the following transport user priorities as set out in the Joint Local Transport Plan:

a) The pedestrian; b) The cyclist; c) Public transport; d) Access for commercial vehicles; e) Short stay visitors by car; f) The private car.

The needs of disabled people will be considered within all of the above headings."

The proposal shows no regard for the hierarchy contained within the above policy, nor does it accord with the requirements of the Site Allocations and Development Management Document Policy DM23: Development should not give rise to unacceptable traffic conditions and will be expected to provide: "i. Safe and adequate access for all sections of the community within the development and onto the highway network...iv. For pedestrians."

Further to the above, the proposal is contrary to the requirements of the National Planning Policy Framework in relation to the following policy criteria:

"35. Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people. Therefore, developments should be located and designed where practical to create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, avoiding street clutter and where appropriate establishing home zones; consider the needs of people with disabilities by all modes of transport."

Other considerations: BCC's policy is that new houses on adopted roads should have a pavement alongside, constructed from the application site where necessary, and this has been applied

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

rigorously to other developments.

This situation would not be expected to be different here. Whilst the potential loss of hedge does lead to conservation issues and we are aware that this is also a Council priority, this is not transport / highways consideration, for which the highway authority are required to prioritise the safety of the most vulnerable highway users.

The Coal Authority has commented as follows:-

The Coal Authority concurs with the recommendations of the Coal Mining Risk Assessment Report; that coal mining legacy potentially poses a risk to the proposed development. As such, intrusive site investigation works should be undertaken prior to development in order to establish the exact situation regarding coal mining legacy issues on the site.

The Coal Authority recommends that the LPA impose a Planning Condition should planning permission be granted for the proposed development requiring these site investigation works prior to commencement of development.

In the event that the site investigations confirm the need for remedial works to treat any areas of shallow mine workings to ensure the safety and stability of the proposed development, these should also be undertaken prior to commencement of the development.

A condition should therefore require prior to the commencement of development:

- * The submission of a scheme of intrusive site investigations for approval;
- * The undertaking of that scheme of intrusive site investigations;
- * The submission of a report of findings arising from the intrusive site investigations;
- * The submission of a scheme of remedial works for approval; and
- * The implementation of those remedial works.

The Coal Authority considers that the content and conclusions of the Coal Mining Risk Assessment Report are sufficient for the purposes of the planning system and meets the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority therefore withdraws its objection to the proposed development subject to the imposition of a condition to secure the above.

Arboricultural Team has commented on the previous application as follows [no comments received in response to this application]:-

In summary: the site has been largely cleared of vegetation, save for some small boundary "hedgerow" trees of hawthorn, plum and elm, and three oaks, two on the road frontage and one to the rear of the site. The latter is a good quality mature tree of good form (Category B). The two boundary trees, also oaks, are very high quality (Category A) and have a significant visual impact and amenity value for the area. The remainder of the road boundary comprises a thicket of elm, plum, hawthorn and shrubs that, whilst not valuable as individual specimens, as a group confer an important semi-rural feel to the surroundings. The west and southern boundaries are lined with coppice and woodland trees. These features are covered by a TPO, but for some reason are not covered by the arboricultural survey.

I would oppose construction of a pavement alongside this due to root protection area coverage and excavation necessary to carry out.

Should you be minded to grant consent I would request that conditions are applied covering detailed arboricultural method statement, arboricultural supervision during construction, tree protection fencing and landscape management plan for the hedge.

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

Nature Conservation Officer, in summary, has commented as follows:-

The adjacent site is a designated Site of Nature Conservation Interest (SNCI), Royate Hill. A number of conditions are recommended relating to (in summary):

- Submission and approval of Construction Environmental Management Plan to include best practice pollution control measures (including dust, air pollution, effects on water quality etc) do not occur on the adjacent SNCI and a protective buffer area. Should include details of robust protective fencing and sub-contractors should be appropriately briefed.
- Lighting - lux levels and lux levels contour plan
- Vegetation clearance
- Compliance with ecological survey report dated May 2015. NB: these recommendations include a pre-construction badger survey if no development takes place by November 2015, maintaining vegetation which has already been cleared at ground level and clearing further land (whilst also taking account of bird nesting season considerations) between late March and mid-October to avoid the reptile hibernation period (as a precautionary measure in case they are present). Gaps under fences for hedgehogs are also recommended (15 cm is recommended rather than 5-10 cm as given in the report), as is the provision of a wildlife pond.
- Submission of details for built-in bird nesting and bat roosting opportunities

Contaminated Land Environmental Protection has commented as follows:-

Information held within our offices has shown sites in this area to contain elevated heavy metals. The property address appears to have been gardens and allotments throughout the twentieth century, with a former railway line to the south of the site. The Coal Mining Risk Assessment identifies the possibility of shallow surface mining and deposits which are also a cause for concern with respect to contamination. The proposal is for a sensitive end use therefore we recommend a number of standard conditions are applied to any future planning consent.

RELEVANT POLICIES

National Planning Policy Framework – March 2012

Bristol Core Strategy (Adopted June 2011)

BCS6	Green Belt
BCS10	Transport and Access Improvements
BCS13	Climate Change
BCS14	Sustainable Energy
BCS15	Sustainable Design and Construction
BCS16	Flood Risk and Water Management
BCS18	Housing Type
BCS20	Effective and Efficient Use of Land
BCS21	Quality Urban Design
BCS23	Pollution
BCS5	Housing Provision

Bristol Site Allocations and Development Management Policies (Adopted July 2014)

DM1	Presumption in favour of sustainable development
DM14	The health impacts of development
DM15	Green infrastructure provision
DM17	Development involving existing green infrastructure
DM19	Development and nature conservation
FDM21	Development of private gardens
DM23	Transport development management

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

DM26	Local character and distinctiveness
DM27	Layout and form
DM29	Design of new buildings
DM32	Recycling and refuse provision in new development
DM34	Contaminated land
DM37	Unstable land

KEY ISSUES

The main consideration of this application is whether the previous reason for refusal, which relates to highway safety, has been overcome. However, in order to provide a full picture, we address the other considerations which were assessed as part of the consideration of the previous scheme.

(A) IS THE PROPOSAL ACCEPTABLE IN LAND USE TERMS?

It should be noted that during the consideration of the previous application last year, the principle of the proposed use was accepted and the application was only refused on highway safety grounds. This decision forms a material consideration; there has been no change in adopted planning policy since that decision and there has been no other material changes in circumstances as far as we are aware.

There was a previous outline planning permission for the erection of five dwellings on the site, however as this planning permission was granted over 25 years ago, it has long since expired. The policy position has changed significantly since this time. As such, the previous outline planning permission no longer constitutes a material consideration.

The site is designated as Important Open Space within the SADMP policies map, which was adopted in July 2014.

The Core Strategy seeks to protect open spaces, with policy BCS9 stating that:

"Some areas of open space may be released, through the development plan process, for appropriate development where:

- they are no longer important for recreation, leisure and community use, townscape and landscape quality and visual amenity;
- development of all or part of an open space would result in improved urban form or an enhancement to existing open space areas.

New development should incorporate, or contribute towards, the provision of an appropriate level and quality of open space".

SADMP policy DM17 states that "Development on part, or all, of an Important Open Space as designated on the Policies Map will not be permitted unless the development is ancillary to the open space use."

The creation of four new self-contained residential properties on this land cannot be considered to be ancillary to the designation of the site as open space and therefore, as recognized during the consideration of the previous application, the proposal does not accord with this policy requirement.

The supporting text to policy DM17 reflects the criteria for protection of Important Open Space under Policy BCS9 above where it states that: "Important open spaces with a role and value for recreation, leisure, community use, townscape, landscape or visual amenity quality are designated and shown on the Policies Map and protected from development" (para. 2.17.4).

The issue of a conflict with the policy requirement relating to Important Open Space was assessed previously in detail. It was considered that in issuing a refusal of planning permission on this basis, it

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

would be necessary to demonstrate harm caused by the proposed development.

In assessing any harm, it was considered important to identify the intention for including the site within the Important Open Space designation. The site falls within the Royate Hill Nature Reserve and Greenback Cemetery (ref: IOS0157) and covers the nearby nature reserve and cemetery, the allotments to the north, as well as 14 and 15 Clay Bottom. The SADMP Submission Version (July 2013) Allocation and Designations Process document, which sets out the criteria for each designation, states IOS0157 was designated for its community use, townscape, landscape quality and visual amenity. No data was collated for breaking down the identified spaces into smaller portions.

For these reasons, it was considered that harm to community use, townscape, landscape quality and/or visual amenity would need to be demonstrated in order to justify a refusal on these grounds. The considerations which formed this assessment are set out below:

- The site forms an area of private garden land, in private ownership with no public right of access across the site. It therefore does not form a community asset. This is reflected in the Council's Parks and Green Space Strategy (February 2008), which does not include the application site. Notwithstanding the ownership issue, it is understood that until relatively recently, the site had been left to become overgrown, thus giving limited scope to be used publically.

- Whilst the site had previously been overgrown, prior to the submission of the previous application, the site was cleared and it is reasonable to assume that the site could in the future be maintained as part of the existing garden area. As such the existing or potential future use of the site, as a rear garden, would not of itself be of any notable landscape quality. The primary public value in terms of its townscape and landscape value and visual amenity is the retained boundary hedge and trees which contributes a "green" edge to the street scene and contributes to the "rural" character setting of this part of Clay Bottom.

- This "green" edge is also considered to reflect the townscape and visual amenity of the site. Whilst the site does provide a visual break in the built form, consistent with the edges of the Royate Hill Nature Reserve, the relatively dense boundary hedge obscures views through the site, particularly from a distance.

From the assessment made, it was considered that the value of the Important Open Space designation to this particular site can be ascribed principally to the boundary hedge/trees. The proposed houses are set back from Clay Bottom and would be accessed via a separate access road/drive area, with a single opening in the existing hedge providing the entrance to the site. As Clay Bottom is not a classified road, this could be undertaken under permitted development rights without the need for planning permission. This would allow views through to the proposed new houses to be seen from certain points on Clay Bottom Road, however, as the majority of the hedgerow would be retained, this is not considered to result in a significant change of public benefit, and is not out of keeping with the character of the surrounding area.

On balance, for the reasons outlined above, whilst there is a conflict with Policy DM17, during the consideration of this issue, it was not considered that harm caused to the Important Open Space designation was sufficient to warrant refusal of the proposed scheme.

It was also noted that conditions could be used to ensure the retention of the boundary hedge and remove permitted development rights for laying out of additional hardstanding and new vehicular access points to the front of the proposed new houses.

The site forms part of the residential curtilage of an existing property and is located within a predominantly residential area. The principle of additional housing on the site is therefore acceptable. The rear garden areas of both applicants' properties (excluding the application site) are substantial and generous gardens would be retained. The application site is within walking distance of main

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

public transport routes to the north (via the network of Public Rights of Way) and is therefore in a location where high density housing is considered to be appropriate, thus complying with SADMP policy DM21 (development of private gardens).

It should also be noted that the proposed scheme contributes to the provision of new housing, in line with Core Strategy policy BCS5.

(B) DOES THE PROPOSAL ADEQUATELY ADDRESS TRANSPORT AND MOVEMENT ISSUES?

In both this application and the previous scheme transport/highways considerations have been a significant issue and indeed the previous application was refused on highways grounds. In considering this application, the main consideration is whether the previous reason for refusal has been overcome. For ease of reference, the previous reason for refusal was as follows:

The scheme due to the retained boundary hedge/trees causing insufficient visibility for vehicular traffic to safely exit the site, would result in unacceptable highway safety harms contrary to Policy BCS10 of the adopted Bristol Core Strategy (June 2011) and Policy DM23 of the adopted Bristol Site Allocations and Development Management Policies (July 2014), as well as section 4 of the National Planning Policy Framework (March 2012)."

It is noted that during the consideration of the previous application, TDM initially objected on the failure to provide a continuation of the pavement to the frontage and failure to provide adequate visibility for vehicular egress from the site, particularly views to the south. At the time, it was considered that the retention of the boundary hedge and protected trees outweighed the desirability of providing a pedestrian pavement. It is understood that the potential for locating a footway access at either end of the site running behind the boundary hedge was reviewed with BCC Arboriculture and dismissed as not feasible whilst retaining the protected trees. In any case, it was considered that as a pavement would still require users to cross at a location along Clay Bottom if heading south, it would be of limited value in improving pedestrian accessibility. The lack of a pedestrian pavement was therefore not considered to warrant refusal at the time and for that reason was not included within the reason for refusal.

The layout proposes a single point of access in the optimum location for visibility, thus minimizing any loss of hedgerow, and is as per the previously refused application. During the consideration of the previous application, TDM advised that the layout gives only a partial resolution of the highway issues. At the time, the visibility splays previously proposed were not considered sufficient for a 30mph zone. Given the principle concern with retaining the boundary hedge and trees, at the time, reducing existing vegetation to 1m in height to accommodate the visibility splays that would have been required was not considered to be a feasible approach. However, at the time, TDM advised that there would be no objection to the scheme if the area was to become a 20mph zone and it could be demonstrated that traffic would travel no faster than 20mph.

Since the consideration of that application, a 20mph has been introduced in Clay Bottom and the applicant has submitted a speed survey which demonstrates a maximum speed of 22mph.

Whilst TDM initially still had concerns with the proposed development, the scheme has been amended to include a pedestrian refuge area to facilitate pedestrians crossing the road. TDM has subsequently confirmed that this overcomes the concerns raised, subject to the implementation of conditions requiring the retention of visibility splays and the submission of further details.

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

It is considered that as the speed limit has been reduced to 20mph in Clay Bottom and a pedestrian refuge area is now proposed, the proposed development is acceptable and the previous reasons for refusal have adequately been addressed.

The proposal includes two off-street car parking spaces per unit (within a garage and driveway area in front of this). Turning points are also provided at either end of the single communal drive to facilitate access and egress in forward gear and these can be secured by condition. The adopted standards for three bed units are for a maximum parking provision of 1.5 spaces per dwelling and no minimum provision is provided. Transport DM has not commented on the level of parking, but it is noted that there was no objection to the level of parking proposed when the previous application was considered.

The proposal also provides for dedicated cycle storage to the rear of the properties, in accordance with the standards. Recycling and refuse storage is appropriately located and accessible for collection, but further detail will be required by condition.

A number of concerns were raised by local residents with respect to existing congestion and parking levels within the area. It is considered the introduction of an additional four houses, each with their own off-street parking, is unlikely to have a significant impact or exacerbate the existing situation.

(C) DOES THE PROPOSAL ADEQUATELY ADDRESS NATURE CONSERVATION ISSUES?

This key issue can be argued to represent the other key matter raised by objectors. Specifically concerns related to loss of habitat and harm to wildlife.

The application incorporates an ecological survey, which confirmed that no badger setts were identified within the site boundary. Although two single outlier setts were identified within 10m of the site's western boundary, these were examined and found to be disused. It identified that the site offers potential foraging and commuting habitat for bats. No evidence of reptiles was recorded and the site, as cleared, represents sub-optimal/unsuitable habitat for reptiles, however the adjoining SNCI does provide suitable habitat and there is the potential for these to occupy the site should the vegetation be left unmanaged.

BCC Nature Conservation has not raised any objection to the findings set out within this report. The report makes a series of recommendations that are broadly reflected in the comments made by BCC Nature Conservation and a series of conditions are recommended.

While local residents have raised concerns over this key issue, the site itself is not located within an area subject to a nature conservation designation and it is considered that any potential impacts upon protected/priority species can be adequately addressed by condition. A reason for refusal would therefore not be reasonable on this matter.

Subject to appropriate conditions, the proposal adequately addresses this key issue.

(D) DOES THE PROPOSAL SATISFACTORILY ADDRESS DESIGN ISSUES?

The scheme proposes four linked, detached houses, arranged in two pairs. The proposals would be set back from No. 14 clay Bottom and be of a smaller scale. There is however no defined building line and the properties would be partially screened by the boundary hedge. Nonetheless, the proposed properties remain reflective of the housing forms in the area in respect of their extent and scale at two storeys in height, finished in brick, render, concrete tiles and uPVC windows and uPVC/timber doors. The majority of houses within the area are terraced or semi-detached, but given the detached nature of properties to this western side of Clay Bottom the spacing of the proposed dwellings is in keeping with the character of the area.

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

Overall, the proposal complies with core Strategy policy BCS21, and Site Allocations and Development Management Policies DM26, DM27 and DM29 and adequately addresses this key issue.

(E) DOES THE PROPOSAL ADEQUATELY ADDRESS TREE ISSUES?

The submitted scheme includes an arboricultural report, which confirms that the proposed dwellings would be located outside the Root Protection Areas (RPAs) of the two Oak trees, which are subject to a Tree Preservation Order. The proposed access road will result in some encroachment onto the RPA, but the erection of protective fencing is recommended to protect the roots. A condition will be attached to secure the implementation of a tree protection plan.

Two new oak trees are proposed to compensate for the loss of two small trees.

The proposal adequately addresses this key issue.

(F) DOES THE PROPOSAL SAFEGUARD RESIDENTIAL AMENITY?

While the scheme will result in some limited overshadowing of No. 14 Clay Bottom, the scheme would have no unacceptable impact by way of overbearing impact, loss of privacy or overshadowing due to the positioning of the development in relation to surrounding properties.

The scheme complies with space standards as set out in the Space Standard Practice Note for the application of Policy BCS18. Adequate outlook, daylight and private amenity space is provided as well as suitable refuse storage.

Concern raised by local residents relating to disruption during building works is not considered to justify refusal. Construction is inherently disruptive, but controlled by other legislation (e.g. skip licenses, unsociable working hours through pollution control legislation, etc.).

The proposal adequately addresses this key issues and it is not considered that the proposed development would have an adverse impact on the amenity of local residents, in accordance with SADMP policy DM29.

(G) DOES THE PROPOSAL ADEQUATELY ADDRESS SUSTAINABILITY AND SURFACE WATER RUN-OFF

The scheme would utilise a combination of solar thermal water heating and solar panels to the west-south-west facing roof slope to meet Policies BCS13-BCS15 and this is considered acceptable. Surface water run-off can be addressed by use of a standard condition.

The proposal adequately addresses this key issue.

(H) LAND CONTAMINATION AND LAND STABILITY

The proposal would be subject to standard land contamination conditions given its proximity to an area of former industry. The site is located within a High Risk Coal Mining Area. The application incorporates a Coal Mining Risk Assessment and the Coal Authority have concluded that they have no objections subject to securing site investigation works and appropriate mitigation if any mine workings are found.

The proposal therefore adequately addresses this key issue.

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

CONCLUSION

The proposed scheme, on balance, would not warrant refusal on the grounds of loss of important open space addresses due to a lack of demonstrable harm to the open space designation. It is also considered, that on balance, the previous concerns relating to highway safety have been satisfactorily overcome. The scheme otherwise adequately address all the remaining key issues. On this basis, the proposed development is recommended to the committee for approval.

COMMUNITY INFRASTRUCTURE LEVY

How much Community Infrastructure Levy (CIL) will this development be required to pay?

The CIL liability for this development is £21,057.05

RECOMMENDED GRANT subject to condition(s)

Time limit for commencement of development

1. Full Planning Permission

The development hereby permitted shall begin before the expiration of three years from the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004.

Approval of road works necessary

2. No development shall take place until details of the following works to the highway have been submitted to and been approved in writing by the Local Planning Authority:

Detail of the pedestrian refuge area

The building hereby permitted shall not be occupied until these works have been completed in accordance with the approved details.

Reason: To ensure that all road works associated with the proposed development are planned and approved in good time to include any Highways Orders, and to a standard approved by the Local Planning Authority and are completed before occupation.

3. Prior to commencement of development a Construction Environmental Management Plan (CEMP) shall be submitted to, and approved in writing by the Local Planning Authority. The approved plan shall be implemented and adhered to thereafter at all times during construction.

Reason: To conserve the Site of Nature Conservation Interest.

4. Prior to commencement of development, details for any proposed external lighting shall be submitted and agreed in writing by the Local Planning Authority. This shall include a lux level contour plan, and should seek to ensure no light spill outside of the site boundaries. The lux contour plan should extend outwards to incremental levels of zero lux.

Reason: To conserve legally protected bats and other nocturnal wildlife.

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

5. No clearance of vegetation or structures suitable for nesting birds, shall take place between 1st March and 30th September inclusive in any year without the prior written approval of the local planning authority. The authority will require evidence provided by a suitably qualified ecologist that no breeding birds would be adversely affected before giving any approval under this condition.

Reason: To ensure that wild birds, building or using their nests are protected.

6. All site clearance and construction works shall be carried out in strict accordance with the recommendations in the submitted ecological survey report dated May 2015, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the protection and welfare of legally protected and priority species.

7. Prior to commencement of development details shall be submitted providing the specification, orientation, height and location for built-in bird nesting and bat roosting opportunities. This shall include four built-in bird boxes to include at least two swift bricks or boxes and three built-in bat boxes.

Reason: To help conserve legally protected bats and birds which include priority species.

8. Land affected by contamination - Implementation of Approved Remediation Scheme

In the event that contamination is found, no development other than that required to be carried out as part of an approved scheme of remediation shall take place until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and be approved in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination both during the construction phase and to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

9. Prior to the commencement of the development hereby approved, in order to establish the situation relating to coal mining legacy issues, the following shall be submitted to and approved by the local planning authority:

1. A scheme of intrusive site investigations, which should then be undertaken in accordance with the approved scheme;
2. A report of the findings from the intrusive site investigations, and should these investigations identify the need for remedial works;
3. A scheme of remedial works, which should then be implemented in accordance with the approved scheme.

All works should be carried out in accordance with the approved details.

Reason: To ensure the safety and stability of the site and surrounding area having regard to past Coal Mining within the area

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

10. Land affected by contamination - Site Characterisation

No development shall take place until an investigation and risk assessment, in addition to any assessment provided with the planning application, and has been completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme should be submitted to and be approved in writing by the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

(i) a survey of the extent, scale and nature of contamination;

(ii) an assessment of the potential risks to:

- * human health,
- * property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
- * adjoining land,
- * groundwaters and surface waters,
- * ecological systems,
- * archaeological sites and ancient monuments;

(iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

Reason: To ensure that risks from land contamination is understood prior to works on site both during the construction phase to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors

11. Land affected by contamination - Submission of Remediation Scheme

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, submitted to and been approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination is understood prior to works on site both during the construction phase to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

12. Prior to the commencement of development, an arboriculture and hedgerow method statement shall be submitted to and approved by the local planning authority. It should include details of the following:

- arboricultural supervision during construction;

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

- tree protection measures; and
- landscape management plan relating to the protection of the hedge

All works shall be implemented in accordance with the method statement.

Reason: To ensure works do not adversely affect the retained trees or hedgerow during construction or occupation of the site.

13. Protection of Retained Trees During the Construction Period

No work of any kind shall take place on the site until the protective fence(s) has (have) been erected around the retained trees, in line with the details provided within the Arboricultural and Hedgerow Method Statement (required by condition). The Local Planning Authority shall be given not less than two weeks prior written notice by the developer of the commencement of works on the site in order that the council may verify in writing that the approved tree protection measures are in place when the work commences. The approved fence(s) shall be in place before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced area(s) there shall be no scaffolding, no stockpiling of any materials or soil, no machinery or other equipment parked or operated, no traffic over the root system, no changes to the soil level, no excavation of trenches, no site huts, no fires lit, no dumping of toxic chemicals and no retained trees shall be used for winching purposes. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the council.

Reason: To protect the retained trees from damage during construction, including all ground works and works that may be required by other conditions, and in recognition of the contribution which the retained tree(s) give(s) and will continue to give to the amenity of the area.

Pre occupation condition(s)

14. Land affected by contamination - Reporting of Unexpected Contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Condition ****, which is to be submitted to and be approved in writing by the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition ****.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

15. Within the designated visibility splay vegetation shall be kept to a height of 1m or lower, and tree canopies shall be maintained to a height of 2m or greater, and no wheelie bins shall be placed within the visibility splay. This situation shall be maintained at all times.

Reason: In order to ensure highway safety and provide sufficient visibility for cars accessing and existing from the site

16. Completion and Maintenance of Cycle Provision - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the cycle parking provision shown on the approved plans has been completed, and thereafter, be kept free of obstruction and available for the parking of cycles only.

Reason: To ensure the provision and availability of adequate cycle parking.

17. Completion of Vehicular Access - Shown on approved plans

No building or use hereby permitted shall be occupied or the use commenced until the means of vehicular access has been constructed and completed in accordance with the approved plans and the said means of vehicular access shall thereafter be retained for access purposes only.

Reason: In the interests of highway safety.

18. Refuse Storage and Recycling Facilities

No building or use hereby permitted shall be occupied or the use commenced until details of the refuse store, and area/facilities allocated for storing of recyclable materials, have been submitted to and approved by the local planning authority. Thereafter, all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area, as shown on the approved plans, or internally within the building(s) that form part of the application site. No refuse or recycling material shall be stored or placed for collection on the public highway or pavement, except on the day of collection.

Reason: To safeguard the amenity of the occupiers of adjoining premises, protect the general environment, and prevent obstruction to pedestrian movement, and to ensure that there are adequate facilities for the storage and recycling of recoverable materials.

Post occupation management

19. No further extensions

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) no extension or enlargement (including additions to roofs) shall be made to the dwellinghouse(s) hereby permitted, or any detached building erected, without the express permission in writing of the council.

Reason: The further extension of this (these) dwelling(s) or erection of detached building requires detailed consideration to safeguard the amenities of the surrounding area.

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

20. No Further Windows

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) no windows, other than those shown on the approved plans shall at any time be placed in the elevation of the building/extension hereby permitted without the grant of a separate planning permission from the Local Planning Authority.

Reason: To safeguard the amenities of the adjoining premises from overlooking and loss of privacy.

21. No Further Hardstanding

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) no additional areas of hardstanding will be created, other than those shown on the approved plans without the grant of a separate planning permission from the Local Planning Authority.

Reason: To safeguard the character of the area.

22. No Further Access Points

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) no further vehicular or pedestrian access points will be created onto Clay Bottom, other than that shown on the approved plans without the grant of a separate planning permission from the Local Planning Authority.

Reason: To safeguard the amenity of the local area and in the interests of highway safety.

List of approved plans

23. List of approved plans and drawings

The development shall conform in all aspects with the plans and details shown in the application as listed below, unless variations are agreed by the Local Planning Authority in order to discharge other conditions attached to this decision.

Design & Access Statement, received 6 July 2015
 Arboricultural Report, received 6 July 2015
 Speed Survey, received 6 July 2015
 Coal information, received 6 July 2015
 Coal mining risk assessment, received 6 July 2015
 Coal report, received 6 July 2015
 Ecological Survey, received 6 July 2015
 Sustainability Statement, received 6 July 2015
 Site location plan, received 6 July 2015
 ONE A Existing ground levels of gardens, received 6 July 2015
 TWO B Site layout, received 2 September 2015
 THREE A Typical house plan & elevations, received 6 July 2015

Reason: For the avoidance of doubt.

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

Advices

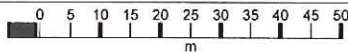
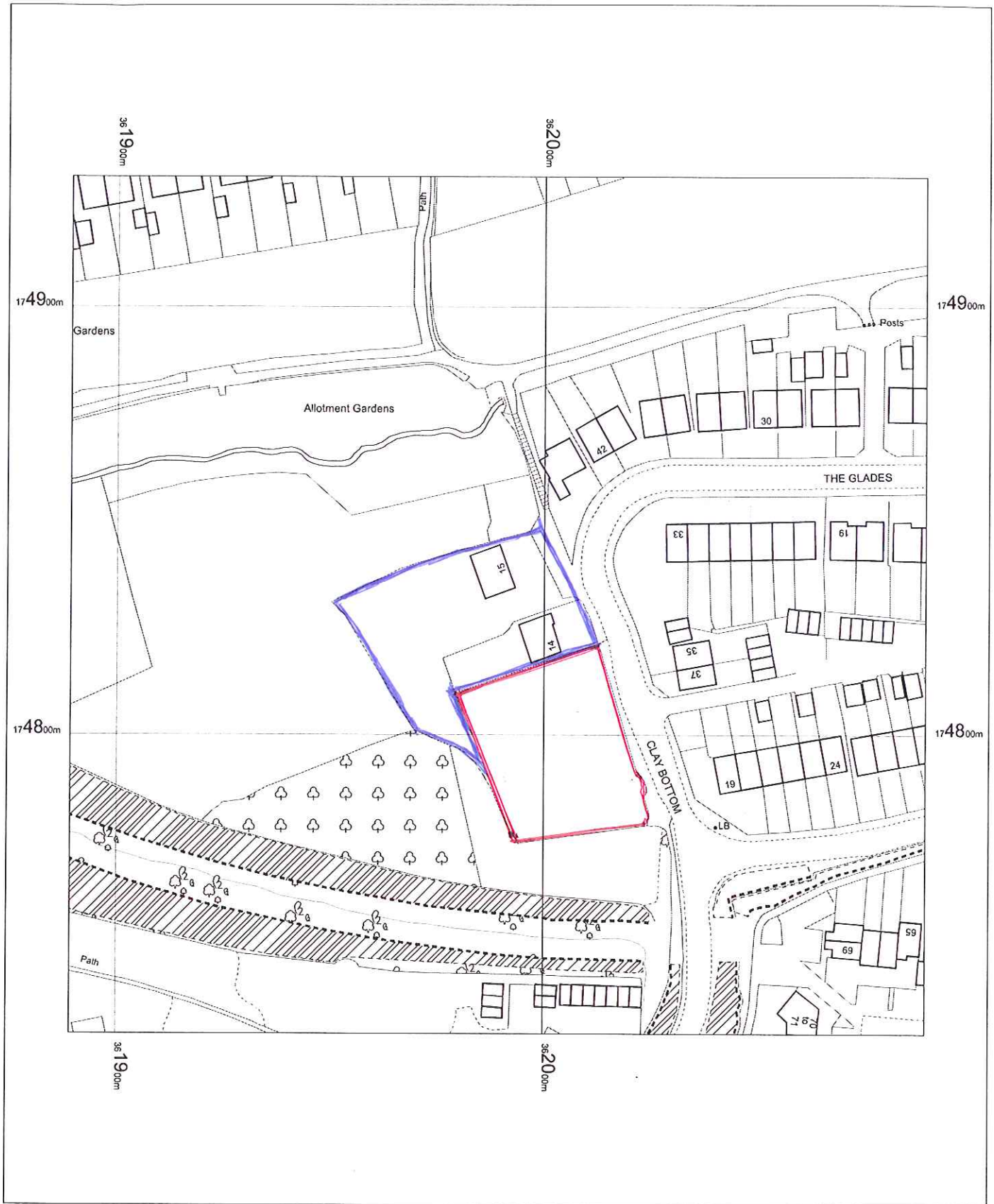
1. Construction Environmental Management Plan shall include best practice pollution control measures to ensure that adverse impacts (including dust and air pollution, effects on water quality, pollution from fuel use and storage and other potentially hazardous materials) do not occur on the adjacent SNCI and a protective buffer area (from the edge of the SNCI of at least 5 metres or as close as possible to this) as a result of construction works. The CEMP should include details of robust protective fencing incorporating warning signs and its location and a plan showing the boundaries of the SNCI. Contractors and sub-contractors should be briefed on the importance of the ecological features which are to be retained on site and the ecological value of the SNCI prior to the commencement of works.
2. Proposed External Lighting Plan: According to paragraph 125 (page 29) of the National Planning Policy Framework (2012), "By encouraging good design, planning policies and decisions should limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation."
3. Works in accordance with Ecological Survey Report dated May 2015: Please note that these recommendations include a pre-construction badger survey if no development takes place by November 2015, maintaining vegetation which has already been cleared at ground level and clearing further land (whilst also taking account of bird nesting season considerations) between late March and mid-October to avoid the reptile hibernation period (as a precautionary measure in case they are present). Gaps under fences for hedgehogs are also recommended (15 cm is recommended rather than 5-10 cm as given in the report), as is the provision of a wildlife pond.
4. Examples of built-in bird and bat boxes are available from: <http://www.ibstock.com/sustainability-ecozone.asp>, http://www.nhbs.com/brick_boxes_for_birds_eqcat_431.html If built-in bird and bat boxes cannot be provided within built structures, they should be provided on trees (with no more than one bird box per tree). Bird boxes should be installed to face between north and east to avoid direct sunlight and heavy rain. Bat boxes should face south, between south-east and south-west. Bird boxes should be erected out of the reach of predators. For small hole-nesting species bird boxes should be erected between two and four metres high. Bat boxes should be erected at a height of at least four metres, close to hedges, shrubs or tree-lines and avoid well lit locations.
 Swifts: Internal nest trays or boxes are particularly recommended for swifts. Swift bricks are best provided in pairs or groups (e.g. at least two or three on a building, avoiding windows) at least one metre apart. This is because they are usually colonial nesters. Swift boxes/bricks are best located on north, north-east or east facing walls, at least 5 metres high, so that there is a clear distance (drop) below the swift boxes/bricks of 5 metres or more so that there is space for the swifts to easily fly in and out of the boxes. One of the best designs is those by Schwegler because they are very durable. See below for some websites with examples of swift boxes: http://www.nhbs.com/schwegler_swift_box_16_tefno_173237.html, <http://swift-conservation.org/Shopping!.htm>, Further guidance is available at: <http://www.swift-conservation.org/InternalNestTrays.htm>
5. Minor works on the Public Highway
 The development hereby approved includes the carrying out of work on the public highway. You are advised that before undertaking the work on the highway you must enter into a highway agreement under s184 or s278 of the Highways Act 1980 with the Council. You will be required to pay fees to cover the Council's costs in undertaking the approval and inspection of the works. You should contact the Highways Asset Management Team on 0117 9222100

Development Control Committee B – 16 September 2015
Application No. 15/03095/F: 14/15 Clay Bottom Bristol BS5 7EH

BACKGROUND PAPERS

The Coal Authority	24 July 2015
Nature Conservation Officer	19 August 2015
Contaminated Land Environmental Protection	10 August 2015
City Design Group	4 August 2015
The Coal Authority	7 August 2015

15 Clay Bottom



OS Mastermap
21 March 2013, ID: BW1-00216762
www.blackwellmapping.co.uk

1:1250 scale print at A4, Centre: 361989 E, 174830 N

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