

**List of People Requesting to Speak – Public Participation – DC A Committee –
6pm on Wednesday 5th October 2022**

**Deadlines - 5pm on Thursday 29th September 2022 for Questions, 12pm on
Tuesday 4th October 2022 for Statements**

A – Ashton Gate Stadium

- A5 – Alan Morris, Bristol Walking Alliance**
- A7 – Councillor Mark Bradshaw**
- A9 – Martin Griffiths, Chairman of Ashton Gate**
- A10 – Andrew Cockett**
- A11 – Andreas Kapoulas**
- A12 – Ben Breeze**
- A13 – Councillor Tessa Fitzjohn**

B – Silbury Road

- B1A – Danica Priest**
- B3 – Amanda Sutherland**
- B5 – Mark Ashdown**
- B7 – Catherine Withers**
- B9 – Miles Thompson**
- B11 – Alan Morris, Bristol Walking Alliance**
- B13 – Carol Durrant**
- B14 – Councillor Tessa Fitzjohn**
- B15 – Councillor Mark Bradshaw**
- B16 – Jaime Breitnauer**
- B18 – Martin Griffiths**
- B19 – Andrew Cockett**

C – Claremont School

- C1 – Coral Ducroq - Stride Treglown Planning Agent – SAME AS STATEMENT
NUMBER C5**
- C2 – Emma Richards - Claremont School Head Teacher**
- C3 – Daniel Rochard - Skanksa Contractor**
- C4 – Richard Hanks, Acting Director Education and Skills, Bristol City Council**
- C5 - Helen Lovesmith – Stride Treglown, Project Architect - SAME AS
STATEMENT NUMBER C1**

C7 – Councillor Sharon Scott

C9 – Simon Tomlinson

D – Colston Yard

D1 – Ben Dubuisson

D2 – Matt Golding

D3 – Hamilton Caswell

D4 – Dawn Shorten

D5 – Erica Dubuisson

D10 – David Wilkinson

D11 – Andrew Thresh, General Manager – Hotel Du Vin

D15 – Colin Pemble

D16 – Councillor Ani Stafford-Townsend

D17 – Chris Binding

Public Forum

D C Committee A

6pm on 5th October 2022



1. Members of the Development Control Committee A

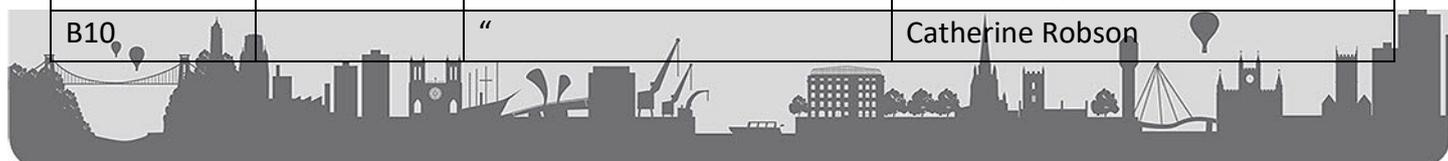
Councillors: Richard Eddy (Chair), Paul Goggin (Vice-Chair), Fi Hance, Farah Hussain, Andrew Brown (substitute for Andrew Varney), John Geater, Tom Hathway, Phillipa Hulme and Ed Plowden

2. Officers:

Gary Collins – Head of Development Management, Peter Westbury, Matthew Cockburn, Luke Phillips, Stephen Rockey, Phillipa Howson, John Smith, DSO



STATEMENTS & PETITIONS			
Statement Number	Request To Speak Made	Planning Application Number	Name
A1		21/03165/F – Land To The West of Ashton Gate Stadium	STATEMENT INCORRECTLY LISTED UNDER THIS PLANNING APPLICATION – See B1A
A2		“	Pamela Cookey
A3		“	Sam Comley
A4		“	Julie Davidson
A5	S	“	Alan Morris
A6		“	Nick Davies
A7	S	“	Councillor Mark Bradshaw
A8		“	STATEMENT INCORRECTLY LISTED UNDER THIS PLANNING APPLICATION – SEE B8A
A9	S	“	Martin Griffiths – Chairman of Ashton Gate
A10	S	“	Andrew Cockett
A11	S	“	Andreas Kapoulas
A12	S	“	Ben Breeze
A13	S	“	Councillor Tessa Fitzjohn
B1		21/03166/P – Land West of Silbury Road	David Chillistone – Portishead Railway Group
B1A	S	“	Danica Priest
B2		“	WITHDRAWN
B3	S	“	Amanda Sutherland
B4		“	Pamela Cookey
B5	S	“	Mark Ashdown
B6		“	Julia Victor, Western Slopes Novers Hill Group
B7	S	“	Catherine Withers
B8		“	Kate Windsor
B8A		“	Martyn Cordey
B9	S	“	Miles Thompson
B10		“	Catherine Robson



B11	S	“	Alan Morris, Bristol Walking Alliance
B12		“	Nick Davies
B13	S	“	Carol Durrant, Friends of Suburban Bristol Railways
B14	S	“	Councillor Tessa Fitzjohn
B15	S	“	Councillor Mark Bradshaw
B16	S	“	Jaime Breitnauer
B17		“	Tony Pitt
B18	S	“	Martin Griffiths
B19	S	“	Andrew Cockett
C1 – SAME AS STATEMENT NUMBER C5	S	21/05402/FB – Claremont School	Coral Ducroq – Stride Treglown: Planning Agent
C2	S	“	Emma Richards – Claremont School Head Teacher
C3	S	“	Daniel Richard – Skanksa Contractor
C4	S	“	Richard Hanks – Acting Director Education and Skills, Bristol City Council
C5 – SAME AS STATEMENT NUMBER C1	S	“	Helen Lovesmith – Stride Treglown, Project Architect
C6		“	Mhairi and Simon Granville-George
C7	S	“	Councillors Sharon Scott, Geoff Gollop and Steve Smith
C8		“	Ken Haddow
C9	S	“	Simon Tomlinson
D1	S	21/04208/F – 1A to 1C Colston Yard	Ben Dubuisson
D2	S	“	Matt Golding
D3	S	“	Hamilton Caswell
D4	S	“	Dawn Shorten
D5	S	“	Erica Dubuisson



D6		“	Lucy, Blaze Studio
D7		“	Filip Balogh
D8		“	Joanna Boyd and Sarah Salaman
D9		“	Vanina Shoemark
D10	S	“	David Wilkinson
D11	S	“	Andrew Thresh, General Manager – Hotel Du Vin
D12		“	Neil Whitcombe
D13		“	Sukhinder Sandhu
D14		“	Ruth Williams
D15	S	“	Colin Pemble
D16	S	“	Councillor Ani Stafford-Townsend
D17	S	“	Chris Binding



STATEMENT NUMBER A2

Dear Development Control 'A' Committee,

I am writing to you today looking for your support on The twin plans submitted by Ashton Gate for planning applications at both Longmoor Developments (Ref:21/031664/P) and Ashton Gate Sporting Quarter (Ref: 21/03165/F), which are due to be heard at next week's Planning Committee Meeting.

I write as not only a passionate supporter of sport, recreation, physical activity and well-being in the Bristol community who has followed the consultation process from the start but also as an International Athlete and former England Netball Captain who has enjoyed living in the community for the past 14 years.

After the challenging past 3 years of covid and lockdown it has never been more crucial that the City grasps an opportunity to build new and exciting sports and recreational facilities. These facilities would bring an increase in the sport and recreation on offer at all ages and all levels of performance and participation activities, leading to further doors opening to address the challenges of Equality, Diversity and Inclusion that still exist within the City. Charities and the local community will benefit in a host of ways in the form of access and useable activity space whilst the facilities could also provide longevity and financial sustainability for existing and new teams and clubs.

The housing proposals submitted alongside this planning concept also solves many issues in the area. Bristol has a housing shortage and the opportunity not only to provide homes but significantly improve the standard of living for so many should not be missed. The concept also boasts affordable housing which is another much needed asset to the area. The proposed site appears to be more than adequate for the development and well linked to the City and surrounding areas through public transport and highways. The project will not only provide housing but also jobs and significant improvement to the community through making best use of a former landfill site whilst having minimal impact on the neighbouring areas.

For all the reasons mentioned and many more, I would ask you to support these applications whole heartedly as I truly believe that this project will build a legacy for our City and our people of all ages to be proud of and benefit from for years to come.

Should you wish to discuss this further, please feel free to contact me.

Kind Regards

Pamela Cookey

STATEMENT NUMBER A3

Re: Ashton Gate Sporting Quarter (ref: 21/03165/F)

We are writing on behalf of the Bristol Flyers Supporters group to express our support for the Ashton Gate Sporting Quarter development.

We have spoken with fellow Flyer's supporters and members of the supports group and have compiled their comments below to show what a new home for the Bristol Flyers would mean.

A new dedicated home for the Bristol Flyers is essential to help the club grow, become sustainable and compete at the highest level possible. These benefits are for the entire Flyers programme across all age groups from Juniors through to Senior teams for both men and women.

The Flyers sell out almost every home game and the WISE arena doesn't match demand. If you look at the desire to watch Women's Football at Ashton Gate recently, the number of fans in attendance was 7 times higher than they can get at the Robins High Performance centre, so is a good benchmark that basketball can support bigger crowds / needs a bigger arena.

Whilst supporting the Flyers, we have been lucky to have been able to visit other teams' venues. When comparing the Flyers current venue with these it is obvious how a new home for the flyers is critical. Taking the time to speak to respective supporters' groups at teams with Dedicated venues, you can see there have been clear positive impacts on their communities and have been vital to helping the clubs become sustainable.

Having a sporting destination for Bristol where major sports are played out in the same area shows that the city is serious about sport. The new facilities could really put Bristol on the map as a leader in sports facility development. Potentially attracting further investment and usage during major national sporting events, thus generating income for the city as a whole.

In terms of basketball, it's an ever-growing sport in terms of popularity, things will only get bigger! If not Ashton Gate, then where?

In addition, Basketball is one of the highest participating sports in this country, yet we are restricted to very few venues, least of all a dedicated one. As a result, many youth teams are unable to access regular training as SGS is used so much by the flyers. With a true home for the Flyers, it will allow more younger people to take up the sport at a grass roots level, improving health and fitness levels across the city.

Furthermore, having a world class sporting facility will allow younger athletes to have something to aspire to, growing more hometown players who in turn become positive role models for the younger generation.

Thank you for taking the time to read our comments of support and hope that it has helped give an understanding of what this venue will mean to the Flyer's fans.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Sam Comley'. The signature is written in a cursive, flowing style with a long, sweeping underline.

Sam Comley & Amy Atkinson
Bristol Flyers Supporters Group Founders

STATEMENT NUMBER A4

The neighbourhood surrounding Ashton Gate needs to be protected. The stadium started off as a football stadium. They now hold Rugby, concerts, exhibitions, Graduation ceremonies and numerous other events.

This development includes numerous flats without parking, a hotel, basketball arena which will become a centre for lots more exhibitions and music event which has a capacity for thousands of people. Although there will be parking this will not be enough for all staff/residents/attendees of these numerous events which can happen every day. If people can park for free they will do.

We need to be able to come home at any time of the day and night and have a chance of parking somewhere close to our homes. We need to have a social life and have people to visit. This is very difficult now and will become impossible.

We need residents parking put in place before this development commences. The new flats are sold with no parking and should not have the option for resident parking. If staff require parking it should be provided by the stadium not taking up local spaces due to the stadium's massive expansion.

Whilst construction goes ahead parking should be provided on the site premises and should not encroach the neighbourhood. Construction hours should be enforced. On previous events/construction this has not been the case.

Please help us to have homes we come home to and live peacefully. I appreciate development needs to happen but it should not happen at a cost to those who are forced to put up with it due to expansion of the stadium and the numerous events it wants to hold.

Judie Davidson

60 Ashton Road

Statement by Bristol Walking Alliance on
21/03165/F (Ashton Gate Sports Quarter) and 21/03166/P
(Longmoor) - STATEMENT NUMBER A5



Pedestrian connection between Ashton Gate and Long Ashton Park & Ride

BWA questions why these two planning applications do not address the obvious opportunity to ease event day congestion by providing a direct pedestrian route from the Park and Ride site to the Ashton Gate stadium and Sports Quarter. We argue that the reserved matters conditions should be changed to rectify this omission. Alternatively, we ask committee members to obtain assurances from officers that the reserved matters conditions do not preclude such a route being provided at a later date, and that they as officers will be actively pursuing this.

Route from the P&R site to Winterstoke Road (Longmoor planning app)

Whilst a route exists alongside the Metrobus route, a more direct route is more likely to be used by event-day crowds. Such a direct pedestrian route should be wide enough to cater for event-day volumes of pedestrians. The Longmoor planning application refers to possible direct routes but labels them as future opportunities and does not commit to providing them.

There are essentially two possible direct routes:

- 1) along the Longmoor Brook. This would probably not be wide enough and could have an impact on its role as a wildlife corridor, and it would have to use some space on the edge of the industrial estate.
- 2) through the Longmoor estate and the middle of the Manheim/Cala industrial estates. This route will in any event be needed for all types of traffic when the Portishead rail service is opened. Network Rail and North Somerset Council have both pointed out that to provide a rail station at Ashton Gate (and to increase train frequency on this line) there should be future road access to the industrial estate that avoids the need for the current level crossing. We are unclear why “The Council [i.e.BCC] as Transport Authority has taken the position that a safeguarded route is not required as part of this application.”

Crossing of Winterstoke Road (Ashton Gate planning app)

BCC Transport Development Management has suggested an alternative location for a pedestrian crossing of Winterstoke Road, but no reasons are given why it is preferred. BCC’s option would be 2-stage, whereas the developer’s option would be 1-stage. BWA argues that a 1-stage crossing would be appropriate to cater for large event-day volumes of pedestrians.

Bristol Walking Alliance
4 October 2022

21-03615-P - STATEMENT NUMBER A6

I am writing to encourage members of the planning committee to approve this application which seems to me to provide a host of benefits for our city. These include new homes in a city with an acute shortage, high quality modern efficient office space which will improve employment prospects in South Bristol and the creation of a first class sport and convention centre. The attached hotel will ensure that the convention centre is viable as well as serving the needs of visiting teams and followers.

At the centre of this proposal is a dedicated home for the Bristol Flyers Basketball team. This is long overdue as the club has risen through the lower leagues to be a front running club in the British Basketball League attracting increasing numbers of fans and encouraging greater participation in the sport especially amongst young people whilst itself making do with a temporary and inadequate home. The proposal provides space for greater numbers of fans which will not only increase the revenue potential that is needed to sustain and grow the club but allows scope to increase awareness of basketball and provide the halo effect which encourages aspiring young players. As the basketball community is so culturally diverse (70% of BBL players are from BAME backgrounds) the latter outcome will be especially beneficial for our city both in terms of increased participation and cultural awareness. I hope that members will be inclined to approve this scheme as it is certain to deliver sporting, health and social benefit which will make our city proud.

W N Davies MRICS

4th October 2022

STATEMENT NUMBER A7

Statement to Development Control A Committee; 5th October 2022 -21/03165/F - Land To The West Of Ashton Gate Stadium (Ashton Gate Sporting Quarter) Ashton, Bedminster Ward

I welcome the commitment to invest in South Bristol at a time when the economy and cultural offer of Bristol has been intentionally tilted to favour growth and jobs to the north and outside of Bristol. Expansion at Ashton Gate will provide an additional range of sporting, cultural and entertainment facilities which will directly benefit local people and businesses.

As local councillor, Bristol Sport and its representatives have maintained a continuous dialogue with me during the lengthy period since the proposals were first announced. This included during the Pandemic when discussions were online. They were receptive to the issues I raised, and adjustments were made to the mix, scale and height of the development which I welcome.

The proposed development will provide employment and skills opportunities and I am confident that Bristol Sport and their contractors will utilise the best of skills available in South Bristol - particularly the new Construction Skills Hub.

The scheme represents a major expansion of facilities at Ashton Gate which will reinforce the strategic importance of this site and its significance to Bristol.

Although a separate application, I recognise the linkage between the funding of the development at Ashton Gate and the proposed residential scheme on Longmoor, in Ashton Vale, also in Bedminster Ward.

I want to highlight several issues of importance to the community in Bedminster.

- **Parking:** Although I'm supportive of this application, there is an urgent need to help local people faced with an ever-increasing demand for parking in residential streets on match and event days. Almost all the streets involved are NOT covered by resident's parking measures. Some, but not all, have junction protection. Funding and professional resource is required to commence the technical and legal work and to eventually implement an all-purpose RPS in the vicinity of Ashton Gate stadium. This has been raised with the current Administration, but progress has not been made. It is essential that this is addressed if consent for this development is granted.
- **Winterstoke Road (A3029):** performs badly as a key corridor and arterial route. The junction access for Ashton Gate will be enhanced, but there is a requirement to model options for how all Winterstoke Road can be improved over the medium term, if funds become available. Several of its legacy junctions are less than adequate and raise safety issues. Expansion of Ashton Gate will add to the traffic pressures on this road and some contribution towards scoping future improvements should be required.
- I welcome the restoration work for the **River Malago** and that this will become more of a visible biodiverse asset for people to enjoy.
- Further resource to engage with local schools to promote more **active well-being**.
- Some realignment of **public transport** access is needed with better located and coordinated set down and pick up points serving Ashton Gate and the surrounding area. Current bus shelters and stops without any shelter or real time information should be replaced/relocated. We must make it easier for people to travel to and from Ashton Gate by public transport. This will also benefit passengers using local bus services.

- Linked to this, the nearest rail station is at **Parsons Street**. Better signage and passenger information would help highlight this station as a travel option.

Councillor Mark Bradshaw

Labour Co-op Councillor for Bedminster

4.10.22



STATEMENT NUMBER A9

Committee Statement – Martin Griffiths, Chairman, Ashton Gate Stadium

21/03165/F - Land West of Ashton Gate Stadium

Thank you for having us here today. It's been four years of consultation, listening and planning.

We set out with a vision:

- To create a new City Quarter built on Sport
- To create a catalyst for expansion and regeneration in south west Bristol
- To be community driven
- To be place driven
- To be sustainable

The application before you is the culmination of this work and is about seizing an opportunity to change the status of sport in the regeneration of Bristol and how it can transform people's lives.

You've all witnessed the positive impact of the £45m redevelopment of Ashton Gate on local jobs, local supply chain, attracting international events, providing world-class facilities and of course enabling our charities to grow their incredible work in the community.

But we have to do more. We must bring forward new revenue streams to underpin the operations of the stadium and the clubs. We must future-proof ourselves for life after the Lansdowns.

The £126 million-pound, privately funded development of a Sporting Quarter will ensure:

- **A financially sustainable future** – *not just for the sporting teams but the conference centre and hotel will deliver much-needed business facilities.*
- **A new home for Flyers.** *Saturday's game saw them record their 55th consecutive sell-out. Without a bigger home they can't compete in Europe and they can't be financially sustainable.*
- **Investment in our environmental credentials** – with renewable energy, sustainable transport cycling and walking provision and increased biodiversity
- A CIL contribution of £3.4m *into local community infrastructure* and £1.9m additional business rate revenue

We feel passionately about the enormous benefit these plans can bring to the city and hope that you feel able to support them and continue to work with us to see them come to fruition.

Thank you.

Martin Griffiths
Chairman

Ashton Gate Limited

Ashton Gate Stadium, Ashton Road, Bristol BS3 2EJ
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VAT registration No: GB691787968

Committee Statement - Andrew Cockett, Senior Director (Agent)**21/03165/F Land West of Ashton Gate Stadium - STATEMENT NUMBER A10**

The proposals which would create a new and expanded Sports Quarter for the City include the demolition of all buildings on site and development of a Sports and Convention Centre (SCC) providing a much-needed new home for the Bristol Flyers Basketball team, with a seated capacity of 3,626. Further to the centrepiece SCC, the development will deliver:

- 1 A 232-bed hotel - vital to the future business case of Ashton Gate.
- 2 125 homes - addressing the housing crisis.
- 3 New office space - enabling the expansion of Bristol Sport Foundation and Ashton Gate operations.
- 4 A museum – commemorating the club histories over the years.
- 5 A gym – to complement the overall Sporting Quarter vision for active and healthy lifestyles.
- 6 A multi-storey car park – enabling a more efficient parking layout and greater public realm.
- 7 New cycle parking hubs - at all corners of the site with extensive covered / secure parking in the SCC.
- 8 Public realm and landscaping enhancements enhancing the Brook and a new Fan Zone.

The new home for the Flyers is a critical requirement, they currently operate out of temporary facilities in SGS College Filton that are not fit for purpose nor meet all of the league requirements. It will bring the Flyers into Ashton Gate with the rest of the Bristol Sport family.

The SCC, alongside the existing Ashton Gate Stadium, will enhance the home base of the Bristol Sport Foundation, from which they run their sport-led health and wellbeing outreach programmes – providing greater opportunities for communities to access sports facilities, classes and education.

The £126m scheme will be funded in part by the development of housing on Land West of Silbury Road (“Longmoor”) and both sites combine to deliver significant regeneration for South West Bristol. During construction the Ashton Gate Sporting Quarter (AGSQ) alone will deliver c. 750 jobs per annum and c. £53m in direct GVA per annum into the local economy. And in operation, expenditure into the economy of c. £24.5m direct GDV, 370 jobs per annum (excluding the estimated 7,930 event-based work shifts produced by the SCC annually) and £1.9m additional business rate revenue. The proposals will also generate a CIL contribution of £3.4m into local community infrastructure.

Other key matters include:

- 1 Housing – 125 new homes will be delivered assisting Bristol in meeting its housing needs, against the context of an identified shortfall. The 1 and 2 bedroom units will respond to an identified need for smaller units in the area. Whilst affordable housing is not offered at the current time due to viability (as confirmed following thorough analysis by officers and their external consultant) the scheme will be subject to a viability review during future phases should the financial viability improve.
- 2 Transport – the scheme will provide dedicated parking for the offices, residential units, hotel and the SCC in accordance with the Council’s standards. Overall, it will result in a net increase of up to 104 parking spaces on a match day improving the current parking situation – linked to

new travel plans secured by condition/s106 agreement. The car park includes 27 dedicated wheelchair accessible spaces and 108 active electric charging points with infrastructure for expansion as demand increases. The scheme will deliver a new/upgraded crossing point on Winterstoke Road and improved bus drop off facilities. Contributions will be made to signal and bus stop upgrades and the scheme will significantly enhance the pedestrian and cycling infrastructure provision. Extensive cycle parking is provided throughout to promote Active Travel opportunities.

- 3 Public Realm/Landscaping – The project will have a biodiversity net gain in excess of 10% through a well-conceived landscaping scheme that will greatly enhance Colliters Brook - the focal point and ‘green spine’ of the Sporting Quarter. New public realm and pedestrian spaces have been designed to cope with large crowds with soft edges and green infrastructure creating attractive through routes and meeting points on non-event days. The result is a rationalised space, more permeable than ever before, to the benefit of new and existing residents and commuters.
- 4 Sustainability – The applicant has worked closely with officers to deliver a sustainable development that meets and where possible exceeds policy targets. A commitment has been made to connect to the District Heating Network from day one, should it come online in time with AGSQ likely to be the anchor development. The scheme has also developed a fallback scenario, should a day one connection not be feasible including the provision of low carbon Air Source Heat Pump technology.
- 5 Town Centre and Retail Uses – The site has been carefully appraised by officers and their own specialist consultant to ensure the proposed uses do not harm the viability and vitality of existing centres. The SCC is markedly different from anything in existence or planned in the city due to its size and offer, including its relationship with Bristol Flyers and Ashton Gate and will therefore complement rather than compete with the City’s overall commercial and cultural offer. It will enable the city to compete with existing venues in other cities and ensure that trade and investment is kept within the city. Likewise, the small retail offer is dedicated to the Bristol Sport family, comprising a new expanded club shop. As this is most appropriately located next to the venues, rather than elsewhere in the city it will not have a harmful effect on other main or district centres. As such officers confirm that the sequential test has been passed.
- 6 Scale and massing – The design evolution included several rounds of pre-application discussion (including Design West) and extensive engagement with the local community. The initial concept proposed taller buildings which were reduced in height and scale to respond to feedback. A well-balanced scheme is proposed with a single centrepiece building of 14 storeys that will act as an arrival and reference point. The remainder of the development set lower at a more consistent height allows the wider masterplan to relate with and step down to the surrounding building heights.

AGSQ represents a significant regeneration opportunity for South West Bristol placing sport, health and wellbeing at its centre. It will enhance the offer already provided by the Bristol Sport Foundation, significantly improving their reach and scope. The scheme will also deliver improvements to the highways network and parking provision for matchdays, improvements to sustainable travel including cycling and walking and greatly improve site permeability. The scheme is well designed, enhances landscaping and biodiversity and will make best use of low carbon technologies.

Officers have thoroughly considered the key planning considerations and conclude that there are strong grounds to grant planning permission.



STATEMENT NUMBER A11

Committee Statement – Andreas Kapoulas, Head Coach, Bristol Flyers

21/03165/F - Land West of Ashton Gate Stadium

I'm the Flyers Head Coach and Assistant Coach to the GB Men's team.

This development represents a huge opportunity for the Club and the City. It's a game changer.

Since joining the British Basketball League eight years ago Flyers have consistently grown in success and support. We've sold out every home game since October 2018 – that's 55 consecutive sell-outs. Our ambition is to grow the sport of basketball and the positive impact that it has on the community.

By having our own home at BS3 we will have the third largest venue in the BBL, enabling us to:

- **Compete at the highest level** – including playing in Europe and attracting top level domestic and international talent
- **Achieve financial sustainability** – *something our limited capacity at SGS prevents us from doing. The Lansdown family financially supports basketball, just as they do football and rugby but we have to plan for the long term and becoming financially self-sufficient is a cornerstone of our sporting group's strategy*
- **Invest in our Women's team** to play alongside the men – through a WBBL franchise. *Just as we have done already with our City and Bears football and rugby teams*
- **Grow our academy and player pathway**—*offering opportunities to youngsters in this city to study, travel and play this sport representing Bristol and GB around the globe.*

To bring basketball to BS3 alongside football and rugby, will attract not just sport but business and entertainment to the city. It will have a huge positive impact on our local community and the development of the sport.

It is a once in a generation opportunity for our sport and my players, the fans (who are here tonight) and I, sincerely hope you will help us achieve it.

Coach Kapoulas
Bristol Flyers



STATEMENT NUMBER A12

Committee Statement – Ben Breeze, Chief Community Officer, The Bristol Sport Foundation

21/03165/F - Land West of Ashton Gate Stadium

I lead on Bristol Sport's community outreach.

Through 17-years of direct sport development experience, the single biggest contributing factor restricting our growth, and therefore the public benefit we can provide - is access to facilities.

We know that 34% of ALL 10 and 11-year-olds in Bristol already carry excess weight.

We know that increased physical activity, leads to improved physical and mental health outcomes and that a long-term and preventative approach to healthcare is required.

Bristol Sport Foundation is a multi-sport charity that teaches over 8,500 young people per week skills to first **attain**, and then **maintain** healthy levels of physical activity that improve physical and mental health outcomes.

Our community basketball offer has more than doubled in a year – our two founding basketball hubs – have seen a 175% increase in participation.

The Sporting Quarter provides an opportunity to build on our health and well-being partnership working with Bristol City Council, to unlock new facility and sport development funding to support the most disadvantaged communities in Bristol – the development will provide an extra 40,000 hours of community sport. I urge you to back these applications.

Ben Breeze
Chief Community Officer
Bristol Sport Foundation

Statement to object for application No 21/03165/F - **STATEMENT NUMBER A13**

I am objecting to the lack of sustainable transport facilities in The Ashton Gate Sporting Quarter Application. There is work to be done, creating better active travel links between the Long Ashton Park and Ride, encouraging staff and visitors to use public transport and I am generally concerned for the fact that the design includes a multi-Storey car park for 536 cars, and is 8 storeys high.

I fully support the development of increased sports facilities and appreciate the training opportunities that Ashton Gate offer young people, and the support they give to charitable trusts such as St Mungo's. However, I don't consider the design quality of the buildings, to high to dense and old fashioned in our digital age. Buildings, like people need to be flexible responsive and creative in their design. Public Realm is an increasing need as our cities become denser, and there is less green space.

I'm aware Ashton Gate are making strides in their sustainability measures but consider this application could continue this good work particularly around transport as my residents testify that they are unable to park on match days and require better public transport such as local railways.

I urge DCA to turn down this application in order to work further on the concerns I'm raising.

Cllr Tessa Fitzjohn Bedminster Ward

STATEMENT NUMBER B1 - David Chillistone, Portishead Railway Group Development Control Committee A meeting on Wednesday 5 October 2022

Application no. 21/03166/P

Site address: Land West Of Silbury Road Bristol

Proposal: Application for Outline Planning Permission With Some Matters Reserved - for phased residential-led development including affordable homes and commercial/community floorspace (Use Classes E and F.2), amenity green spaces; natural and semi natural greenspace; provision of associated infrastructure including footpaths/cycleways and new vehicular and emergency accesses; and provision of associated engineering and landscaping work including SUDs. Approval sought for access with all other matter reserved.

Public Forum Statement from Portishead Railway Group

The Bristol-Portishead Railway will be reinstated at an initial hourly service, due to the currently available budget, but two future developments of the Bristol-Portishead Railway must be protected: building a station at Ashton Gate, and increasing the train frequency to half-hourly.

Either of these future developments will require the permanent closure of the level crossing at Ashton Vale; Network Rail have been very clear about this.

However, permanent closure of the level crossing will cut off all vehicle access to and from the Ashton Vale Trading Estate. An alternative access road was planned (see Network Rail document P/TP21/442, dated 19th July 2021) to ensure future viability of the station and increased train frequency.

Bristol City Council wants, and needs, to radically reduce the number of carbon-fuelled vehicle journeys into and out of the City, and has also ring-fenced the land for a station at Ashton Gate. Bristol City Football Club also wishes to see a station built at Ashton Gate.

Despite these laudable aspirations, Bristol City's Local Planning Authority and Bristol City Football Club are supportive of the Longmoor Village development, south of the Ashton Vale Trading Estate, which will build across the only available route for a replacement access road for the Ashton Vale Trading Estate.

As currently envisaged, this development would ensure that because of the lack of provision for the new access road for the Ashton Vale Trading Estate, a station at Ashton Gate can never be built, and train frequency can never be increased.

Simply put; this is a mess, but it also spells danger for other possible rail developments, such as completing the Henbury Loop through Avonmouth, or developing the Tytherington Quarry line from Yate, to provide passenger services to and from the outskirts of Thornbury.

It seems those who support the development of railways to help defeat climate change cannot rely on support from Local Planners and Big Business. Indeed, the Longmoor Village proposal indicates Local Planners and Big Business may be actively preventing railway development.



Network Rail
1st Floor
Bristol Temple Point
Bristol

Date: 19 July 2021

TOWN AND COUNTRY PLANNING ACT 1990 (as amended)

APPLICATION NO: 21/03166/P - **PROPOSAL:** Application for Outline Planning Permission With Some Matters

Reserved - for phased residential-led development including affordable homes and commercial/community floorspace (Use Classes E and F.2), amenity green spaces; natural and semi natural greenspace; provision of associated infrastructure including footpaths/cycleways and new vehicular and emergency accesses; and provision of associated engineering and landscaping work including SUDs. Approval sought for access with all other matter reserved.

LOCATION: Land West Of Silbury Road Bristol

Dear Sir/Madam,

Works to provide an hourly train service to Portishead are progressing ahead as part of the project called MetroWest and the line is planned to open to passenger trains in late 2024 with an hourly service (We are currently waiting for the decision of approval from a Development Consent Order). In the medium term, we must however plan and consider passive provision for the Portishead Line being upgraded to a half hourly service and for a potential new station at Ashton Gate to serve Bristol Sport's new development. The close proximity of the proposed site of the station to the Ashton Vale level crossing would mean that that the level crossing barriers would be activated each time a train called at the station and consequently, this would result in additional traffic impacts (beyond MW Phase 1 impacts) on the local highway network. To secure both enhanced service frequencies and a new station at Ashton Gate, an alternative highway access for Ashton Vale Road must be secured to facilitate the closure of the level crossing. The first step in achieving the alternative highway access is to make sure that a suitable alignment is reserved and safeguarded from future development from the rear of the trading estate. Attached are the draft designs carried out at the feasibility stage of MetroWest which outline possible routes that could be installed.

Network Rail does not formally object to the principle of this development albeit on the

basis that the residential scheme is in outline only the vehicular access through the site could be adapted to be dual function or the layout of the scheme amended to provide a route to the rear of the estate (once designed and submitted at reserved matters). We are fully aware that such a scheme would need to be funded (which it currently isn't) require a separate planning application and landowner agreement and would probably need to be secured through a Transport and Works Act Order, however if the application as currently envisaged is developed the options to provide an alternative access and secure the closure of the level crossing will be more limited and could put a risk the ability for additional train services on the line and the construction of a new railway station to serve this part of Bristol and provide better public transport access to the proposed and existing sporting facilities.

Notwithstanding the above, I provide additional comments and requirements for the safe operation of the railway and the protection of Network Rail's adjoining land.

SAFETY

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works start. Initially the outside party should contact assetprotectionwestern@networkrail.co.uk.

DRAINAGE

Soakaways / attenuation ponds / septic tanks etc, as a means of storm/surface water disposal must not be constructed near/within 5 metres of Network Rail's boundary or at any point which could adversely affect the stability of Network Rail's property/infrastructure. Storm/surface water must not be discharged onto Network Rail's property or into Network Rail's culverts or drains. Network Rail's drainage system(s) are not to be compromised by any work(s). Suitable drainage or other works must be provided and maintained by the Developer to prevent surface water flows or run-off onto Network Rail's property / infrastructure. Ground levels – if altered, to be such that water flows away from the railway. Drainage is not to show up on Buried service checks.

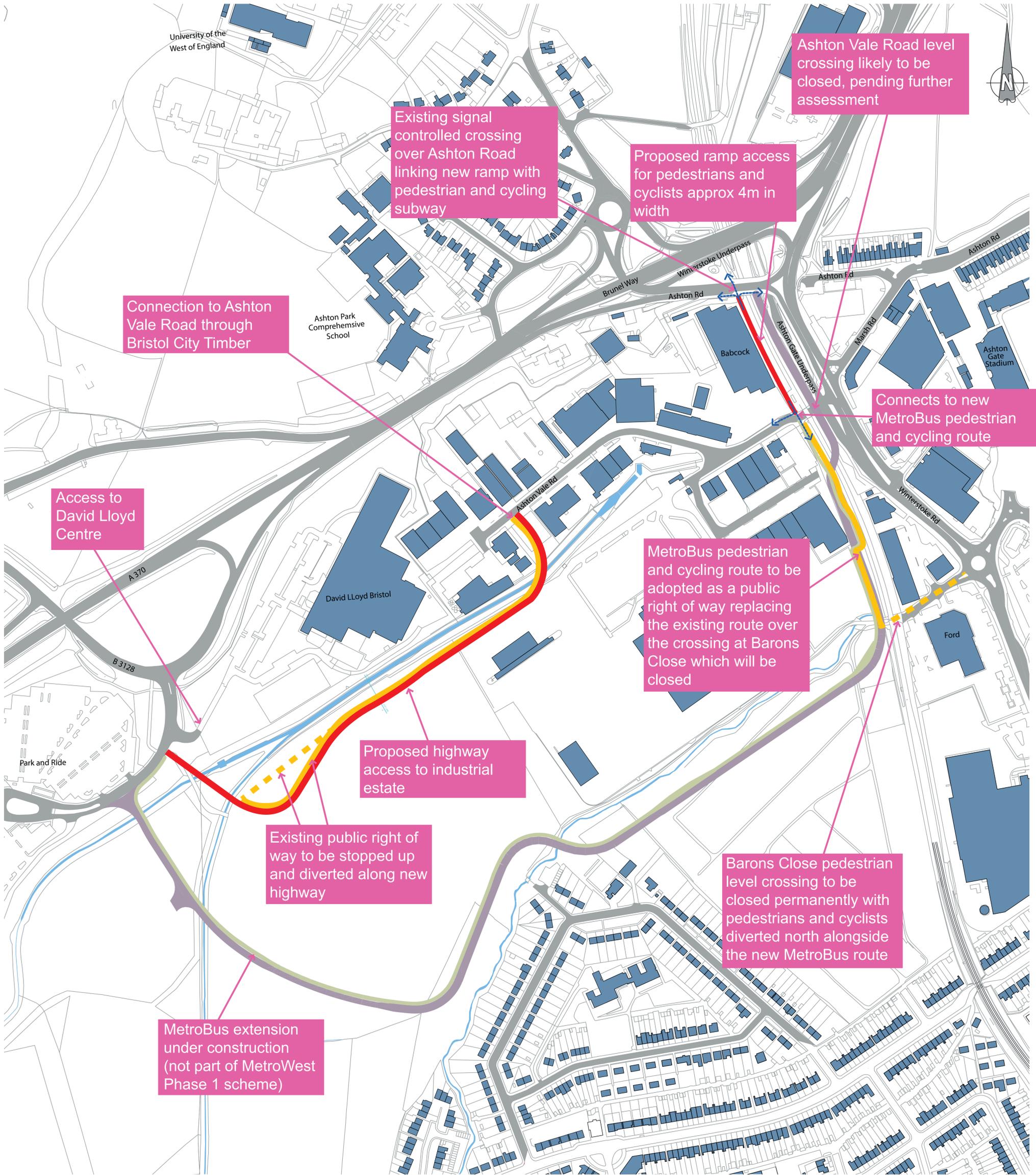
Yours Sincerely,

Grace Lewis

Town Planning Technician Wales and Western
Network Rail
Temple Point, Redcliffe Way, Bristol, BS1 6NL

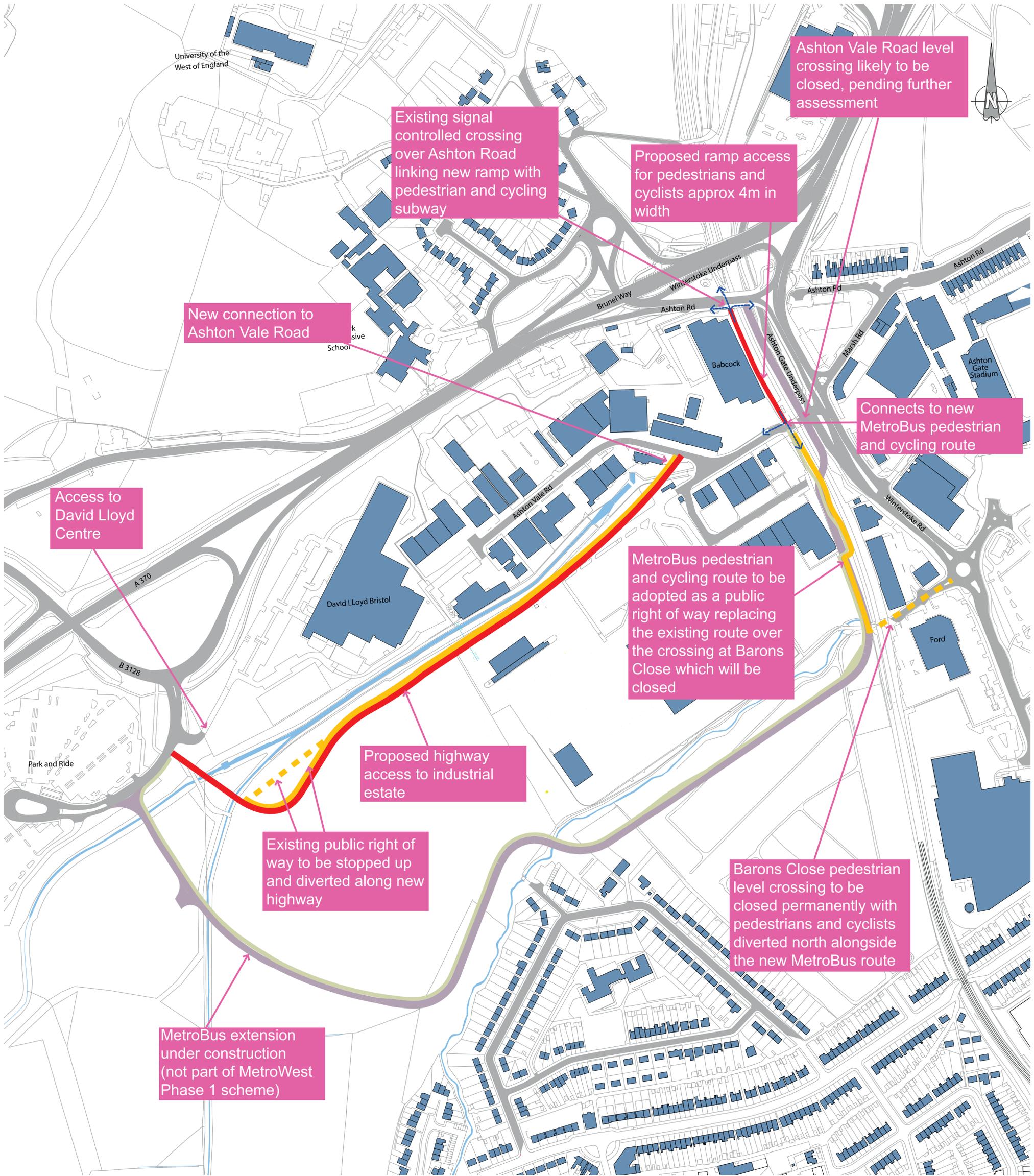
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Ashton Vale Road Consultation



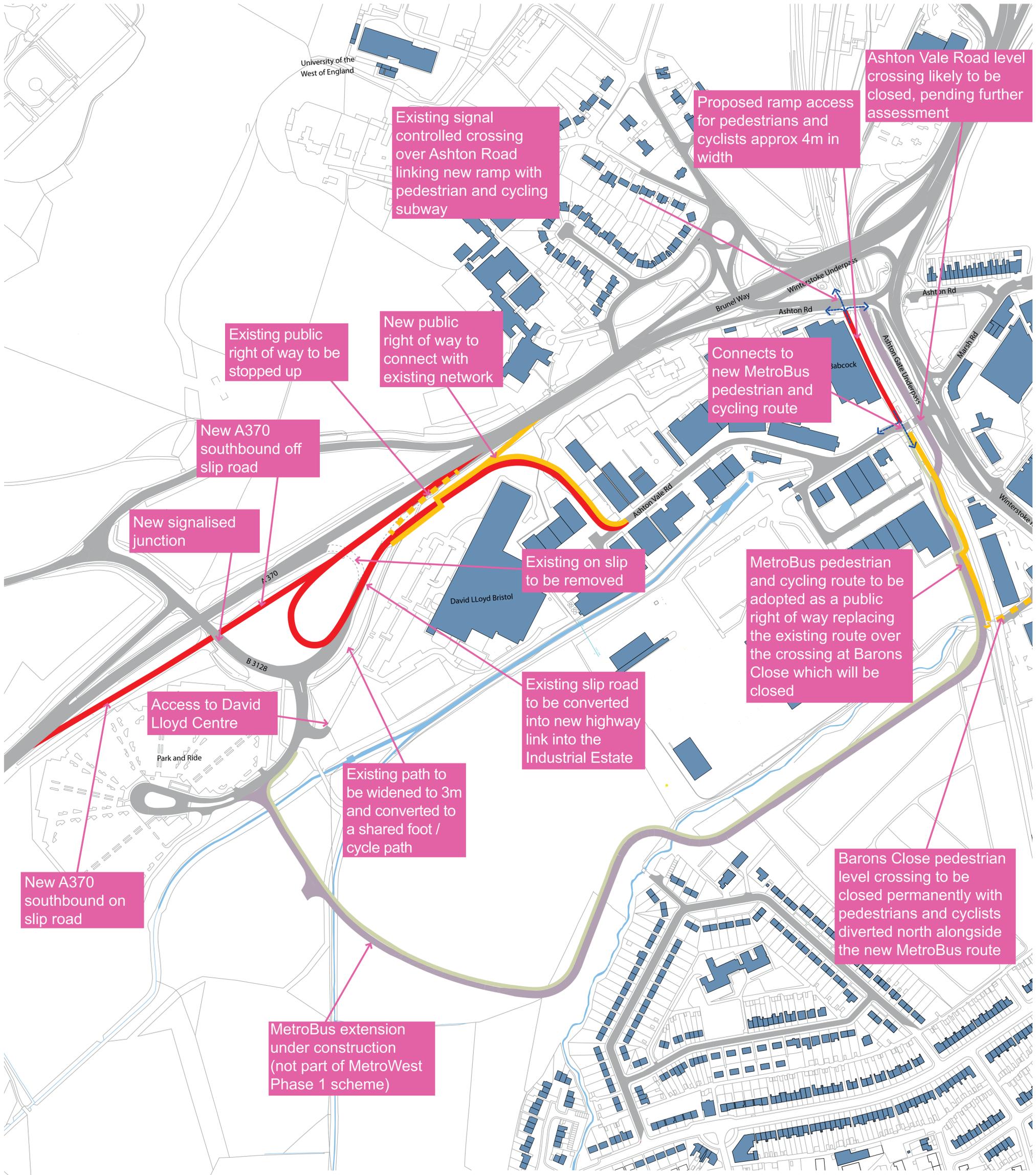
Option A

Ashton Vale Road Consultation



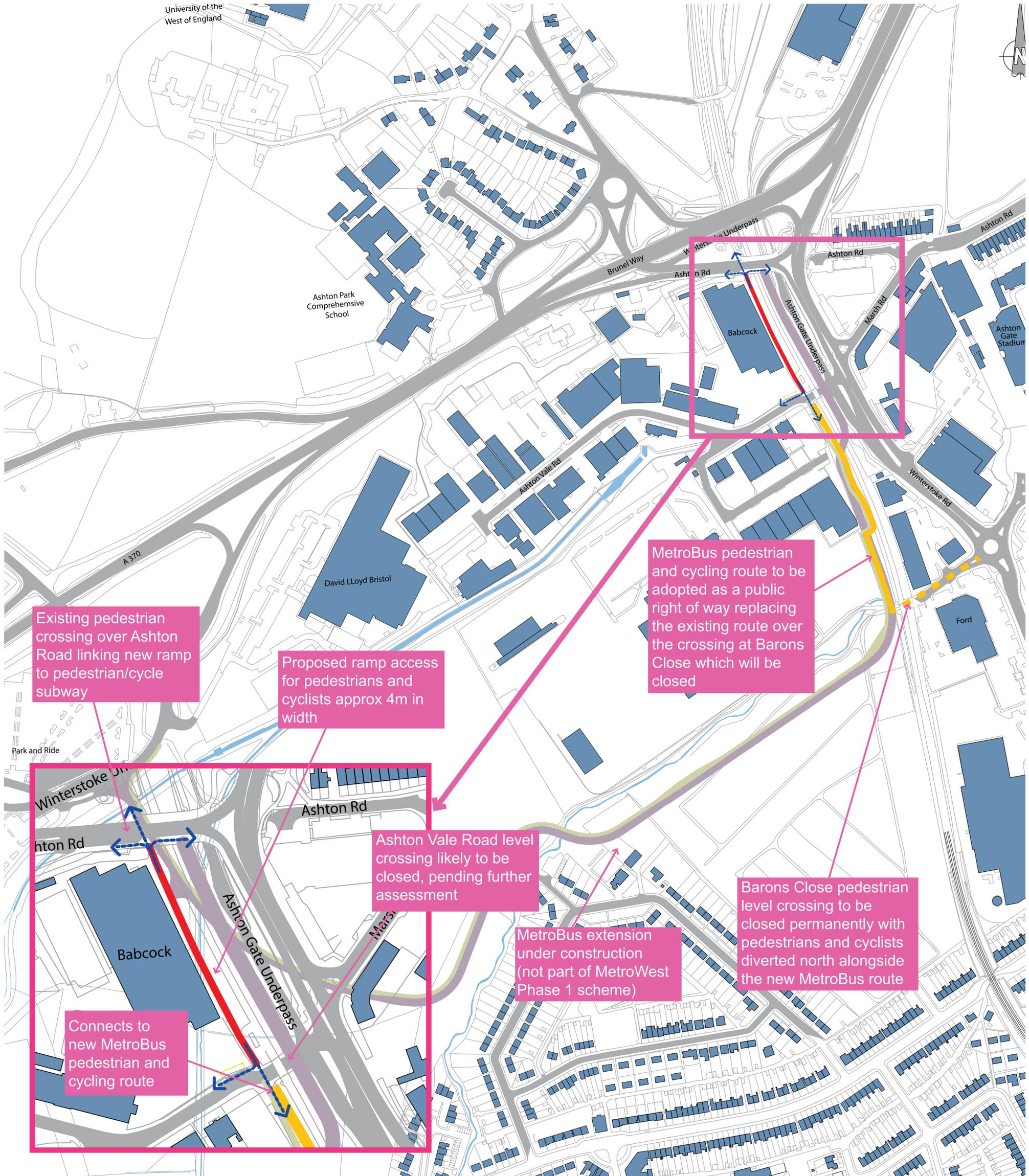
Option B

Ashton Vale Road Consultation

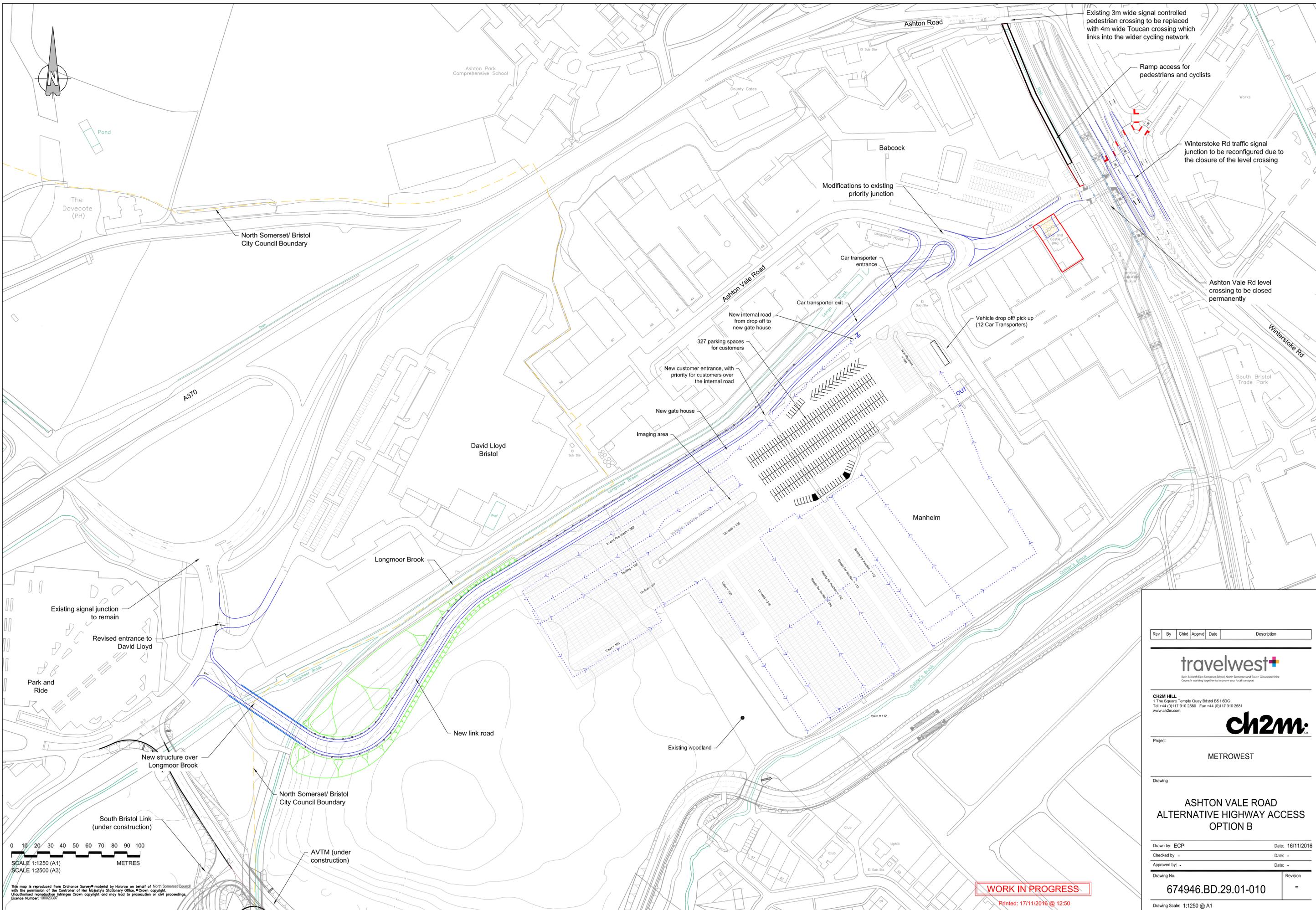


Option C

Ashton Vale Road Consultation



Details of proposed pedestrian and cyclist access



Rev	By	Chkd	Apprd	Date	Description

travelwest
Bath & North East Somerset, Bristol, North Somerset and South Gloucestershire Councils working together to improve your local transport

ch2m
1 The Square Temple Quay Bristol BS1 6DG
 Tel +44 (0)117 910 2580 Fax +44 (0)117 910 2581
 www.ch2m.com

Project: METROWEST

Drawing: ASHTON VALE ROAD ALTERNATIVE HIGHWAY ACCESS OPTION B

Drawn by: ECP Date: 16/11/2016
 Checked by: - Date: -
 Approved by: - Date: -

Drawing No. 674946.BD.29.01-010 Revision -

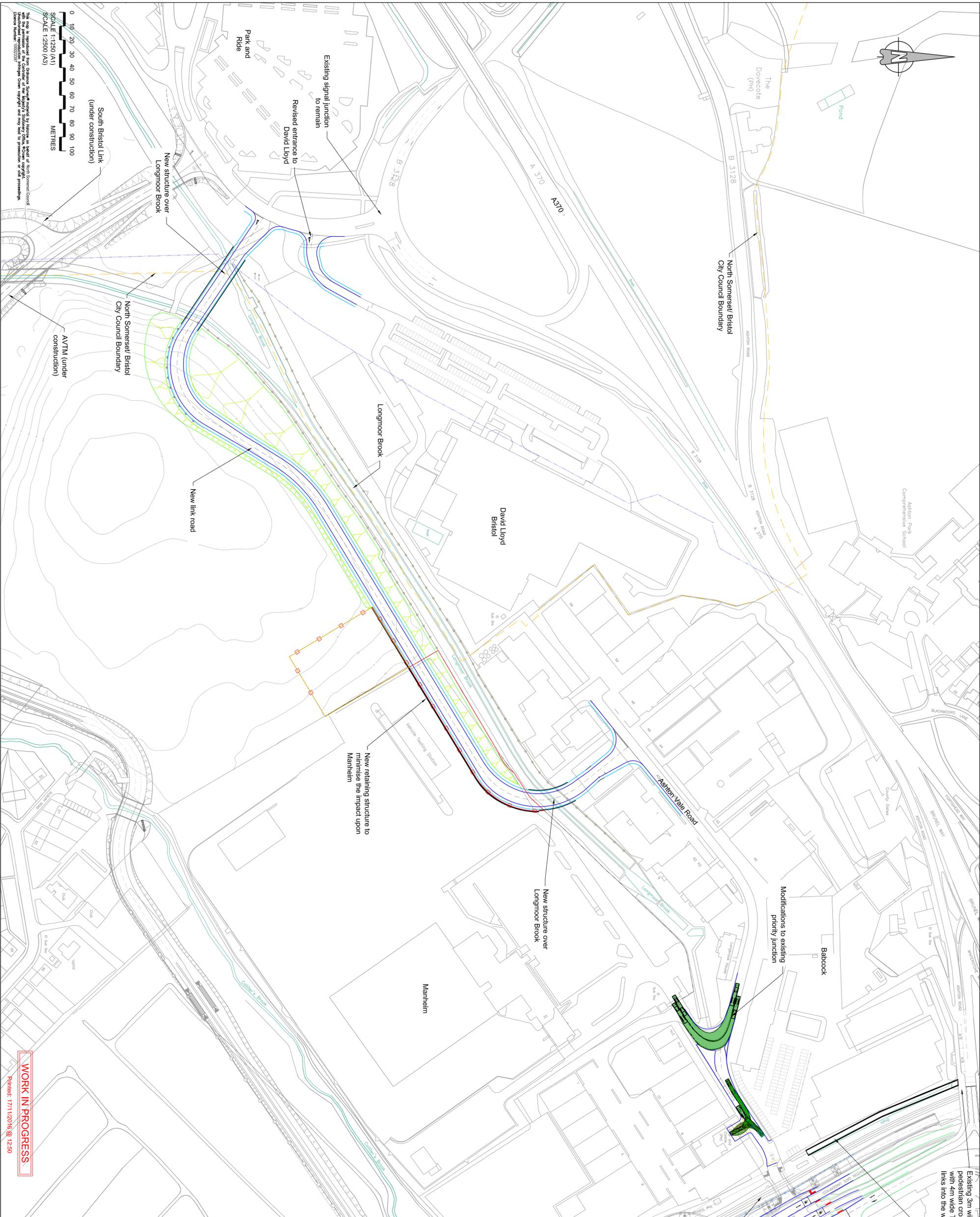
Drawing Scale: 1:1250 @ A1

WORK IN PROGRESS
 Printed: 17/11/2016 @ 12:50

0 10 20 30 40 50 60 70 80 90 100
 SCALE 1:1250 (A1)
 SCALE 1:2500 (A3)
 METRES

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Drawing file path & name: C:\Users\asad\Projects\North Somerset\674946.BD.29.01-010 to xxx Rev 0.dwg



0 10 20 30 40 50 60 70 80 90 100
 METRES
 SCALE 1:250 (A1)
 SCALE 1:250 (A2)

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WORK IN PROGRESS
 Printed: 17/11/2016 @ 12:50

Existing 3m wide signal controlled pedestrian crossing to be replaced with 4m wide Toucan crossing which links into the wider cycling network

Ramp access for pedestrians and cyclists

Wintersloke Rd traffic signal junction to be reconfigured due to the closure of the level crossing

Ashton Vale Rd level crossing to be closed permanently

Rev	By	Chkd	Apprd	Date	Description

travelwest
 Travelwest is a registered company in England, No. 02053888. Registered office: 100, The Quadrant, Bristol, BS1 2QJ. Tel: 0117 910 2880. Fax: 0117 910 2881. www.travelwest.co.uk

CH2M
 CH2M HILL
 1 The Square, Temple Quay Bristol BS1 1DS
 Tel: +44 (0)117 910 2880 Fax: +44 (0)117 910 2881
 www.ch2m.com

Project: METROWEST

ASHTON VALE ROAD
 ALTERNATIVE HIGHWAY ACCESS
 OPTION A

Drawn by: ECP Date: 08/11/2016
 Checked by: - Date: -
 Approved by: - Date: -
 Drawn by: 674946.BD.29.01-001
 Drawing No. -
 Drawing Scale: 1:2000 @ A1

STATEMENT NUMBER B1A Here's the TLDR version on appeal proof grounds you can use for refusal:

- Protected species and ecology concerns
- Flood risk
- The bat surveys are over 2 years old and there is a legal precedent for councils refusing on this basis alone
- This site is a designated core grassland from the West England Nature Partnership(WENP) (we have few of those left and most are threatened with development)
- Noise, air, water and ground Pollution by both ETM and the landfill site (we shouldn't be building on former landfills)
- Greenbelt protection (exceptional circumstances have not been met)

Moral/political reasons for refusal

- Green spaces motion
- 6,300+ people signed a petition to save Ashton Vale
- Environmental regulations

Now to elaborate and provide sources:

Natural England provides local authorities with a checklist to help them determine whether or not an application should be approved or refused. I've filled out the checklist for you and posted it at the end of this statement.

A study published last year found that the majority of species mitigation proposals in planning applications were not based on any real-world evidence. That's really worrying!

Source:'A home for all within planetary boundaries: Pathways for meeting England's housing needs without transgressing national climate and biodiversity goals' [Ecological Economics](#) vol 201

Link: <https://www.sciencedirect.com/science/article/pii/S0921800922002245>

There are also factors that are left out of ecology plans for example 24% of people own cats so if 500 homes are built on Ashton Vale that will add approximately 120 cats into a site near a rare bat breeding ground. Don't get me wrong I'm a huge cat lover but you can't say that won't have a massive effect on the local bat and bird populations.

The BCC consultant's comments seem to be limited to what is the legal bare minimum and doesn't scrutinise the ecological damage and mitigation from a practical standpoint. In other words he's treating the ecology report as a Tick box exercise.

In addition he doesn't give any justification to why he overrides the original consultant, Steph's objections. All he says is: 'their comments seem reasonable to me'. I'm not sure if you are aware but in one of those comments the applicant justified not doing the minimum requirement for bat surveys because cows might trample the detector. Besides the fact that it's laughably ridiculous to blame livestock for your lack of survey data, it's just not factual. I know the farmers who own those cows and all you have to do to overcome that 'restriction' is to do the survey during the period where farmers are cutting hay since they wouldn't have cattle out in the field and/or the farmers could be asked and communicated with regarding not mowing during monitoring. I'm concerned that no one caught this error.

There are two professional ecologists plus Natural England who have submitted objections/concerns to this application that contradict what The consultant has said. In addition to this another licensed ecologist, has done a bat survey last year on the site and recorded the results which also contradict the applicants ecology reports. I accompanied her on this survey and not only did we detect several bat species within 5 minutes of recording during October which is late in the season for bats, we actually saw them foraging with our own eyes. The applicant's report states that the site is not adequate for bat foraging. Luckily bat detectors pick up when bats are eating so you don't have to take my word for it. The evidence of bats foraging was submitted to BRERC along with the results of the survey.

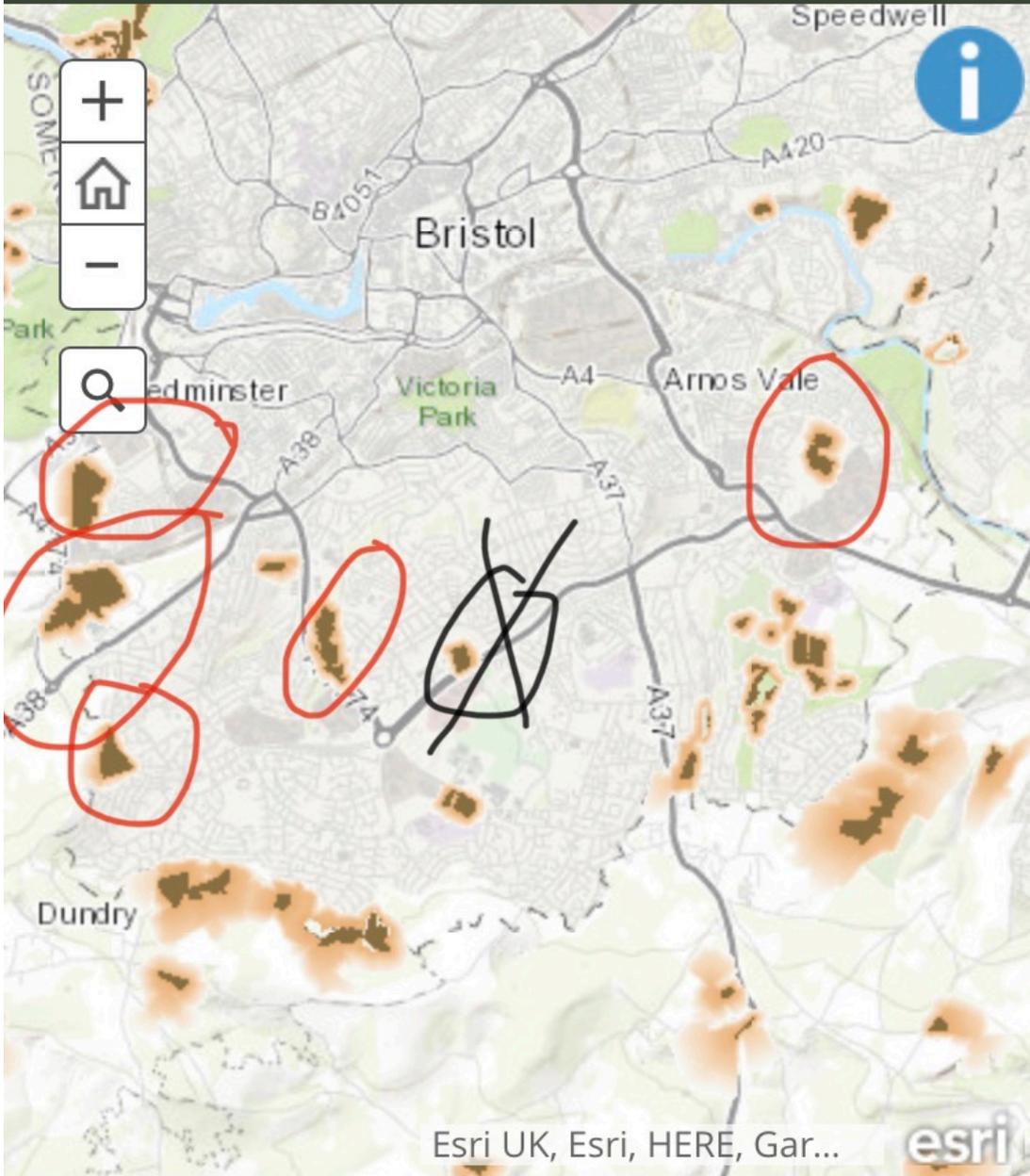
Nature England's comments in Jan 2022 corroborate this:

'The application must mitigate for the loss of the cattle grazed pasture resulting in the loss of a potential horseshoe prey resource. Detailed proposals of the mitigation for the loss of foraging habitat will be required to inform HRA.'

None of these ecology mitigation plans or comments have addressed that this site is one of the 'core grasslands' according to West England Nature Partnership (WENP) and part of the grassland network. This site has been recommended to be protected by WENP because of this. At the moment the majority of our core grasslands in South Bristol (and Bristol overall)

are at risk of development and one has already been lost forever. Brislington meadows, yew tree farm, Ashton vale and the western slopes are all core grasslands with pending planning applications and Filwood park has been built over and reduced to a turf monoculture. I asked the planning officer to put this map on the portal but that sadly never happened.

The red circles show sites that are threatened with development, the black circles are sites already lost.



Grassland Network

Next: Grassland Opportunities

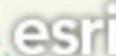


State of Environment A...



What does the map show?
 The brown areas show the 'core' areas of grassland. These are areas greater than 0.5ha which are the most species and flower rich areas in the region. The orange areas show the land that supports the core areas and enable species to move from one core area to another, helping make coherent and resilient networks.

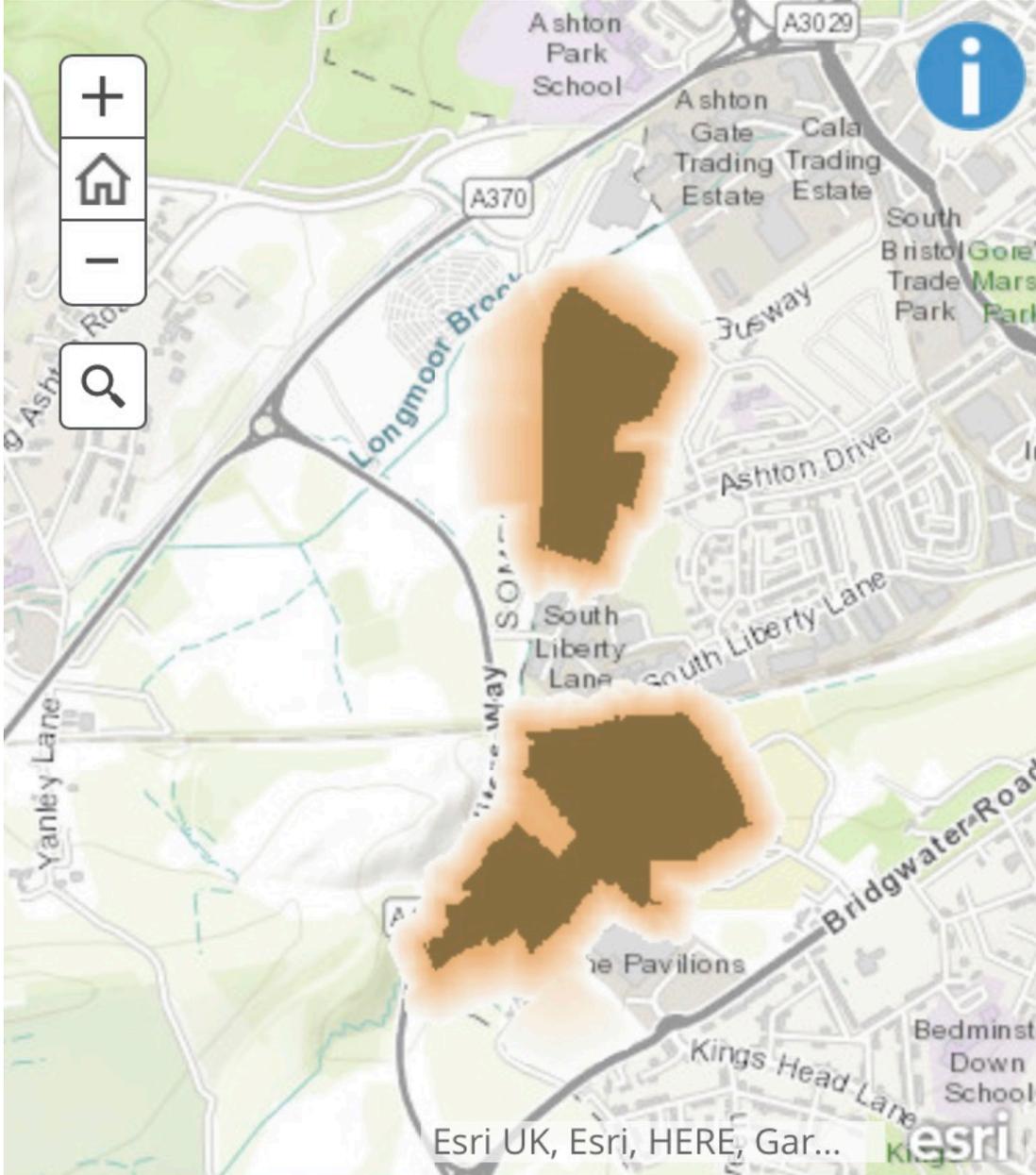
Esri UK, Esri, HERE, Gar...



Grassland Network

Next: Grassland Opportunities





Grassland Network

Next: Grassland Opportunities



Source: [State of Environment Assessment](#)

the planning committee is entitled to refuse this application on the expired surveys alone. The appeal case (reference APP/P1133/W/18/3205558) sets this precedent. More information on that case here: [What is the shelf life of an ecology survey? A recent appeal case in Devon provides a useful precedent. | CSA environmental](#)

The other objections like damage to the wildlife corridor are serious concerns and would be contrary to local plan policy DM19. I disagree with the officer's conclusion about DM19.

I'd also like to remind you of North Somerset Council's objection/ application refusal and inform you that they unanimously voted on an amendment that would take all greenbelt and nature rich sites out of their local plan. This means the greenbelt land between North Somerset and Bristol where part of this development lies is not going to be allocated for housing. A few of us have been working with North Somerset councillors and I can tell you the feeling is strong that no greenbelt development is acceptable. You are welcome to watch the meeting and see for yourself. <https://youtu.be/gnMYcu0AkBI>

There will be no cooperation with Bristol city council on the greenbelt and any proposals will be fought. Long Ashton Parish Council have thousands set aside to fight this if needed.

On a legal level the exceptional circumstances for greenbelt development have not been met. Others will cover this more in detail so I won't waste your time repeating it but I can assure you our conclusions were backed by legal advice and will stand up in court if need be. It is not enough that these houses will finance the stadium. That's putting profit over people.

The application also goes against the green spaces motion passed in sept 2021 which clearly states greenbelt and green spaces Development is unacceptable. If this application is approved it will show BCC wasn't authentic in their promise to save our greenbelt.

There were over 6,300 people, mostly Bristol residents, that signed a petition to save our green spaces from development. This petition specifically named Ashton Vale. This was also brought to the attention of the planning officer but not included in his report. <https://www.change.org/p/bristol-city-council-no-more-building-on-green-spaces-in-the-city-of-bristol>

I'm not sure exactly how to say this without sounding like an ungrateful immigrant but the UK's environmental protections are far below other countries. The laws and governing bodies are not strong enough to protect our planet and people from the effects of climate change. They haven't even been strong enough to keep sewage out of our waters and have resulted in England being one of the most nature depleted countries in the world. The UK only has half of its natural biodiversity left, we've lost 97% of our meadows and More than 40 million birds have disappeared from the UK's since 1970.

Source: <https://www.nhm.ac.uk/discover/news/2020/september/uk-has-led-the-world-in-destroying-the-natural-environment.html>

The very strictest requirements for the EA and Natural England are light years beneath the regulations we have in Virginia. We give jail sentences to millionaires who destroy wetlands. When is the last time that happened in the uk?

Source: <https://www.upi.com/Archives/1992/11/29/Wetlands-violator-heads-for-prison/2857723013200/>

England lacks proper erosion sediment control laws and our storm water management requirements are laughable. I don't say this to sound superior, I say this because I want you to see that you are our main protection against environmental harm. I appreciate that you have to stick to planning law but in this case there are enough solid planning reasons for refusal so you get to make that moral judgment. You get to decide if the harm outweighs the benefit.

What I'm asking you to do is see how the EA and Natural England requirements are bare minimum if even that. They aren't strong enough on their own to protect us. Our current system allows developers to compensate for environmental loss with financial contributions and offsetting. This isn't good enough and we need you to be the voice of nature and climate change because the reality is no one will enforce these conditions.

Just think about How many floods we had in the uk this year and how much worse this will get every year with climate change. We can't afford to lose this space to development. This is a serious safety concern as is the fact that the site was a landfill. In Virginia finding out a site is a landfill will shut down development. There is a huge chance of hazardous

chemicals causing harm. We shouldn't be risking that when there are brownfield sites available. This is about more than housing. It won't be affordable if the residents lose everything to flooding.

Ecosystems are like historical artifacts. You can't replace them with something new. Once these spaces are gone that's it. There's no going back. This is a permanent decision that will effect future generations and their access to nature forever.

On a personal level this space has helped me through some really dark times which is why I feel so passionately about saving it. I normally like to stick to facts because I know planning law doesn't care about my feelings but this loss will be devastating to me and so many others. I discovered Ashton Vale during lockdown when I was completely isolated in the 1 bed flat I was (and still am) renting with no access to green space and was worried sick about my elderly parents in America. It's one of my favourite places to run too because it's a completely unique nature site. The wildflowers are stunning and the wetlands remind me of a Middle Earth landscape. I promise the economic benefit of saving this space will outweigh any gain from its destruction. It's been proven that nature is beneficial for both physical and Mental health.

Speaking of mental health the harassment and hate comments those of us who have spoken out about this issue and about saving green spaces have received has been abhorrent. We are all just normal people that do this in our free time because we care about our community. For this we have been called selfish, Nimbys, my family and friends have even been contacted and had hate comments all because I've spoken out. It's exhausting. There's no line these Bullies won't cross. The worst example is someone actually bullied me over my friend that I lost to suicide in 2018 saying 'go cry about your imaginary friend'. That really punched me in the gut and took a day to recover from. I wasn't allowed to provide proof of this and had to resubmit my statement with the harassment comments removed so unfortunately you'll just have to take my word for it that they are horrendous and there are loads of them.

I mention this because I've had residents contact me and say they were threatened during the last time an application came to this site and are too afraid to speak out now. I'm not an environmental extremist Or some kind of career campaigner. I'm just an average millennial with an average day job. No one would do this for attention. It's draining and can really effect your mental health

I appreciate that Mr Lansdown is a very wealthy and powerful individual and is likely asserting considerable pressure on all parties to approve this application but let's not let billionaires run our government. The people of Bristol made it clear with the green spaces motion that we do not want this site built over. Please honour democracy and refuse this.

Thanks for your time,
Danica

Protected species decision checklist

Apply this checklist to each protected species on site as the impact of development on each species may be different.

Is the application within or close to a designated site, such as a:

- site of special scientific interest NO
- special area of conservation NO
- special protection area NO
- RAMSAR site NO
- proposed designated site notified for a protected species See: www.magic.gov.uk not sure so I'll say NO

If your answer is:

Yes, go to 'What to do, section A' No, go to 1

Its No so we go to 1:

1. Has the survey report confirmed that there's suitable habitat for the species:

- on or next to the application site YES
- within a known range of the species

You might need specialist advice to check that the survey report and assessment are adequate. YES

If your answer is:

Yes, go to 2 answer is yes we are going to 2...

2. Has the applicant and specialist advice confirmed that:

- it's unlikely the development will have an adverse effect on the species
- NO

If your answer is:

Yes, go to 'What to do, section C' No, go to 3 answer is No we go to 3...

3. Has the species survey been carried out:

- at the right time of year (it's out of date but let's say yes)
- using appropriate survey techniques covering an adequate search area NO (confirmed by Natural England) but the planning officer will probably ignore that because the consultant did so let's go to 4...

If your answer is:

Yes, go to 4

No, go to 'What to do, section F'

Section F btw:

Inadequate survey. Request this is done properly or refuse application.

4. Has evidence of the species been found in the application site or in the study area?

If your answer is: Yes, go to 5 this is YES

5. Will the species and/or their habitat be impacted by the planning application?

If your answer is:

Yes, go to 6 this is YES

6. Does the mitigation proposed make sure:

- there isn't a net loss of quantity or quality of habitat NO (but this is debatable according to the consultant)
- habitat links will be kept NO (this is undebatable)
- there's a long-term management strategy for the site for the benefit of the species Technically YES

Replacement sites are:

- within the home range of the existing population and free from future development threats NO (undebatable)

If your answer is:

Yes, go to 7

No, go to 'What to do, section E' there are undebatable NOs so we go to sec E but... let's go for a worst case scenario and say yes

7. Is the species a European protected species?

If your answer is:

Yes, go to 8 YES (hedgehogs, horseshoe bats and more) this is undebatable

No, go to 'What to do, section D'

November 2020

8. Are mitigation measures adequate to avoid offences under Regulation 43 (1) and 47 (1) of the Conservation of Habitats and Species Regulations 2017?

- is a mitigation licence needed? YES
- after considering the 3 tests, do you think that Natural England is likely to grant a

licence? NO (this is undebatable as natural E land have said they do not have enough information to approve and will object if nothing changes... the applicant had ample time to respond and failed so it's safe to say Natural England will not grant a license.

If your answer is:

Yes, go to 'What to do, section D' No, go to 'What to do, section E' this is an undebatable No so the council must refuse the application.

Section E:

Request further or more appropriate mitigation or compensation and reconsider question 6. (Natural England and BCC Already did this and the applicant failed. It's on the latest documents:

'If the applicant fails to provide satisfactory information, consider refusal of the application as it does not adequately consider protected species or comply with the Wildlife and Countryside Act 1981 (as amended) or The Conservation of Habitats and Species Regulations 2017.'

So you see if you recommend this application for approval you are in direct violation of national policy.

9. Could the proposals indirectly impact on the species, for example prevent species movement between habitats?

If your answer is:

Yes, go to 6

No, go to 'What to do, section C'

Here is the link to the checklist if you want to fact check https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/935484/protected-species-decision-checklist.pdf

STATEMENT NUMBER B3

Dear Clerk and Committee members

I represent ETM Recycling Limited who operate a major waste recycling facility adjacent to the proposed development site. I wish to register to speak at committee and will be presenting the following submission in an objection to the scheme. I should say that we are fully supportive of the need for additional housing in Bristol - but - it must be in the right place.

Our concern with the scheme is in relation to noise emanating from our site;

- We have raised significant concerns about the future living standards of occupiers of the proposed residential units in terms of noise emissions from our site.

- There is no mechanism for the resolution of noise complaints arising from future occupiers - for which our client is not responsible under the agent of change principle in planning law.

- the Environmental statement produced for the application fails to address cumulative impacts by not considering our expansion of operations application, registered and not yet determined by officers

We have submitted a substantive objection in the application process which is available to you all but which I attach again hereto for your convenience - it sets out what the agent of change principle is and why it is important to protect our clients employment site for the future - ensuring we meet the needs of Bristol residents recycling whilst providing employment in an existing industrial estate site, protected for such a use by planning policy.

We understand that members have been advised by legal that the recommendation to approve is acceptable despite our objection. However, we only met with your legal officer and development management officers last week on this and so previous advice may need to be updated for this committee meeting. Particularly as my client has since warned of the potential for a judicial review.

I attach a note from our acoustic consultants setting out the detail of the failings of the applicant in providing insufficient information to support the scheme properly in terms of noise. Although very technical, you will appreciate that these matters often are and the summary is that;

The matter is solved simply - the Council officers need to request the correct information from the developer to ensure that the scheme can be acceptably mitigated in terms of noise. Officers consider incorrectly that the application of a condition requiring the submission of these details at a later date, prior to commencement is acceptable. Case law says it isn't - once you approve this application in outline the developers have consent for residential use in an area where no clear or correct evidence has been presented to demonstrate residential use would be acceptable.

Because the scheme is in outline officers consider they cannot require the details of layout necessary to understand what impact there is on specific units and obviously how to then mitigate it instead preferring to say that mitigation can probably be achieved. This is unacceptable and the future residents will pay the price.

However, there are other significant issues arising with the evidence officers have or have not requested from the applicant. As the scheme is an EIA scheme it requires an environmental statement (ES). The ES must consider all potential sources of environmental harm including noise and unfortunately, the applicant has not included the expansion of our operations at our site (awaiting planning consent) in their assessment nor have they adequately explained why the recent

change to the site layout removing an area from the scheme adjacent to our site has been considered acceptable to mitigate noise impact.

The applicant has used the wrong criteria for assessing noise and carried out the assessment during covid lockdown. The ES Chapter H assesses construction and traffic noise and makes a passing comment about noise from our site improving with the construction of our previously consented major investment scheme at our site. Those improvements were already in place when the applicants monitoring took place. They completely fail to consider or assess our expansion scheme as required by law.

Officers consider that a 50 dec level is acceptable across the site and the area removed from the scheme by the applicant is assessed as being up to 55 dec - but as the assessment basis is incorrect, the levels quoted are incorrect as well. It should be noted that 50 dec is the maximum level to be exposed to WITHIN your home - meaning no opening windows, no sitting in the garden and no calm space for the occupiers to escape to. The developer has offered triple glazed windows - which fails to address outside space entirely. Please ask yourselves if you would like to live where you cannot open your windows in the summer or sit in your garden in peace?

We would urge you to defer making any decision until you have the correct information on which to base it. Allowing poor quality housing perpetuates the existing problem of sub standard housing in Bristol unnecessarily. Developers must be made to ensure that what they build will be of a decent standard. Any approval now risks homes with unacceptable levels of noise being built and an unlawful prevention of my clients rights to operate their business which is so important to the sustainability and recycling provision for the city.

There is a further in-principle issue that has not been resolved - that of whether very special circumstances exist to allow the housing as an enabling development for the sports project within the Green Belt. I attach a history of the site in regard to this. Previous decisions, which form a material consideration, demonstrate that BCC has previously erred in respect to this and had to settle a JR claim by removing housing from the scheme in 2009. Whilst a different scheme, the principle is the same - the sports application cannot be Very special circumstances sufficient to justify a departure from the development plan for housing in the Green Belt. Fiscal viability is not relevant to the VSC argument.

I had hoped that Officers would withdraw the committee report until these matters have been finalised as to do otherwise is to purport to grant consent in the absence of information required for the decision making process - which is unlawful. However, the matter is now with our lawyers and should the committee determine to approve the scheme, we will be issuing Judicial Review proceedings to challenge the decision. It is regrettable that this could be properly reconsidered and the report brought to committee once these variables have been addressed but I understand officers consider themselves to be under pressure to get the matter to committee even if they do not have everything they need to do so. This is unacceptable and I would urge you to defer the decision until you have everything you need to make it lawfully.

Should any member wish to have further detail of the points I raise, I am happy to assist and can be contacted by reply to this email.

Kind Regards

Amanda Sutherland LLb (Hons) PG Dip LPC

Planning Solicitor

Planning Department
College Green
Bristol BS1 5TR

Dear Sir or Madam

**COMMENT WITH REGARDS TO NOISE MITIGATION FOR APPLICATION 21/03166/P AT
LAND WEST OF SILBURY ROAD BRISTOL**

The following letter concerns application 21/03166/P at Land West of Silbury Road Bristol.

Though not objecting to the principal of the development ETM hold a number of key concerns with regards to the proposed use of the land for housing and the compatibility with their current operation.

ETM's request is that a full assessment of noise levels is undertaken, with all mitigation set out to demonstrate that National Policy Frame Work 2021 (NPPF) Paragraph 187 has been taken into account so that no restrictions are placed on the operation of ETM's business.

In particular ETM asks that the noise assessment for the applicant removes the incorrect mitigation they have placed on ETM's site, that being; the operation of ETM's site is to move inside of buildings. The applicant is also asked to review their comments regarding condition 4 of approved application 17/06938/F, ETM is in current compliance with this condition as *BS4142: 2014* requires a receptor. The applicant implies that by introducing new receptors to the site (housing via application 21/03166/P) ETM will have to adjust their noise output because of condition 4. This is an incorrect interpretation of the condition and fundamentally would be at odds with Paragraph 187 of the NPPF.

Planning Policy

The application site lies within the Bristol and Bath Green Belt, is not allocated, nor are there any existing buildings on the land, as such, in planning policy terms it is a Green Belt Site in the countryside.

The NPPF sets out national policy, with special regarding being paid to policy that allows construction in the Green Belt, namely Chapter 13 and Paragraph 149.

As part of the development the applicant will be required to demonstrate that very special circumstances exist to allow the construction of 510 dwellings and to allow a potential impact on the Carla/ Ashton Vale industrial estate.



ETM's site is within the Ashton Gate/ Cala Industrial site which is a *Principal Industrial and Warehousing Area*, as set out in the Development Management Policies (DMP). As such, it is clearly given significant weight as an employment and commercial area. As set out in 2.13.1 and 2.13.2 of the DMP it is clear that the LPA's decisions and policies need to support the "location, promotion and expansion" of these areas. Bristol Local Policy is unambiguous in protecting important employment and commercial areas, with policy being restrictive to the loss of any floor space (DM17). Policy BCS8 of the Local Plan also recognises the restrained and limited nature of employment land in the city centre:

"4.8.17 Retaining valuable employment land is an important part of the council's strategy. It helps to maintain the city's diverse economic base by ensuring a wide variety of business spaces of different types, sizes, quality and cost. The built-up nature of the city means that it is very difficult to physically replace employment sites which are re-developed for alternative uses. Employment land provides continued enterprise and employment opportunities across the city, especially for business start-ups and in those parts of Bristol experiencing persistently high levels of socio-economic deprivation. The approach can help to provide employment close to where people live and so helps reduce the need to travel, especially by car. The city's Principal Industrial and Warehousing Areas represent Bristol's essential core provision of industrial and warehousing land. Retaining these strategically important areas will help the city meet the latent and future demand for industrial and warehousing development."

(Our emphasis added)

As such any application that may impact on the operation of the industrial site must robustly demonstrate that it can introduce suitable mitigation.

Agent of Change

The agent of change principle is established in the National Planning Policy Framework (NPPF). The NPPF 2012, set out at paragraph 123 the requirement for planning policies and decisions to:

'recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established;'

The Housing White Paper 'Fixing our broken housing market' (February 2017) recognised the importance new development could have on existing business and provided specific mention to it. It is notable that the White Paper looked to incorporate not just noise but other impacts of the new development. The relevant section of the White Paper is included below:

"Noise and other impacts on new developments

A.140 The National Planning Policy Framework, supported by planning guidance, already incorporates elements of the 'agent of change' principle (this provides that the person or business responsible for the change should be responsible for managing the



impact of that change) in relation to noise, by being clear that existing businesses wanting to grow should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

A.141 We propose to amend the Framework to emphasise that planning policies and decisions should take account of existing businesses and other organisations, such as churches, community pubs, music venues and sports clubs, when locating new development nearby and, where necessary, to mitigate the impact of noise and other potential nuisances arising from existing development. This will help mitigate the risk of restrictions or possible closure of existing businesses and other organisations due to noise and other complaints from occupiers of new developments.”

This has led to the latest iteration of the NPPF (2021) with the inclusion, at paragraph 187 of the following:

Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect of new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable mitigation before the development has been completed.

The main application of paragraph 187 has thus far been that of noise mitigation and the impact an existing ‘noisy’ business may have on a newly permitted development which may in turn object to being situated next to a ‘noisy’ business and curtail its operation. There are two recent High Court Decisions which hold particular relevance, these being:

- Cemex (UK) Operations Ltd v Richmondshire District & Anor [2018] EWHC 3526 (Admin) (19 December 2018)
- Ornu Ingredients Ltd, R (On the Application Of) v Herefordshire Council [2018] EWHC 2239 (Admin) (22 August 2018)

(attached as appendix I and II respectively)

In both cases it was the failure of the decision maker to consider relevant material considerations that led to the quashing of the decision.

Such an approach has had a bearing with Inspectors, with the two notable appeals being recently dismissed

- 3217413 -18-20 Albion Court, Frederick Street, Birmingham B1 3HE
- 3234440 - Land to South of Walker Road, Formerly Saint Peters Scrap Yard

(attached as appendix III and IV respectively)

With regard to the Albion Court appeal the paragraph of note is that of 22:



“I conclude that the appeal proposal would not suitably address the effect of noise from nearby commercial premises on the future occupiers of the proposed development. It would conflict with the relevant requirements of the Framework which seeks to ensure that new development can be effectively integrated with existing businesses and community facilities; that where the operation of an existing business would have a significant effect on new development nearby, suitable noise mitigation is provided as part of the development; and that new development provides a high standard of amenity for future occupiers.”

In this regard the Inspector has identified that the proposal would conflict with the NPPF in integrating the new development with the existing businesses.

Land to South of Walker Road is a useful inclusion as it shows the same rigorous application of NPPF 187 but in this instance the ‘effect’ is that of odour. At paragraph 18 the Inspector draws together their findings:

“Drawing all these matters together, I cannot rule out the possibility that future occupiers of the development could be exposed to harmful odour effects from the BWTTs. There is also a realistic prospect that the proposal could lead to further odour-related complaints against the BWTTs. This could result in further costly measures and restrictions being placed on its operations. Not only would this disadvantage an existing business, but it could also unacceptably prejudice the Council’s essential waste management and recycling infrastructure and services. In these circumstances, I consider that a precautionary approach is a necessity.”

It is the assertion of this submission that application 21/03166/F is the ‘agent of change’ (as referred to and defined in planning policy at a national level) and that the introduction of 510 houses adjacent to ETM will have a deleterious impact on the operation of our ETM’s business. Further it is asserted that the modelling undertaken is not only unsatisfactory with regards to the immediate impact on the operation of ETM’s business, it also fails to give due consideration to any change in operation that may occur (change that could occur either with or without planning permission).

Importance of ETM Site

ETM is a significant local employee that manages the recycling of a large proportion of the regions (including Bristol’s) waste. ETM obtained consent for and has recently implemented a £5m investment in their site to increase throughput to meet the increased recycling needs of the City and are again looking to increase the throughput because of an ever-increasing demand.

The following sets out the importance of ETM to waste management and recycling in Bristol and the wider region.

West of England

- WEST OF ENGLAND CONTRACT STARTED APRIL 2020 – IT IS A TEN YEAR CONTRACT.



- There is no other plant in the region that can handle bulky waste tonnage, the only other alternative for these waste streams is landfill. It cannot be sent as waste to energy as it is not suitable waste for burning.

TONNAGES TO DATE (UP TO 31.05.21):

LOCAL AUTHORITY	TONNAGE DIVERTED FROM LANDFILL	COST SAVING
BANES	3965.78	£ 46,280.65
NSC	5140.18	£ 59,985.90
BCC	13666.58	£ 159,488.99
SGC	14795.12	£ 172,659.05
	37567.66	£ 438,414.59

The above is based on:

Landfill tip price - £122.50 p/t

West of England Tipping @ ETM - £108.77
p/t

In addition to the mixed waste tonnage above ETM segregate all the mattresses from the West of England and process on site. ETM are the only company in the region who can process this volume of mattresses and divert from landfill (closest other company known is Hereford).

Mattresses to Date Diverted from landfill from the west of England – 36,810 units

Over the life of the contracted it is estimated ETM will divert over half a million tonnes away from landfill from the West of England.

Bristol City Council - Highways Contract & Emergency Response Contract

All waste from the BCC Highways contract is processed through the ETM plant, achieving zero waste to landfill.

All hardcore, aggregates are processed on site and used back on the highways work within Bristol. This is closed loop recycling circa 2000 tonnes

Sustainable innovations we are working on with BCC:

- Plastic in to tarmac – divert from landfill, back in to the roads of Bristol, closed loop recycling
- Rubber crumb – shredded tyres being processed in to tarmac to be laid in Bristol

Waste produced in Bristol being used in Bristol

Wider ETM Tonnages:

Last 12 months (01.05.2020 – 31.05.2021)



Diverted – 99,045 tonnes from landfill Mattresses Diverted from Landfill – 76,218 units

Other Local Waste Contracts using the facility:

University of Bristol

University of the West of England

University of Bath

Bath & North East Somerset – plasterboard

Bristol City Council – plasterboard, aggregates, inert, skips and roro's

ETM Site in the Future

This application is looking to secure the site so it can continue to meet the growing demands of waste and recycling in Bristol and the wider region. There is a climate emergency (as declared by Bristol City Council in November 2018) and Bristol City Council have looked to meet this challenge via a number of ambitious targets and initiatives.

The One City Climate Strategy (February 2020) sets out a number of these approaches and includes delivery theme 5 and objective iv, both of these centre around recycling; with an ambition to reach a recycling rate of 65% by 2030.

ETM are a pivotal partner in achieving these recycling rates. As can be seen by the above, thousands of tonnes of recycling are diverted from landfill each year because of this facility, there is no other facility like it that is conveniently accessible in the Southwest Region.

West of England Waste Partnership

The current waste contract with the West of England Waste Partnership is for 45,500 tonnes per annum. Based on current demand is expected that further capacity will be required in 2022. If ETM cannot create further capacity, then there is a high probability this waste will go to landfill. Based on current contract price every 10,000 tonnes of additional waste that the partnership send to landfill will cost £137,300 (plus it will mean the waste is not recycled, impacting on the One City Climate Strategy). Based on the current tonnage percentage split Bristol City Council account for 36.4% of the waste generated so of £137,300 Bristol City Council would see a fee increase of £49,977.20

Bristol has a large requirement for housing growth (as does the wider area West of England Partnership Area) all of the additional waste generated by these households (and sent to a Household Refuse and Recycling Centre) will also require processing if it is to avoid being sent straight to landfill. With this in mind Bristol has recently (March 2020) approved plans for the Household Reuse and Recycling Centre (HRRC) at Hartcliffe Way in South Bristol (19/05204/F). When this centre is operational items that have not yet been separated (including bulky items and items that have a number of materials in them) will require processing, ETM believe they are the only facility within the region capable of processing this waste.

Having reviewed the submission documents and officer's report for the Hartcliffe application it does not appear it has been documented how the facility intends to process waste which is not immediately recyclable. In viewing the plans, it is clear that there will be no onsite processing of this waste.



It is worth noting the delegated report conclusion for 19/05204/F, with the following stated:

“However, it is also established that there is a recognised need for a new HRRC on Council owned land to serve this specific catchment area and futureproof this part of the city when additional large residential sites are developed (such as Hengrove Park). It is also recognised that Capital funding has been identified for such a facility.”

The Council have recognised the need and requirement for the facility to match the continued growth of the city, it is to keep up with this growth that the application before you has been submitted. Without an increase in capacity the Harcliffe HRRC will struggle to process waste and meet recycling targets.

Additional Growth

It is not just the West of England Waste Partnership that will see continued demands placed on the site. Within the last 12 months the site has seen a 22% increase in fleet sales across the recycling company; this includes, skip hire, roll on roll off hire, bin lorry. ETM bring this waste to their plant for processing and recycling. Other hire companies cannot offer this service which means this waste often ends up in landfill. This type of hiring is vital for the construction industry in Bristol, house renovation, clearance and building projects all create waste that can be recycled but this recycling requires the correct type of machinery.

The increase in tonnage will not only see an increase in waste diverted from landfill but will also help in the creation of more local jobs. ETM itself has forecast it will double the number of people currently employed if this expansion is permitted.

Summary of ETM Site

ETM is an important cog in waste management in the Bristol (and wider) region saving the Council money through its diversion of waste from landfill. ETM has invested heavily in state-of-the-art equipment that has already helped divert large quantities of waste from landfill. A doubling of capacity will see even more waste, that could be recycled, removed from landfill helping Bristol to achieve its Climate Crisis recycling goals.

As Bristol expands its waste recycling capacity must also grow. The alternatives are to send the waste to a similar plant (ETM have not identified any other operator in the Southwest), send the waste to landfill or find investment to build a new plant of similar specification. It is ETM's submission that an increase in operational hours and tonnage at the existing site is the most cost effective and sustainable way of continuing to push recycling rates to meet the Council's target.

Assessment of Noise

The applicant's discussion on noise impacts is included in “*ES CHAPTER H NOISE AND VIBRATION*”

The discussion on the noise source of ETM is brief with the following summary of the main points set out below:

(Page 182) Ramboll have recently reviewed a planning application submitted by ETM18 which shows that they are moving the majority of their operations into buildings and erecting new structures along the boundary which should mitigate any existing



noise levels. Therefore, for the purposes of determining Site Suitability for Residential use, it is assumed that ETM would be compliant with the planning conditions imposed by BCC with regard to noise emissions. This approach has been deemed acceptable by BCC

And

(page 23) H4.9 When the proposed development is complete, it is expected that the noise climate would be broadly the same, albeit with reduced contributions from the ETM Recycling Facility resulting from completion of their mitigation measures (as required by Planning conditions).

And

(page 31) Noise from ETM Facility H5.28 The noise from the ETM Facility has been modelled as an area source, calibrated to the measured noise levels on site then corrected in line with ETM's planning condition. The resulting noise levels within the Application Site of the proposed development are compared with the daytime ambient internal noise level limits. As such, mitigation measures should be implemented to meet these limits.

The applicant is referring Condition 4 of application ref: 17/06938/F, which states:

“The rating level of any noise generated by plant & equipment as part of the development shall be at least 4 dB below the background level as determined by BS4142: 2014 Methods for rating and assessing industrial and commercial sound.”

From review of the background sound levels in the area and the noise levels associated with the site which are provided within the previous tables, it is apparent that the introduction of an additional noise sensitive receptor at such close proximity to the site would cause the site to be in breach of condition 4, the criteria of which would become exceedingly difficult to achieve.

The point of condition 4 of 17/06938/F is to protect existing receptors (which it does successfully), not new receptors. It is also worth noting that ETM are not moving their operations into buildings, there is no application in place for a new building so such an assumption is incorrect.

The glossing over, by the applicant, of this noise source is naïve at best, especially as the applicant has submitted an objection to application 21/01169/X (application by ETM) which included its own noise survey which stated that the noise levels achieved by ETM would not be appropriate. It is worth noting that the noise recorded was in the middle of the application site, where there is no current receptor.

Included as an appendix to the letter is commentary from ETM's noise consultant (appendix V) to assist in the matter.

Summary

Though not objecting the principle of housing it is ETM's position that the current application will be in breach of NPPF paragraph 187 and the Agent of Change Principal.

Condition 4 of approved application 17/06938/F Requires adherence to *BS4142: 2014*. This is entirely met by ETM, at existing receptors. The location the applicant wishes to place housing is a green field site with no receptors on it. That ETM currently exceed noise levels at this location is irrelevant as there is no one to hear it.

ETM are an established part of Bristol (and the wider areas) waste management, helping Bristol to meet its recycling targets. Closure or curtailment of this site could have catastrophic consequences on the diverting of waste from landfill.

As such ETM ask that the applicant undertakes a noise assessment that accurately demonstrates there will be no impact on their business. As it stands ETM do not believe application 21/03166/P can proceed as it is in contravention of NPPF187, introducing an Agent of Change that will have a direct impact on their business

Yours faithfully

Chris Burton
PLANNING CONSULTANT
chris@sutherlandpls.com

Appendix I



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England and Wales High Court (Administrative Court) Decisions

You are here: [BAILII](#) >> [Databases](#) >> [England and Wales High Court \(Administrative Court\) Decisions](#) >> Cemex (UK) Operations Ltd v Richmondshire District & Anor [2018] EWHC 3526 (Admin) (19 December 2018)
URL: <http://www.bailii.org/ew/cases/EWHC/Admin/2018/3526.html>
Cite as: [2018] EWHC 3526 (Admin)

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Neutral Citation Number: [2018] EWHC 3526 (Admin)

Case No: CO/1639/2018

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT**

19/12/2018

Before:

HER HONOUR JUDGE BELCHER

Between:

CEMEX (UK) OPERATIONS LIMITED	Claimant
- and -	
RICHMONDSHIRE DISTRICT COUNCIL	
-and-	
DAVID METCALFE	Defendant
	Interested Party

Miss Jenny WIGLEY (instructed by Clyde & Co) for the Claimant
Mr Juan LOPEZ (instructed by Darlington Borough Council Legal Services) for the Defendant
Hearing dates: 9 and 26 November 2018

HTML VERSION OF JUDGMENT

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Her Honour Judge Belcher :

1. In this matter the Claimant challenges the decision of the Defendant local planning authority dated 15/03/2018 granting planning permission (the "Permission") to the IP (the "IP") for the conversion of a stone barn into a three-bedroom dwelling with detached garage on land at Quarry Barn, Moor Road, Leyburn, North Yorkshire (the "Property").
2. The Statement of Facts and Grounds contains five Grounds of challenge. By Order dated 20 June 2018, John Howell QC, sitting as a Deputy High Court Judge, granted permission on the papers in relation to Ground 4 and part only of Ground 5, but refused permission on Grounds 1, 2, and 3, and the remaining part of Ground 5. He ordered the matter to be listed for one day-based on that permission order. The Claimant sought to renew the Application for Permission on Grounds 1 to 3 and asked that this be considered within the substantive hearing. Those Grounds are substantial, and the net effect was that the one day allowed for the substantive hearing was insufficient. Fortunately, we were able to find a second day within a reasonably short time frame, but I repeat my advice to Counsel that in such circumstances, the time estimate given should be revisited and, if appropriate, a revised time estimate provided to the listing officer. Having heard argument over 2 days, I am satisfied that permission should be granted on Grounds 1, 2, and 3. I grant permission accordingly.
3. At the outset of the hearing, both parties sought permission to rely upon further witness evidence, and each opposed the other's Application on the basis that the evidence in question was inadmissible. I allowed both Applications on the basis that I considered the evidence to be admissible, and that the real issue was as to its relevance and or weight. There was also an Application by the Claimant for permission to add, whether as a new Ground or as part of Ground 5, the comments at Paragraph 8 of the Claimant's Response. I gave a preliminary indication that I did not consider this to be a new Ground, but in any event, Counsel agreed that all matters should be dealt with by the court within this hearing. References in this judgment to the trial bundle will be by Tab number, followed by the page number, for example [15/102]. References to the bundle of authorities will be by the capital letters AB, followed by the Tab number, for example [AB/10].

The Facts

4. The Claimant is a global producer and marketer of cement, concrete and other building materials. Within the UK it is a leading producer of ready mix concrete, and the third largest cement and asphalt producer. The claimant operates a major limestone quarry (the "Quarry") on an industrial site which includes an asphalt road stone coating plant (the "Asphalt Plant") at Black Quarry, Leyburn North Yorkshire. The Asphalt Plant and the Property are located directly opposite each other on opposite sides of a road called Whipperdale Bank. The Property is located 64 m to the south of the Asphalt Plant. The distance between the Quarry and the Property is 569 metres.
5. The Quarry and Asphalt Plant operate subject to planning conditions imposed on 5 April 2000 in a Minerals Planning Permission granted by North Yorkshire County Council (the "Minerals Permission") [23/161-170]. Conditions 14 to 16 of the Minerals Permission limit the hours of operation of the Quarry, but there is no limit on the hours of operation of the Asphalt Plant [23/166]. Condition 17 of the Minerals Permission, which appears under the heading "Noise Control", requires that noise from the operations on the site including the use of fixed and mobile machinery shall not exceed a noise limit of 55 dB (A) LA eq (1 hour) free field at two residential properties, namely Moor Farm, and Stonecroft, Washfold Farm [23/167]. There is no dispute in this case that the Claimant's operations, and the Asphalt Plant in particular, generate a considerable amount of noise.
6. I have the benefit of an aerial photograph based on ordnance survey land line data [12/86]. I was provided with an enlarged and much clearer version of this document which was kept loose during the trial. For ease of reference I shall refer to that enlarged aerial photograph as "AP1". AP1 has a number of arrows and distances marked on it. There are arrows purporting to show distances between Moor Farm and the Property, and between Washfold Farm and the Property. Miss Wigley advised me that those arrows should

in fact be from the respective farms to the Asphalt Plant, rather than to the Property. There is no dispute in this case that the distances shown on AP1 are from the respective farms to the Asphalt Plant. Thus, Moor Farm is 1131 metres from the Asphalt Plant, and Washfold Farm is 652 metres from the Asphalt Plant.

7. On 21/01/14 the Defendant granted planning permission for conversion of the Property in a manner almost identical to the development which is the subject of the Permission which is challenged before me. The Claimant's case is that it did not receive any notice from the Defendant in relation to that planning application, and did not otherwise become aware of it. In those circumstances, the Claimant was obviously not able to object to that application. It is the Claimant's case that had it been aware of that application, it would have objected to it because of the proximity of the Property to the Quarry and the Asphalt Plant, and the adverse impact those operations would have in noise terms for the residents of the Property. (See Witness Statement of Mark Kelly, paragraph 26: 25/176]. There is no dispute that the Defendant's own Environmental Health Department was not consulted with regard to noise emanating from the Claimant's operations in relation to the 2014 grant of planning permission.
8. The Property has been developed. However, there is no dispute that the works undertaken to convert the barn constituted unlawful development. This is because the pre-commencement conditions contained in the 2014 planning permission had not been discharged prior to the start of the works. Accordingly, in February 2017, the IP made a fresh planning application to regularise the position, with the proposed development being the same as that previously approved, save for the addition of a detached garage.
9. On 25/04/2017 the Claimant submitted objections in the form of an e-mail note from Dr Paul Cockcroft of WBM Acoustic Consultants, raising the issue of noise impacts at the Property. As a result, the Defendant's Planning Officer, Natalie Snowball, consulted Lindsey Wilson, a Scientific Officer in the Defendant's Environmental Health Department. Lindsey Wilson made an initial visit to the site to look at the relationship between the quarry and the dwelling. On 23/05/17 Lindsey Wilson sent an e-mail to Natalie Snowball about that visit. In her e-mail Lindsey Wilson describes clearly audible noise from the Asphalt Plant despite the wind direction blowing noise away from the Property. She comments that the noise had the potential to have a significant adverse impact on that the proposed dwelling, particularly at night as it would appear that the Asphalt Plant has permission to operate through the night where background noise levels will be low. In those circumstances, she recommended that the IP should be requested to carry out a noise impact assessment by reference to BS 4142:2014 "Methods for rating and assessing industrial and commercial sound", and should give consideration to BS 8233, "Guidance on sound insulation and noise reduction for buildings", with regard to whether recommended noise levels are achievable [16/117].
10. Her email continues as follows:

"I have also sought advice from North Yorkshire County Council mineral planning with regards to the planning permission for the quarry and whether any existing noise conditions would apply to [the Property] should permission be granted, or whether they could apply any review of the planning permission, which I understand is overdue. My initial concern is that should a noise limit from quarry operations be applied to this property, the quarry may be unable to comply particularly to any night time limit applied, and this would therefore impact on the operations of the existing quarry. I would therefore also recommend that consideration is given to this aspect" [16/117].
11. The IP instructed Apex Acoustics to undertake the noise assessment. Apex Acoustics produced a report dated 10/08/2017 (the Apex Report") [17/119-138]. I shall have to consider the Apex Report in some detail later in my judgment, but for present purposes it suffices to say that the assessment carried out under BS4142 indicated a significant adverse effect from noise at the Property for both daytime and night time periods, and demonstrated high noise levels at the Property. The assessment results showed levels of noise far exceeding the threshold for the 'significant observed adverse effect level' as contained in the Noise Policy Statement for England ("NPSE"). This is the level of noise exposure above which significant adverse effects on health and quality of life occur and the policy aim is to avoid such levels [33/226 and 227]. The Apex Report sets out two "Feasible Ventilation Strategies" for achieving satisfactory noise

levels within the Property, which options both include continuous mechanical ventilation [17/122]. Again, I shall return to this in more detail later in my judgment.

12. There is no dispute in this case that the IP did not wish to install mechanical ventilation at the Property. By way of follow-up to a meeting between Brian Hodges, Planning Consultant for the IP, and Natalie Snowball and Lindsey Wilson, Brian Hodges emailed Natalie Snowball on 08/12/17 to confirm "... the works proposed to satisfactorily attenuate the noise impact from the nearby quarry operations" [18/139]. That email was copied to Lindsey Wilson. He attached a further copy of the Apex Report and referred to the fact that with respect to internal noise levels, subject to appropriate glazing specification and ventilation arrangements, any Significant Observed Adverse Effect Level impacts can be avoided. He then gives details and specification of the existing glazing which had already been installed and which exceeds the example specification for glazing as referred to at Paragraph 2.9 of the Apex Report. He then goes on to deal with ventilation stating as follows:

"It is confirmed that the trickle vents used on the windows and doors are Greenwoods Slot Vents as referred to at 2.10 of the Noise Assessment Report and satisfy the performance requirements to achieve the acceptable internal noise levels. As detailed in Table 1 of the Noise Assessment Report Summary of minimum facade sound insulation treatment included in assessment calculations, in order to achieve the acceptable internal noise levels it is necessary to remove the slot vents from certain windows in the bedrooms."

He then goes on to list the vents to be removed and confirms that the works would be carried out within two months from the grant of planning permission and would be the subject of a planning condition. There is no reference at all to mechanical ventilation in that email.

13. By further email dated 03/01/2018 Brian Hodges emailed Natalie Snowball (copied to Lindsey Wilson) indicating that in addressing the issue of the reduction of noise levels within the building involving the reduction in the ventilation arrangements, he was conscious of the implications and possible conflict with building regulations. He goes on to confirm that even with the removal of the required vents, the ventilation requirements to meet building regulations are still satisfied, and he encloses an email received from Yorkshire Dales Building Consultancy Ltd to confirm that [19/144]. The enclosed email from Yorkshire Dales Building Consultancy Ltd states as follows

"Further to our discussion regarding the provision of background ventilation... windows which will need to have the background ventilation openings (trickle vents) sealed in order to better meet the requirement for sound reduction into the building, will not reduce the background ventilation provisions required by building regulations as the provision can be met by the 2nd openings into each of the rooms....[19/147]."

In response to that, by email dated 08/01/2018, Lindsey Wilson replied

"Thank you for the additional information from Building Control who confirmed that the ventilation arrangements are satisfactory. I therefore confirm that Environmental Health are satisfied with the proposed glazing and ventilation arrangements."

14. On 12/03/18 Lindsey Wilson provided her report to Natalie Snowball. I shall visit the detail of this report when considering the Grounds of challenge. For present purposes it suffices to say that Lindsey Wilson confirmed that the noise assessment recommended certain glazing and ventilation options all entailing the use of mechanical ventilation in order to achieve the recommended noise levels. She notes that the IP does not propose to use mechanical ventilation "... and has forwarded documentation from Building Control who have confirmed that the current ventilation arrangements are acceptable without the need for mechanical ventilation". She concluded that satisfactory internal noise levels can be achieved through the use of glazing and ventilation arrangements [21/150-151].

15. She also dealt with the question of the Mineral Permission and the need to protect the existing quarry operation. She sets out advice received from North Yorkshire County Council who advised that the conditions set out in the Minerals Permission for the Quarry are the only conditions that they would refer to and are in force until such time as that permission may be subject to a review under the ROMP (i.e. review of minerals permission) regulations or a variation. She confirms that the noise limits contained within the Minerals Permission would not apply to the Property and therefore there would be no breach of the Minerals Permission [21/151].

16. Natalie Snowball prepared a delegated application report dated 15/03/18. It was referred to throughout the proceedings as the Officer's Report and I propose to refer to it in the same way but using the commonly recognised abbreviation "OR". In the OR, Natalie Snowball set out verbatim the final comments received from Environmental Health [14/94-96]. At paragraphs 6.8 to 6.13 of the OR, Natalie Snowball deals with "Noise and Amenity". The need for noise attenuation measures to overcome the unacceptable noise level was recognised and paragraph 6.11 provides as follows:

"Environmental Health commented on the agent's mitigation proposals confirming that the glazing specification of the building would appear to meet the requirements of the acoustic report, but raised concern regarding whether sealing up the trickle vents as proposed by the agent would result in unacceptable ventilation in the dwelling. The agent had this checked by a Building Control Inspector who confirmed that the ventilation in the dwelling was acceptable and met the requirements under the Building Regulations" [14/99]

17. The OR notes the Claimant's continuing concern about the very high noise levels generated by the Asphalt Plant and the impact of this on the amenity of the Property, and that the Claimant is concerned that if the planning permission is approved it would have the effect of placing unreasonable restrictions on the Cemex Asphalt Plant operations particularly at night time. Paragraph 6.13 provides as follows:

"Environmental Health have looked carefully at the proposal, and the concerns of Cemex, and whilst recognising that the proposed dwelling will experience relatively high levels of noise from the [Asphalt Plant], they have concluded that, with the mitigation measures proposed by the agent including removing and blocking up trickle vents in certain windows,..... satisfactory noise levels..... inside..... the dwelling can be achieved..... They have also confirmed that the proposal will not conflict with the mineral planning permission which relates to the operations at [the Quarry] including the roadstone coating plant" [14/99]

18. On 15/03/18 the Permission was granted by the Defendant's planning manager under the Defendant's scheme of delegation. The Permission is subject to a condition requiring the removal or blocking up of trickle vents in certain bedroom windows in the Property. There are no conditions expressly requiring the retention of specified window glazing or requiring the installation of a mechanical ventilation system. The "Informative" on the planning permission states as follows:

"[The Property] is located in close proximity to [the Quarry], and in particular the [Asphalt Plant], which has permission to operate 24 hours per day if required. The occupants of [the Property] will therefore experience noise from the quarrying operations. By using a combination of glazing and ventilation to the property, guideline internal noise levels in accordance with BS 8233:2014 'Guidance on sound insulation and noise reduction from buildings' can be achieved with windows closed..." [11/83].

19. The Claimant's Minerals Permission is due for review in April 2025 under ROMP. Any review will be required to consider operating conditions alongside any change in circumstances, including the existence of any new dwellings in the vicinity of the Quarry. On the second day of the hearing, the Defendant provided me with a second aerial photograph showing a number of other properties in the vicinity of the quarry, all of which have been developed pursuant to planning permissions granted since the grant of the Minerals Planning Permission in April 2000. I shall refer to this aerial photograph as "AP2". The Claimant asserts that there is a very real risk that conditions could be imposed under ROMP in order to protect the

residential amenity of occupants of the Property, and that such conditions could have a serious impact on the quarry operations. They suggest that such conditions could include restrictions on the permitted hours of operation of the Asphalt Plant and/or noise limit restrictions on the level of noise from the Asphalt Plant measured at the Property.

Legal Principles.

20. With the exception of an issue as to the relevance and or weight of evidence provided by the planning officer in relation to the decision-making process, there is no dispute between the parties as to the relevant legal principles. I shall first summarise those areas where there is no dispute as to the legal principles to be applied. This is drawn from the skeleton arguments provided by both Counsel for which I am grateful.
21. Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise (S38(6) Planning and Compulsory Purchase Act 2004 and S70 Town & Country Planning Act 1990) [AB/1 and 2]. Whether or not a consideration is a relevant material consideration is a question of law for the courts: **Tesco Stores Ltd v Secretary of State for the Environment** [1995] 1WLR 759 at 780 [AB/6]. A material consideration is anything which, if taken into account, creates the real possibility that a decision-maker would reach a different conclusion to that which he would reach if he did not take it into account: **R (Watson) v London Borough of Richmond upon Thames** [2013] EWCA Civ 513, per Richards LJ at paragraph 28 [AB/16].
22. Decision-makers are under a duty to have regard to all applicable policy as a material consideration: **Muller Property Group v SSCLG** [2016] EWHC 3323 (Admin) [AB/14]. National Planning Policy is set out in the National Planning Policy Framework ("NPPF") and the National Planning Practice Guidance ("NPPG"). National planning policy is "par excellence a material planning consideration": **R oao Balcombe Frack Free Balcombe Residents v West Sussex CC** [2014] EWHC 4108 (Admin) at paragraph 22 [AB/15]. The weight to be given to a relevant material consideration is a matter of planning judgement. Matters of planning judgement are within the exclusive province of the local planning authority: **Tesco Stores Ltd** (supra).
23. An OR is not susceptible to textual analysis appropriate to the construction of a statute. **Oxton Farms and Samuel Smith Old Brewery v Selby DC** [1997] WL 1106106 [AB/12]); **South Somerset District Council v Secretary of State for Environment** [1993] 1PLR 80. The OR should not be construed as if it was a statutory instrument: **R (Heath and Hampstead Society) v Camden LBC and Vlachos** [2007] 2 P&CR 19. The OR must be considered as a whole, in a straightforward and down-to-earth way, and judicial review based on criticisms of the OR will not normally begin to merit consideration unless the overall effect of the report significantly misleads the committee about material matters which are left uncorrected before the relevant decision is taken.
24. An OR is to be construed in the knowledge that it is addressed to a knowledgeable readership who may be expected to have a substantial local and background knowledge. There is no obligation for an OR report to set out policy or the statutory test, either in part or in full. **R v Mendip DC ex p Fabre** [2000] 80 P&CR 500 [AB/11]. Policy references should be construed in the context of general reasoning: **Timmins v Gelding BC** [2014] EWHC 654 (Admin) paragraph 83 [AB/17]. An OR is written principally for parties who know what the issues between them are and what evidence and argument has been deployed on those issues. A decision-maker does not need to rehearse every argument relating to each matter and every paragraph: **Seddon Properties v Secretary of State for the Environment** (1981) 42 P&CR 26 [AB/13]. These principles apply equally to a delegated application report.
25. The legal principles set out thus far are not in dispute. In this case Natalie Snowball, the Planning Officer, has provided two Witness Statements setting out, amongst other things, how she asserts she reached her decisions in relation to matters under challenge. It was suggested on behalf of the Claimant that this evidence was inadmissible as amounting to ex post facto rationalisation. As already indicated, I granted permission for both Witness Statements to be adduced in these proceedings, indicating that I would consider relevance and weight at a later point.

26. Having revisited the submissions made to me in relation to these matters, I conclude that there is in fact no real difference between counsel on the law to be applied in the circumstances. The law is helpfully set out by Green J in **Timmins v Gelding BC** [2014] EWHC 654 (Admin) at paragraphs 109 -113 (AB/17). In that case, Green J had regard to certain admissions made in the evidence of the principal planning officer (see paragraphs 47 and 55). Only at paragraphs 109 -113 did he deal with the more general issue of the relevance of witness statement evidence from the decision maker.
27. What is clear, for the reasons listed in paragraph 109 of Green J's judgment, is that there are a number of circumstances in which witness evidence can be properly received from a decision maker. In order to decide whether to accept or reject such evidence, is necessary for the court to identify the basis upon which the impugned statement is relied upon. It is equally clear that it should be rare for a court to accept ex post facto explanations and justifications which risk conflicting with the reasons set out in the decision. In support of that conclusion Green J referred to the decisions of the Court of Appeal in **Ermakov v Westminster City Council** [1995] EWCA Civ 42, and **Lanner Parish Council v the Cornwall Council** [2013] EWCA Civ 1290. Mr Lopez submitted that there is nothing in Miss Snowball's Witness Statement which conflicts with the reasons set out in her OR which formed the basis for the decision in this case. I accept that submission, and I do not understand it to be challenged by Miss Wigley.
28. However, the courts are also reluctant to permit elucidatory statements if produced for the purpose of plugging a gap in the reasoning. Green J refers to this principle at paragraph 113, citing the judgment of Ouseley J in **Ioannou v Secretary of State for Communities and Local Government** [2013] EWHC 3945. In my judgement this is where the issue lies between the parties in this case. Mr Lopez submits that the Witness Statements are not plugging any gap in the reasoning, whereas Miss Wigley submits that is exactly what the Witness Statements are designed to do. Thus, the issue is one of construing the basis upon which the Witness Statements are relied upon, rather than an issue of law. In those circumstances I shall return to this issue when dealing with the relevant Grounds.

The Grounds

29. The Claimant's grounds of challenge are as follows:
- i) Errors as to the scope of the decision making process including as to the ability of the Environmental Health Officer to object to the proposed development and as to the ability of the Defendant to control the development (including to refuse the application). [3/24]
 - ii) Taking into account an immaterial consideration, namely that the Property is occupied "by a long-standing local family aware of the presence of the adjacent quarry". [3/27]
 - iii) Failure to have regard to policy and guidance in the PPG relating to the reliance on keeping windows closed as a mitigation strategy. [3/28]
 - iv) Failure to take into account the impact on the Claimant of the fact that the Minerals Permission is due to be reviewed in 2025 and that, at that time, onerous conditions could be imposed on the Claimant's operation as a result of the grant of the Permission. [3/28]
 - v) Irrational failure to take into account all relevant considerations when deciding not to include all the conditions recommended by the IP's own noise consultant. [3/29]

Grounds 1 and 2

30. As both Counsel did in their submissions before me, I propose to deal with these two Grounds together. The full Grounds are set out in paragraph 29 above. However, in essence, each of these Grounds amounts to an allegation that the Environmental Health Officer ("EHO") constrained her consideration of the issues in this case by reason of the fact that the development of the Property had already taken place, and that the Property was already occupied. Ground 2 suggests a further and more specific constraint on the decision-

making process, namely that the Property was not simply already occupied, but that it was occupied by a long-standing local family aware of the presence of the adjacent quarry. The Claimant asserts that this implies that the family in residence will be more willing to accept the noise from the quarry operations than might be the case for future occupiers, and that it is an improper and irrelevant consideration.

31. In relation to the more general point under Ground 1, Miss Wigley submitted that the EHO has erroneously assumed the principle of residential development in this location has already been accepted and that the options to control or mitigate noise are limited by the fact that the dwelling is complete and occupied. The way the EHO approached the matter is set out verbatim in the OR report at [14/94]. Miss Wigley relies upon the fact that the EHO indicated that if Environmental Health had been consulted initially, it is likely they would have objected to the development. The EHO then states that as the barn conversion is complete and occupied, she considers it appropriate to assess whether the noise impact can be mitigated and reduced to provide an acceptable level of amenity for the residents and also that the existing quarry operations can be protected.
32. Miss Wigley submitted that there cannot be two different standards of what is acceptable, one to be applied to a planning application for a future development which has not yet been commenced, and one for a property which is already occupied. She submitted that the EHO's assessment has been influenced by the fact of occupation and amounts to an attempt to squeeze the application through on the basis of what the IP wants because the property is already occupied. Whilst the EHO asked for a noise assessment, Miss Wigley pointed to the fact that the scope of that assessment is itself limited by reference to the fact that "... The building has already been constructed, limiting the potential options for facade sound insulation design". (Apex Report, paragraph 3.2; [17/123]) Miss Wigley submitted that the assessment by the EHO as to what is acceptable is tainted by that approach, in effect adopting a starting point that "There's not much we can do in terms of design and layout". She submitted that the fact that the development has taken place should not preclude a finding that the mitigation needed to deal with noise does involve changes in design or layout.
33. Mr Lopez made the point that it is inevitable that the planning authority will approach this application on the basis of what has been built, precisely because it is an application to regularise the position. He submitted that the planning authority cannot consider the matter in a vacuum. For a future application, the planning authority of necessity considers plans and proposals; for an application to regularise the position, of necessity, they consider what has in fact been built. He submitted that does not mean they have restricted themselves, but simply that they have adopted a practical and sensible starting point. He also pointed out that whilst the EHO had said it was likely they would have objected to the development if consulted at an earlier stage, there is no certainty in that respect.
34. During her submissions in reply to Mr Lopez, I asked Miss Wigley to make the following assumptions in relation to a hypothetical property which was a sensitive receptor for noise. I asked her to assume, if an application for permission had been made prior to development, that it would have been granted with a noise mitigation package including alterations in design and layout. I further asked to assume that for the same property but already built, a perfectly proper package could be achieved to address the noise issues but without involving alterations in design and layout. I suggested to her that in those circumstances it was hard to see how it could be said that a grant of planning permission with the lesser noise package (by which I meant the package without alterations in design and layout) could be challenged on the basis that the local authority should have approached matter as if based on plans rather than actual build. Miss Wigley very properly conceded that would be a proper approach for the planning authority to take, provided it can truly be said that the package of noise measures for the property as built is a proper package, and even if the planning authority might have preferred something different had it been considering the matter at an earlier stage on the basis of plans only.
35. However, Miss Wigley submitted that concession did not invalidate Grounds 1 and 2 in this case. She submitted that the concern behind Grounds 1 and 2 is that the threshold of acceptability in terms of noise mitigation measures has been compromised by the fact that this is a retrospective application for permission in respect of an occupied dwelling. In my judgment, it follows from that concession, that the

true source of complaint here is not that the EHO has imposed improper constraints by considering the property as built, but rather that the package of noise mitigation measures produced is unsatisfactory for other reasons. There is nothing in the EHO's advice to the planning officer, or in the OR to suggest that either the EHO or the planning officer did not understand that this was an application that could be rejected, or that either failed to understand that mitigation measures going beyond those desired by the IP could be imposed if the planning authority thought that was the right thing to do.

36. Turning specifically to Ground 2, Miss Wigley submitted that the EHO's reference to the Property "...being occupied by a long standing local family aware of the presence of the adjacent quarry" ([21/149] and adopted verbatim in the OR [14/94]) shows that the assessment of appropriate noise mitigation measures has been compromised by an assumption that the environment need not be so good for a local family already occupying an unlawful development. Miss Wigley submitted that this was a curious statement to include if it has no relevance to the matter. She submitted it must have been included as factoring into the assessment on the impact on amenity, as in "This family is perhaps more tolerant of noise than others".
37. I agree that it is not immediately obvious why the fact that the Property is occupied by a long standing local family aware of the presence of the adjacent Quarry needs to be mentioned by the EHO or by the planning officer. However, it is a significant leap from the fact of that mention, to the assertion that the effect was that the EHO and the planning officer were effectively treating this as a personal planning application for a family more likely to put up with the noise because they were already occupying and aware of the Quarry. There is absolutely nothing in the documentation to suggest that an error of that sort was made. The statement about the occupation of the family could equally well be proffered to explain why the current occupiers may not have complained about noise, with the implication that future occupiers might. I cannot accept that single sentence evidences a constraint of the type argued for by Miss Wigley. In my judgment, if relevant at all, the issues raised under Grounds 1 and 2 are more relevant to and supportive of the complaint in Ground 3. It follows that I reject Grounds 1 and 2.

Ground 3

38. Ground 3 is the alleged failure to have regard to policy and guidance in the PPG relating to the reliance on keeping windows closed as a mitigation strategy. At the time of the Permission decision, the relevant NPPF was the 2012 version. In this judgment all references to the NPPF are to the 2012 version. Paragraph 123 NPPF provides (so far as relevant) that planning policies and decisions should aim to:
- i) avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of a new development
 - ii) recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

The above are the first and third bullet points in Paragraph 123 NPPF.

39. The PPG on noise defines the "Significant observed adverse effect level" as "...the level of noise exposure above which significant adverse effects on health and quality-of-life occur" [33/226]. For ease of reference I shall refer to this level as "SOAE" or "SOAE level", as appropriate. In a section entitled "How to recognise when noise could be a concern", there appears the following paragraph:

"Increasing noise exposure will at some point cause the [SOAE level] boundary to be crossed. Above this level the noise causes a material change in behaviour such as keeping windows closed for most of the time or avoiding certain activities during periods when the noise is present. If the exposure is above this level the planning process should be used to avoid this effect occurring, by use of appropriate mitigation such as by altering the design and layout.

Such decisions must be made taking account of the economic and social benefit of the activity causing the noise, but it is undesirable such exposure to be caused." [33/226]

40. The same section contains a table summarising the noise exposure hierarchy, based on the likely average response. Noise that is noticeable and disruptive crosses the SOAE level and should be avoided. This is described as follows

"... noise which causes a material change in behaviour and/or attitude, eg avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to changing acoustic character of the area." [33/227]

It should be noted that the most serious noise in the table, described as noticeable and very disruptive, and of unacceptable adverse effect, should be prevented, rather than simply avoided [33/227].

41. The PPG goes on to consider what factors influence whether noise could be a concern, pointing out that the nature of noise is subjective such that there is not a simple relationship between noise levels and the impact on those affected. A number of general factors to consider are listed, followed by more specific factors to consider when relevant, including the following:

"consideration should also be given to whether adverse internal effects can be completely removed by closing windows and, in the case of new residential development, if the proposed mitigation relies on windows being kept closed most of the time. In both cases a suitable alternative means of ventilation is likely to be necessary. Further information on ventilation can be found in the Building Regulations" [33/228]

42. I now turn to the Apex Report, which is the noise assessment prepared for the IP at the request of the EHO. Apex Acoustics measured weekday noise levels at the facade of the Property exposed to noise from the Quarry and the Asphalt Plant. As requested by the EHO the tests were carried out under British Standard, BS 4142: 2014. Under BS 4142:2014 the methodology is to obtain an initial estimate of the impact of the specific sound by subtracting the measured background sound level from the rating level. Typically, the greater this difference, the greater the magnitude of the impact. A difference of around +10dB or more is likely to be an indication of a significant adverse impact, depending on the context [38/380].

43. The results in the Apex Report indicated a SOAE for both daytime and night time periods. The differences between the background sound level and the rating level were reported by Apex Acoustics as +35dB for daytime, and +43dB for night-time [17/126; table 5]. I have a Witness Statement from Dr Paul Cockcroft, a specialist Acoustic Consultant engaged by the Claimant. He explains that the generally accepted rule is that a change of 10 dB(A) corresponds roughly to halving or doubling the loudness of a sound. The noise level for the night-time assessment, which is recorded as +43dB above the background sound level, would be eight times as loud as the level representing a significant adverse impact. [26/182].

44. The Apex Report proposes two alternative ways to address the noise issue and to meet internal noise criteria. Section 8 of the report deals with "Facade acoustic design to meet internal criteria". The internal criteria referred to are the noise criteria. The report sets out a proposed provision to meet the issues, whilst emphasising that it is not intended to constitute a ventilation strategy design, which is the responsibility of the mechanical engineers [17/127, paragraph 8.7]. In order to achieve the desired internal noise levels, the Apex Report recommends the glazing and ventilator performance specifications shown in the summary table, which is table 1 in the report. The author adds that the current construction design will need to be reviewed to comply with these requirements [17/128, paragraphs 8.24 – 8.25]. Table 1 contains the author's summary of **minimum** facade sound insulation treatment included in the assessment calculations (my emphasis added). Both options set out in Table 1 contain minimum glazing performance requirements, and continuous mechanical ventilation, Option A being for mechanical extraction with the

use of a single trickle vent to each of the bedrooms for make-up air, and Option B being frame of continuous mechanical supply and extract with heat recovery, which does not require any trickle ventilators [17/122: Table 1].

45. Paragraph 2.8 of the Apex Report refers to the proposals in Table 1 as "...a set of minimum glazing and ventilation strategy options, interpreted from Approved Document F (AD-F)" [17/121]. The summary goes on to refer to the glazing options and concludes at paragraph 2.13 as follows: "On this basis it is considered that any [SOAE Level] impacts on internal noise levels are avoided..." [17/121].
46. As already mentioned, the proposal includes glazing options, and paragraph 8.13 of the Apex Report refers to the acoustic performance of the proposed glazing. There is no dispute in this case that the glazing currently installed at the Property meets the acoustic performance recommended. The Apex Report continues at paragraph 8.14 (still under the heading of "Glazing") "Opening windows may be acceptable to provide purge ventilation; all opening lights should be well fitted with compressible seals."
47. Miss Wigley submitted that there is a nexus between mechanical ventilation and purge ventilation, a nexus which she submitted is recognised both in the BS 4142:2014 and in Building Regulations. In BS 4142:2014 in Section 11 on "Assessment of the impacts" [of sound], amongst the pertinent factors to be taken into consideration is the following:

"The sensitivity of the receptor and whether dwellings or other premises used for residential purposes will already incorporate design matters that secure good internal and/or outdoor acoustic conditions, such as:

i) facade insulation treatment;

ii) ventilation and/or cooling that will reduce the need to have windows open so as to provide rapid or purge ventilation; and

iii) acoustic screening" [38/381]

48. (AD)-F of the 2010 Building Regulations deals with Ventilation. The "Key terms" are set out in Section 3 and include the following of relevance to this case;

"Background ventilator is a small **ventilation opening** designed to provide controllable **whole building ventilation**.

Purge ventilation is manually controlled ventilation of rooms or spaces at a relatively high rate to rapidly dilute pollutants and/or water vapour. Purge ventilation may be provided by natural means (e.g. an openable window) or by mechanical means (e.g. a fan).

Whole building ventilation (general ventilation) is nominally continuous ventilation of rooms or spaces at a relatively low rate to dilute and remove pollutants and water vapour not removed by operation of **extract ventilation, purge ventilation** or **infiltration**, as well as supplying outdoor air into the building. For an individual dwelling this is referred to as '**whole dwelling ventilation**'." [36/244-245]

49. Paragraph 5.7 of (A-D) F provides as follows:

"Purge ventilation provision is required in each **habitable room**..... Normally, openable windows or doors can provide this function ..., otherwise a mechanical extract system should be provided...." [36/257]

Miss Wigley also referred me to Table 5.2a where there is reference again to the need for purge ventilation for each habitable room, where it is also noted "There may be practical difficulties in achieving this (e.g. if unable to open a window due to excessive noise from outside), and "As an alternative... a mechanical

fan.... could be used" [36/261]. I note that the same wording is repeated in each of Tables 5.2b [36/263], 5.2c [36/265] and 5.2d [36/266], with the addition, in the latter two cases, of an indication that expert advice should be sought in such situations.

50. Miss Wigley submitted that it is clear from the above matters that purge ventilation is not a binary matter. Where there is another form of ventilation, the need for purge ventilation will be reduced. She pointed out that the acknowledgement in the Apex Report that opening windows may be acceptable to provide purge ventilation is against a background of the recommendations in that report that a mechanical ventilation system is also needed. She further submitted that the alternative ventilation strategy to opening windows is a mechanical system (per Paragraph 5.7 (A-D) F set out in paragraph 48 above), and that there is no question of trickle vents alone providing this function. She also referred me to paragraphs 4.15 and 4.16 (A-D) F. It is clear from paragraph 4.15 that purge ventilation is ventilation of a separate type to whole building ventilation. Furthermore, purge ventilation is intermittent and required only to aid the removal of high concentrations of pollutants and water vapour released from occasional activities such as painting and decorating or accidental releases such as smoke from burnt food or spillage of water. It is noted that purge ventilation provisions may also be used to improve thermal comfort although this is not controlled under the Building Regulations [36/251, paragraph 4.15].
51. In paragraph 4.16 there is reference to trickle ventilators being used for whole dwelling ventilation and windows for purge ventilation [36/251]. Miss Wigley submitted that trickle vents are plainly for useful background ventilation of the whole building and are not a substitute for purge ventilation by the opening of windows and/or the use of a mechanical system.
52. As set out in paragraphs 12 -13 above, the IP did not wish to install mechanical ventilation and there were discussions between the EHO, the planning officer and the IP's agent concerning ventilation. The agent provided the email [18/147] from the building surveyor set out in paragraph 13 above. Miss Wigley submitted that discussion relates entirely to background ventilation, or whole dwelling ventilation and that no consideration was given to purge ventilation and whether purge ventilation would be adequate, given that mechanical ventilation was not being provided as recommended in the Apex Report.
53. Miss Wigley very properly accepted that the fact that there is no express reference by the EHO or the OR to the PPG is not, without more, a ground for challenging the reports of either officer. She submitted, however, that it must be clear that the issues concerned have been fully covered. There is no dispute between the parties that the PPG is a significant material consideration because it is government policy. The application of the policy is of course a matter of planning judgement and depends upon the facts of the case. The significance of the relevant policy will also depend on the facts of the case. Miss Wigley submitted that in this case the PPG is central, particularly as the noise mitigation relied upon in this case is closed windows, when the PPG clear policy is to try and avoid this. She pointed to the fact that there is no reference to any of these factors in the advice of the EHO or in the OR. She submitted that the OR shows that the planning officer placed total reliance on the EHO response on these matters as the OR sets out verbatim the EHO's final recommendations. Miss Wigley submitted there is no evidence at all that the EHO has considered the applicability of the PPG and, in particular, the desirability of avoiding relying on windows being closed to address the noise issues. She submits that the EHO has in effect cherry picked from the Apex Report, and simply relied upon the email from the building surveyor (wrongly described as Building Control by the EHO but nothing turns on this) which "..... confirmed that the current ventilation arrangements are acceptable without the need for mechanical ventilation", and that they met the Requirements under the Building Regulations.
54. All the e-mail from the Building Surveyor does is to confirm that the sealing of certain trickle vents to assist with reducing sound in the building will not reduce the background ventilation provisions required by Building Regulations. Plainly, that email does not address in any way at all, the impact of noise and the proposed control of noise into the building by the use of closed windows. It simply deals with the adequacy of background ventilation. Obviously, it cannot address, and does not purport to address, how the residents of the Property might be affected by noise if, for example, they wish to keep windows open for lengthy periods of time during hot weather. Indeed, the Building Regulations themselves make it clear

that they do not control the use of purge ventilation for thermal comfort (see paragraph 49 above). Miss Wigley relies upon the fact that nowhere is there any indication that the EHO or the planning officer considered that PPG advises that the SOAE level identified in the noise assessment, (a document expressly asked for by the EHO), should be avoided and is undesirable. She acknowledged that this is obviously not an absolute requirement, but it is nevertheless relevant policy and the council is required to have regard to it and take it into account. She submitted that the council should either have ensured that the mitigation measures overcame or avoided the SOAE level, or it should have been balanced against other considerations and an explanation given as to why it was not to be avoided in this case. She submitted that all the guidance in the PPG (quoted at paragraphs 39 – 41 above) contains a link between mechanical ventilation and the need to open windows, but no one at the council considered this.

55. She submitted that the EHO and the OR both state that internal noise levels can be met with glazing and the windows being closed, without any consideration as to the need for mechanical ventilation. Whilst the Apex Report allows for windows to be used for purge ventilation, it does so in the context of and contingent upon the provision of alternative mechanical ventilation, something Miss Wigley submitted, which has been completely missed by the council officers both in construing the Apex Report and in failing to consider the guidance in the PPG.
56. On behalf of the Council, Mr Lopez submitted that the treatment of the noise issues has been perfectly properly carried out and is consistent with the PPG guidance. He pointed out that both the NPPF and PPG indicate that planning decisions should aim to avoid noise from giving rise to significant adverse impacts, but neither is prescriptive. He further submitted that there is no rule that purging must be avoided and, therefore, that it is a matter of planning judgement for the decision taker to consider the acceptability of purging. There is nothing in the PPG identifying an acceptable degree of purging, subject to the issue of noise. Mr Lopez submitted that it is possible to depart from the guidance without their necessarily being an error. That is plainly right, and Miss Wigley accepted that in her submissions.
57. Mr Lopez submitted that it is plain on the face of her report dated 12 March 2018 that the EHO has carried out her own independent assessment and concluded that some purging would be acceptable. He submitted this is a matter of planning judgement and not open to challenge. The passage in question appears in the EHO report at [21/150] and is repeated verbatim in the OR at [14/94]. I shall refer to the passage from the OR as this was the passage addressed by Mr Lopez in his submissions. Under the heading "Impact on amenity" there appears the following:

"BS 4142 recognises that not all adverse impacts will lead to complaints and it's not intended for the assessment of nuisance. [The Property] is occupied by a long standing local family aware of the presence of the adjacent quarry. BS 4142 also allow scope look at absolute noise levels rather than just relative levels and for other standards such as BS 8233 to be considered. It was therefore recommended that the applicant considered BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings' as part of their assessment in order to see whether the recommended guideline indoor and outdoor noise levels can be achieved. The report shows that guideline indoor levels can be achieved with a combination of glazing and ventilation and that some areas of the garden can offer an acceptable amenity space in accordance with BS 8233.

With regards to internal noise levels, the noise assessment recommended certain glazing and ventilation options all entailing the use of mechanical ventilation in order to achieve the recommended noise levels. However, the applicant does not propose to use mechanical ventilation and has forwarded documentation from Building Control who have confirmed that the current ventilation arrangements are acceptable without the need for mechanical ventilation. I note the view of Cemex that windows should be sealed shut to protect residents, however, I consider that the option for windows to be openable for the purposes of purge ventilation to be acceptable." [14/94]

58. Mr Lopez emphasised the use of the word "However". He submitted that marks a clear transition. He submitted that prior to the transition the report shows that the EHO was aware of the contents of the Apex Report. The transition shows that the EHO has moved on to make an assessment based on her knowledge that the IP did not want to use mechanical ventilation. He submitted the transition represented by the word "However" supports the fact that there has been a separate assessment by the EHO. He submitted the EHO has stood back, with the knowledge and understanding that mechanical ventilation would not be used but has concluded in her own assessment that purging was an acceptable way of addressing matters. He submitted that relates not just to the issue of ventilation, but also to the issue of noise.
59. Mr Lopez reminded me that the Claimant's challenge on this Ground is not a reasons challenge, or an irrationality challenge. He submitted that the Claimant's challenge is that the EHO has either forgotten the fact that the IP did not want mechanical ventilation or has forgotten that the Apex report was all prefaced on mechanical ventilation. In my judgment that is not an accurate statement of the Claimant's challenge. The challenge is a failure to have regard to policy and guidance in the PPG relating to the reliance on keeping windows closed as a mitigation strategy.
60. Miss Wigley accepted that Ground 3 is neither a reasons nor an irrationality challenge. Her challenge is that the policy and guidance has simply not been considered, and because of that there are no reasons given for departing from policy, and thus there are no reasons to challenge. Further there is no irrationality challenge which could only follow from an assessment which had been undertaken. The whole thrust of the Claimant's submissions in support of Ground 3 is that there is no evidence of an independent assessment or any independent calculations carried out by the EHO.
61. Mr Lopez submitted that the EHO was clearly aware of the Apex Report, a report which gave options, but which was not saying these are the only options. He submitted it was therefore open to the EHO to depart from the options proposed in the Apex Report, and to say why she had done so. He submitted she did not need to go into figures and that she had everything in front of her to entitle her to make the judgement she made. He submitted it was completely unreal to suggest that the EHO had not exercised her own judgement and made a wholly separate assessment, separate from the Apex Report. He submitted there is nothing in the EHO's report which signposts back to the Apex Report, and he refuted the suggestion put forward on behalf the Claimant that the EHO has effectively cherry picked from the Apex Report, taking background ventilation alone and not considering the ventilation strategy as a whole.
62. Whilst I accept that the EHO has clearly recognised that the IP did not wish to use mechanical ventilation, I am wholly unpersuaded by the suggestion that the EHO has necessarily carried out a wholly separate and independent assessment. The word "however", is at the beginning of a sentence which goes on to place reliance on the documentation described as being from Building Control and relies in that sentence on the fact that Building Control have confirmed that the current ventilation arrangements are acceptable without the need for mechanical ventilation. That is of course a reference to the email set out in paragraph 13 above. As I have already said, that email was dealing simply with whether the background ventilation provision after the sealing of certain trickle vents satisfied the ventilation requirements in the Building Regulations. In my judgement the straightforward reading of the sentence commencing with the word "however" is that the provision of the information from Building Control is such that it can properly be concluded that mechanical ventilation is not needed. The e-mail from "Building Control" [19/147; quoted at paragraph 13 above] refers to the provision of background ventilation. As already set out, the Building Regulations address ventilation, not noise in this respect.
63. Mr Lopez made much of the fact that the EHO is a scientific officer. He asserted that she is just as much an expert as Dr Cockcroft, the Claimant's acoustic expert, although there is no evidence as to the EHO's qualifications. In any event, whatever her qualifications, they do not protect her from the possibility of making a mistake, any more than the professional qualifications of Dr Cockcroft, or indeed the qualifications of any of the lawyers in this case, protect each or any of them from the possibility of making mistakes. Human beings all make mistakes. Mr Lopez repeatedly submitted that it was unreal to suggest that the EHO had not made her own independent assessment taking into account not just ventilation, but

also noise impact. Miss Wigley suggested that the reason he kept relying on something being unreal, was precisely because he had no other point to put forward.

64. The court is plainly not constrained to assume it is unreal that officers may not have carried out their functions properly. If that were the position, the jurisprudence as to the need for reasons for decisions to be provided would be wholly otiose. Indeed, there would be no need for this court to have a reviewing function, as it would be obliged to assume that all officers had done what they were required to do, and had done it properly, whether or not they had signposted that fact in the relevant documents.
65. I accept Miss Wigley's submissions that nowhere in the EHO's report or the OR is there any indication that, having set aside the provision of mechanical ventilation as recommended as a minimum in the Apex Report, the EHO then made a separate assessment of her own as to the noise impacts in the light of the policy guidance as to the undesirability of managing noise by keeping windows closed. Of course, it is not an absolute requirement, but it is relevant policy which the Defendant is required to have regard to and to take into account. In those circumstances, the Defendant should have ensured either that appropriate mitigation measures were in place designed to avoid the SOAE level for internal noise at the Property or have taken the policy into account and balanced it against other considerations to justify any position which did not seek to avoid the SOAE level internally. I recognise this is not a reasons challenge, but the absence of any reasons or explanation designed to show why it is appropriate in this case (if indeed it is) to allow a scheme of glazing and background ventilation which does not avoid the SOAE level, particularly in the face of the Apex Report setting out minimum requirements to achieve that and which are being expressly rejected for the purposes of the Permission application, suggests to me that no such independent assessment was carried out. Alternatively, if it was carried out, in my judgment, it is not clear that it was taking the documents at face value, and recognising they are addressed to a knowledgeable readership, and must not be read in an over legalistic way. In my judgment, the Claimants challenge on Ground 3 is made out.
66. I have before me two Witness Statements from Natalie Snowball [28/198-204] and [29/205-209]. Both are addressed to issues arising under Grounds 4 and 5. Unsurprisingly, Natalie Snowball does not address the reasoning in relation to Ground 3 as she adopts the advice of the EHO. There is no Witness Statement from the EHO, Lindsey Wilson. I regard that as unsurprising. Any evidence which she might purport to give on this subject would, of necessity, involve plugging gaps given the findings which I have made.
67. By Section 31(2A) Senior Courts Act 1981 the High Court must refuse to grant relief on an application for judicial review if it appears to the court to be highly likely that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred. I do not consider Section 31(2A) assists me in this case. In my judgment I cannot possibly conclude that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred. Had the PPG guidance been considered in the context of the need to avoid closing windows as a way of controlling noise, it might be the case that mechanical ventilation would have been required as recommended in the Apex Report. Equally, some other form of mitigation might have been proposed. These are matters of planning judgement, properly within the sphere of those qualified to make these decisions, and not matters upon which I could or should make any judgment.
68. It follows that Ground 3 succeeds and the planning permission in this case must be quashed. Whilst that is sufficient to dispose of the proceedings, I should plainly also consider Grounds 4 and 5 in this judgment.

Ground 4

69. Ground 4 is the alleged failure to take into account the impact on the claimant of the fact that the minerals permission is due to be reviewed in 2025 and that, at that time, onerous conditions could be imposed on the claimant's operation as a result of the [grant of planning] permission. [3/28]
70. In relation to noise effects and existing businesses, the PPG states as follows

"The potential effect of a new residential development being located close to an existing business that gives rise to noise should be carefully considered. This is because existing noise levels from the business even if intermittent (for example, a live music venue) may be regarded as unacceptable by the new residents and subject to enforcement action. To help avoid such instances, appropriate mitigation should be considered, including optimising the sound insulation provided by the new developments building envelope. In the case of an established business, the policy set out in the third bullet of paragraph 123 of the Framework should be followed." [33/227]

The third bullet of paragraph 123 of the NPPF is set out in paragraph 38 above.

71. There is no dispute in this case that the EHO properly recognised at the outset that she had to consider the potential impact on the quarry operations of a grant of planning permission for the Property. This is clear from her initial response of 23 May 2017 as set out in paragraph 10 above. The Claimant relies on the fact that the existing Minerals Permission requires that noise from the Claimant's mineral operations shall not exceed a noise limit of 55dB (A) for the two properties named in condition 17 [23/167]. As is clear from AP1, the two named properties are 1131m and 652m from the Asphalt Plant. The Property is only 64m from the Asphalt Plant. Miss Wigley submitted that the fact that such conditions were considered necessary to protect the residential amenity in relation to those two dwellings, indicates a strong likelihood that a similar condition would be considered necessary in relation to the Property, at which the effects on residents are likely to be more acute given how much closer it is to the Asphalt Plant. The Claimants rely upon the fact that the Apex Report demonstrates that if such a condition were imposed in relation to the Property, it would be immediately breached.
72. In his Witness Statements ([25/172] and [27/194]) Mark Kelly, the Claimant's Planning Manager, gives detailed evidence as to the likely impact on the Claimant's business of the imposition of such a planning condition. Mr Lopez correctly makes the point that none of that evidence was before the planning authority at the time the decision was made. The objections before the planning authority made clear in general terms that there was the potential for adverse effect on the Claimant's business if the quarry operations were restrained in the future, but without the level of detail given in Mr Kelly's Witness Statements. Those statements give details as to potential impacts on the viability of the operation, and as a result the possible loss of employment for local people, and possible loss of business rates income for the Defendant. Mr Lopez invites me to disregard that detailed evidence on the basis that none of it was before the Council at the time it made the decision. In my judgement that submission must be correct. I should approach this on the basis of the information that was before the Council at the time it made its decision. What was before the Council, was the Claimant's concerns that its business might be restricted by planning conditions on the Minerals Permission in the future.
73. The Claimant's case is that the Council has failed to consider the risk that the Claimant's business could be the subject of unreasonable restrictions by reason of conditions imposed at ROMP as a result of changes in nearby land uses, namely the grant of a residential planning permission for the Property.
74. There is no dispute that North Yorkshire County Council (which is the minerals planning authority) confirmed that the grant of planning permission for residential use at the Property would not amount to a breach of the existing minerals permission. The following appears in the OR, (having been taken verbatim from the EHO's report at [21/151]):

"Throughout this application I have been aware of the need to protect the existing quarry. I am also aware of the concerns of Cemex in this regard. I have therefore made enquiries with North Yorkshire County Council Mineral Planning with regards to the existing permissions for [the Quarry] and whether any noise limits would be applied to [the Property]. The reply from North Yorkshire County Council mineral planning advises that the conditions set out under the permission are the only conditions that they would refer to and enforce until such time that the permission may be subject to a review under the ROMP regulations or a variation, which at the present time is not applicable. They advised that the authority cannot

impose new conditions which would consider any new development which may be nearer to [the Quarry] outside of these remits. The current planning permission names 2 properties were existing noise conditions apply. [The Property] is not one of those named" [14/95]

75. The Claimant's case is that neither the EHO nor the planning officer have considered the potential for the noise conditions to be expanded to include the Property on a review of the ROMP conditions, and that the risk of that happening and its consequences were not evaluated, assessed or taken into account by the Defendant.
76. The first point which Mr Lopez took in reply to this Ground was a highly technical point and one which I consider lacks merit. He referred me to the Order granting permission on this Ground, where John Howell QC sitting as a Deputy High Court Judge acknowledged that the planning officers considered the effect of the grant of planning permission on the Claimant's business pending the review of the Claimant's planning permission. Mr Lopez submitted that it follows from that that the Council has acted properly in relation to this issue in respect of the period between now and the ROMP review in 2025. He submitted that it would be open to the Defendant Council to issue a Noise Abatement Notice at any time between now and 2025, and that such a notice would address the same species of noise as would be addressed at a ROMP review. In the light of the permission order, Mr Lopez pointed out that the claimant could not argue that it would be wrong for the Council to issue an Abatement Notice at any stage during that period. He submitted that there was no qualitative difference between an assessment of an actionable noise subject to an Abatement Notice, and the tasks to be undertaken in relation to noise on a ROMP review. Since the result of an Abatement Notice might be to require the quarrying activity to be restricted in some way in order to bring about a satisfactory noise scenario, and given that this could be done legitimately prior to the ROMP review, Mr Lopez submitted there is no qualitative distinction between that which the Claimant cannot challenge (i.e. a Noise Abatement Notice), and that which the Claimant seeks to challenge (the impact of the ROMP review).
77. Whilst I accept that the scope of an Abatement Notice would target the same noise complaint that might be of concern at ROMP, I do not accept that the two procedures necessarily produce the same result. By way of example, if the Defendant received a noise complaint, it would be entitled to consider, amongst other things, whether the issues could be properly addressed by requiring occupants of the Property to keep certain windows closed. A ROMP review is directed solely to the Claimant's operations, and not the actions of the occupants of any noise sensitive receptor. In any event, the issue here is whether the Council failed to have regard to the possible effects on the Claimant's business of a ROMP review occurring after the grant of the Permission in this case.
78. Mr Lopez' next point is that this is a wholly speculative complaint. He referred me to AP2 which shows the locations of a further four dwellings which have received planning consent since the Mineral Permission granted to the Claimant in this case. Notwithstanding those four dwellings, he pointed to the fact that the Minerals Planning Authority (the "MPA") has not caused a review to take place notwithstanding the erection of those further dwellings. He relied on the letter of North Yorkshire County Council dated 24 February 2016 which postpones the ROMP review until 3 April 2025 [25/171]. He submitted, therefore, that the indications are that the Quarry is not an issue in noise terms. On the contrary, he suggests this is good news, reflecting the way the Quarry is operating with regards to all those dwellings. Whilst Mr Lopez accepted that he cannot say that the MPA would not impose a condition, he submitted that the Claimant cannot say that the MPA would impose condition in the light of the above, and that the Claimant's Ground is purely speculative. He pointed out it is not for the EHO or the planning officer to crystal ball gaze or constrain the ROMP review. He submitted, therefore, that there was nothing more that the EHO or planning officer could do other than have regard to the fact that the powers are available to the MPA at the ROMP review.
79. In response to these points, Miss Wigley pointed out that the postponement of the ROMP review to 2025 is no indication that the MPA is content with the impact of noise in relation to the further dwellings which have been built since the Minerals Permission was granted in April 2000. AP2 was produced by the Defendant on the second day of the hearing, and whilst Miss Wigley has not objected to it, she pointed to

the fact that the Claimant has had no opportunity to check the circumstances of the planning applications in respect of the four dwellings in question. She also pointed to the fact that they are all much further away from the Asphalt Plant than the Property is.

80. More significantly, she drew my attention to the statutory provisions which have resulted in the postponement of the ROMP review until April 2025. It is clear from the letter from North Yorkshire County Council, that the Claimant had requested a postponement of the periodic review of their mineral permission until 03/04/2025. It is equally clear that the planning authority had not responded to that within three months from the date of the receipt of the request. The letter therefore confirms that in accordance with Schedules 13 and 14 of the Environment Act 1995 the request for postponement is approved. I have the relevant provisions at AB3. By paragraph 7(1) of Schedule 13 Environment Act 1995, a company such as the Claimant may apply to the Mineral Planning Authority for the postponement of the date specified for a first review. By paragraph 7(10), where the Mineral Planning Authority has not given notice of a decision on such an application within a period of three months, the Authority shall be treated as having (i) agreed to the specified date being postponed and (ii) having determined that date should be substituted as the date for the next review. Miss Wigley made the point that the postponement of the ROMP review was therefore automatic as a result of the failure of North Yorkshire County Council to respond to the Claimant's request for it to be postponed, and does not represent any substantive consideration of the merits of the position, and the noise environment in particular. She submitted that the fact that there are other properties which have been built in the vicinity has no relevance as North Yorkshire County Council has clearly not undertaken any substantive consideration in relation to the Minerals Permission since the relevant dwellings were erected or converted.
81. Miss Wigley submitted that it is not mere speculation to look at the existing Condition 17 in the Minerals Permission, and to recognise that the concerns which led to the imposition of that condition are likely to feed into a similar condition in relation to the Property. She submitted it is not outlandish speculation to consider that a similar condition would be imposed in relation to the Property which is very much closer to the Asphalt Plant than the two properties named in Condition 17. She submitted it is a clear indication of the MPA's stance and what the MPA considers necessary to protect the residential amenity near the Asphalt Plant. I accept that submission. In my judgment that is a possibility that could, and should, have been considered when considering this planning application, and the impact for Cemex under the third bullet point of Paragraph 123 of the NPPF.
82. Mr Lopez' next point related to a further document which was provided to me on the second day of the hearing. This is an elevation plan showing the elevations of the Property, with various windows shaded in yellow. This was referred to at the hearing as the yellow window plan. I shall refer to this as the "YWP", as shorthand for the yellow window plan. This was simply handed to me and there is no evidence as to its provenance. Miss Wigley accepted that the yellow highlighting on the YWP accurately indicates the windows which were required to have the trickle vents permanently closed as part of the planning permission. That is all she accepts in relation to the YWP. Mr Lopez told me that this was a document that Miss Snowball had in front of her when considering the issues in this case, but there is no evidence to support that.
83. Mr Lopez relied upon the YWP as showing that the blocked up trickle vents are all within the elevations fronting the Quarry. The property is set at an angle and both the north-west and south-west elevations front the Quarry. Within each of the habitable bedrooms, there are windows on other elevations away from the Quarry where the trickle vents are not blocked up. Mr Lopez submitted that there is no evidence that opening of windows in those elevations would cause an actionable noise event. He submitted, therefore, that the EHO was entitled to exercise her own planning judgement and to conclude that there would be no noise issues on the elevations away from the Quarry, and that there is no merit in Ground 4.
84. Miss Wigley submitted that Mr Lopez had made an enormous leap from the Apex Report to the submission that because one window in each bedroom was not required to have the trickle vent removed, it meant that window could be opened without any unacceptable noise effects. In support of this she pointed to calculations in the Apex Report. In particular, she drew my attention to the fact that at

Paragraph 8.21 in the section dealing with "calculated internal noise levels", the cumulative impact is considered through all windows to the room under assessment. In the table at Paragraph 8.24, the upper limit of internal noise levels in the first column is right up against the limit and is calculated quite clearly after mitigation levels including both the glazing and mechanical ventilation. The fact that those items are included is made clear in Paragraph 8.25. In those circumstances, Miss Wigley submitted that Mr Lopez cannot assert that it is fine to open the non-highlighted windows on the YWP without there being any unacceptable noise. I accept that submission.

85. Further, and in any event, Miss Wigley submitted that there is no evidence at all that any of this was considered at the time by the EHO. Miss Wigley made the points again about trickle vents being background ventilation and not as a substitute for purge ventilation, a submission I have already dealt with and accepted.
86. I accept the points made by Mr Lopez that there is no power or option for the EHO to second guess what the MPA would do. Mr Lopez suggested that when the MPA, North Yorkshire County Council, replied to the EHO indicating that there would be no breach of the current planning restrictions, there is nothing to suggest that the MPA was not also forward-looking about conditions it might impose. He pointed to the fact that North Yorkshire County Council did not object to the grant of planning permission in this case. It does not seem to me to be necessarily within the remit of Yorkshire County Council to object to the planning application. However, what clearly was within the remit of the EHO and the Defendant was to consider the third bullet point in NPPF paragraph 123, and to recognise that the Claimant should not have unreasonable restrictions put on them because of changes in nearby land uses since the business was established.
87. I recognise that there will be matters of planning judgement in considering what restrictions might be imposed in the future, and whether such restrictions might amount to unreasonable restrictions on the Claimant in the future. If it was clear from the documents that these matters had been considered, that would be one thing. However, in my judgment, whilst the documents do show that the EHO, and through her the planning officer, recognised that the quarry business needed protection, I am not satisfied that any consideration was given to the likely impact that the grant of planning permission for the Property might have on a ROMP review. Whilst in her Witness Statement Natalie Snowball asserts that all of these matters were considered, I am of the view that amounts to evidence seeking to plug the gaps in the decision-making process. I regard it as of no assistance to me.
88. Furthermore, Natalie Snowball's evidence is to the effect that the future position on a ROMP review was considered in the context of all the information before her including "... the adequacy of the proposed development in noise impacts and attenuation terms..." [28/199, paragraph 5]. Given the conclusions I have reached in relation to Ground 3, and, in particular, the failure to have regard to the PPG relating to the reliance on keeping windows closed as a mitigation strategy, it follows, in my judgment, that failure would inevitably also feed through into the assessment which Natalie Snowball alleges she has undertaken. I recognise, as Mr Lopez repeatedly reminded me, that this is not a reasons challenge or an irrationality challenge. I equally appreciate that the comment I have made in this paragraph goes to the issue of reasons, but those being reasons which are provided ex post facto in the form of a Witness Statement. Had those reasons been provided in the OR, no doubt they would have been the subject of a challenge. As with Ground 3, there is no reasons challenge here precisely because the challenge is that nowhere in the OR is there any indication that the issues have been considered.
89. In my judgement Ground 4 is also made out. I am satisfied that the EHO set out to consider not only the current position as regards the Minerals Permission, but also to consider the future impact on the Quarry. However, based on the EHO reports and the OR, there is nothing to suggest that any consideration was in fact given as to whether a condition similar to Condition 17 of the Minerals Permission was likely to be imposed at ROMP, or that any consideration was given as to the risks such a condition would pose to the future operation of the Claimant's business, all matters which should have been considered as part of the consideration under paragraph 123 NPPF. I further note, in passing, that the EHO mentioned the 55dB being a limit in a fairly old permission and the absence of a tighter night time condition such as 42dB

[38/440]. This formed no part of the Claimant's case before me and forms no part of my decision in this matter, but it appears nowhere in the consideration of these issues.

90. In relation to Ground 4, again I do not consider Section 31(2A) Senior Courts Act 1981 assists me in this case. In my judgment I cannot possibly conclude that the outcome for the applicant would not have been substantially different if the conduct complained of had not occurred. Had the likely future impact of a similar planning restriction to Condition 17 of the Minerals Permission been considered, it might be the case that this would have informed the adequacy of proposed noise mitigation measures. It could be the case that mechanical ventilation might have been required as recommended in the Apex Report, or even that mitigation going to the physical building and/or its layout might have been considered. It is even possible that the conclusion might have been reached that the grant of planning permission would not be appropriate. These are all matters of planning judgement, properly within the sphere of those qualified to make these decisions, and not matters upon which I could or should make any judgment of my own.

Ground 5

91. Ground 5 is the alleged irrational failure to take into account all relevant considerations when deciding not to include all the conditions recommended by the IP's own noise consultant.

92. The Claimant's case is that the conditions imposed in the Permission should have included conditions to ensure that the standard of glazing for the future was maintained and that those windows where the trickle vents were to be blocked up, could not have trickle vents reintroduced. The Claimant's case is that having required these factors to be included as noise mitigating measures, it is irrational not to include conditions in the Permission to ensure the mitigation measures are retained in place for the future. Ground 5 is drafted to include an irrationality challenge for the failure to include mechanical ventilation as a condition, but it seems to me that more properly forms part of Ground 3. This Ground is really based on the premise that even if the Permission was unobjectionable on the application of PPG, nevertheless there is still a challenge based on the failure to incorporate appropriate conditions. The oral submissions were based on the failure to include conditions relating to glazing and the retention of the blocked trickle vents.

93. Miss Wigley submitted that there was no consideration by the Council as to the retention of the specified glazing properties for the windows, nothing to keep the removal of the trickle vents in the yellow highlighted windows in place, and nothing to prevent the introduction of new trickle vents. She submitted that the EHO's report and the OR are silent on these matters, showing that there has been no consideration as to how to secure that these requirements stay in place. She submitted that looking at the documents there is a clear lacuna in failing to ensure that the mitigation measures endure.

94. The Defendant seeks to rely on Condition 3 of the Permission which abrogates the usual permitted development rights, and requires what would otherwise be permitted development to be the subject of a formal application for planning permission. The reason given for that Condition is that it is in the interests of the appearance of the proposed development and to reserve the rights of the local planning authority with regard to those matters [11/80]]. Natalie Snowball deals with this in her Second Witness Statement where she asserts that any work involving the replacement of the existing windows or glazing, the introduction of new opening trickle vents, the removal of blocked up trickle vents, or the insertion of new windows not incorporating necessary noise mitigation measures required under condition 4 would require there to be a full planning application by reason of Condition 3 of the Permission. She expresses her opinion that any such works would materially affect the external appearance of the building, and so would amount to development. She asserts that the question of whether proposed works would materially affect the external appearance of the building is a question of planning judgement [29/206; paragraphs 6-12]. In reliance on that, Mr Lopez submitted that Ground 5 is wholly misconceived and must fail.

95. In response to this Miss Wigley submitted that a change of the windows would not amount to development. She submitted that I should disregard the evidence of Natalie Snowball on these issues for the following reasons. Firstly, she submitted that this is ex post facto rationalisation which should not be permitted. Secondly, she relied upon the fact that the reasons now suggested are different from the stated

- reason on the planning decision notice which relates to the appearance of the building and has nothing to do with noise mitigation measures. She further pointed to the fact that whilst in her first Witness Statement Natalie Snowball does rely on Condition 3 of the Permission, nowhere in that statement does she explain how she considers replacement windows would be development in any event. Miss Wigley submitted that Miss Snowball's thought processes were eked out over the course of the Witness Statements and are inherently unreliable. None of these reasons is given in the reports and she invited me to disregard them.
96. In response to this Mr Lopez submitted that these are quintessentially matters of planning judgement. He also pointed to Miss Snowball's evidence that the trickle vents had been permanently blocked and cannot be reopened. He denied that Condition 3 was limited solely to the appearance of the building, pointing to the second part of Condition 3 which refers to the reservation of the relevant rights to the local planning authority with regard to the permitted development matters. I accept that submission in relation to the reasons given for the condition. He submitted that if I accept that submission, there is no reason to attach less weight to the evidence of Miss Snowball on this matter.
97. It is right that I should record that I mentioned that I was aware, from sitting on other cases, that not all planning officers necessarily regard a change of windows as amounting to development. I therefore suggested that a future planning officer might not take the same view as Miss Snowball as to whether windows amounted to development and whether Condition 3 applied. In response to that Mr Lopez pointed out that any planning decision taker imposing a condition cannot unduly or improperly bind the authority or other planning officers moving forwards. The planning decision taker must simply exercise his or her own planning judgement. Mr Lopez submitted that any concern I might have that a future person might reach a different view is irrelevant. It is a matter for the planning judgement of the relevant officer at the relevant time. It seems to me that must be correct. He further submitted that for this challenge to succeed, the Claimant would have to say that the planning officer's judgement in this case that a change to the windows would amount to development is irrational. He pointed to the fact that there is no evidence put forward on behalf of the Claimant to suggest that such a conclusion is irrational.
98. Whilst accepting that she has no evidence on that point, Miss Wigley did not accept that it was necessary. She submitted that it was plainly irrational for Miss Snowball to assert that any works to replace windows, for example simply with different glazing, or simply with a different slot vents, would always materially affect the external appearance of the building. She submitted that is irrational, and that Miss Snowball's evidence on this is simply not credible. She submitted that this simply was not considered at the time of the grant of the Permission and there no decision at all was taken which was designed to retain the mitigation measures for the future. She submitted it is not acceptable to rely on the convoluted evidence of Miss Snowball in seeking to plug the gaps, particularly where such a serious issue of noise exists.
99. In response to questions from me as to whether, rather than this being an issue of planning judgement, it was a matter of law as to the construction of Section 55 Town & Country Planning Act 1990 which defines development, Miss Wigley reminded me that if a future occupier wanted to assert that a change of windows would be lawful development, the procedure would be for the occupier to make an application for a Certificate of Proposed Lawfulness on the local planning authority. It would then be for the local planning authority to decide whether that amounted to lawful development, and any appeal against their decision would lie to a Planning Inspector.
100. Having considered the submissions, I do not consider I could properly conclude that Condition 3 is not capable of covering any future work in relation to the windows given that there is plainly a matter of planning judgement to be made as to whether or not any works proposed amount to lawful development. I recognise that Miss Snowball's evidence is once again ex post facto rationalisation. However, even if the need to keep the mitigation measures for the future was not addressed by the decision-makers, if there is a route by which they can properly address those issues in the future, then the fact they failed to consider them would make no difference.
101. I have come to the conclusion that Ground 5 is made out in that there is nothing on the face of the documents to suggest that any consideration was given to the retention of those noise mitigation measures

which the EHO and the planning officer thought were necessary and sufficient in this case. I do consider that the evidence of Natalie Snowball is evidence attempting to plug the gaps in this case. However, in relation to this Ground, I would not grant relief on the basis that the outcome for the Claimant would not have been substantially different if the conduct complained of had not occurred. I consider that the fact that there are matters of planning judgement involved in the application of Condition 3 of the Permission means that Condition 3 can be used as a method to secure the retention of mitigation measures in the future. Indeed, it allows for a degree of flexibility in the future and for the imposition in future applications of measures which might not be available now, but which become available with advancements in technology, development materials and the like.

102. In summary, I reject Grounds 1 and 2. I accept Grounds 3, 4 and 5 are proved. I decline to give any relief on Ground 5 on the basis that Section 31 (2A) Senior Courts Act 1981 applies in relation to that Ground. However, I also find that Section 31 (2A) has no application when considering Grounds 3 and 4. It follows that the planning permission in this case must be quashed.

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Appendix II



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England and Wales High Court (Administrative Court) Decisions

You are here: [BAILII](#) >> [Databases](#) >> [England and Wales High Court \(Administrative Court\) Decisions](#) >> Ornuia Ingredients Ltd, R (On the Application Of) v Herefordshire Council [2018] EWHC 2239 (Admin) (22 August 2018)

URL: <http://www.bailii.org/ew/cases/EWHC/Admin/2018/2239.html>

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Neutral Citation Number: [2018] EWHC 2239 (Admin)

Case No: CO/454/2018

**IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
BIRMINGHAM DISTRICT REGISTRY
PLANNING COURT**

Birmingham Civil Justice Centre
Bull Street, Birmingham B4 6DS
22/08/2018

B e f o r e :

HHJ DAVID COOKE

Between:

R (oao Ornuia Ingredients Ltd)

Claimant

- and -

Herefordshire Council

Defendant

Barratt Homes

Interested Party

**Jenny Wigley (instructed by Burgess Salmon LLP) for the Claimant
Hugh Richards (instructed by internal solicitors) for the Defendant
Peter Goatley (instructed by Shakespeare Martineau LLP) for the Interested Party**

Hearing date: 5 July 2018

HTML VERSION OF JUDGMENT APPROVED

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HHJ David Cooke :

1. The claimant challenges the decision of the defendant council on 21 December 2017, acting by officers under a delegated authority, to approve reserved matters including the layout of a housing development at Ledbury. That decision was taken in relation to outline planning permission for building 321 houses on the site that had been granted by an Inspector on appeal in April 2016. The claimant is the owner of a factory making cheese adjacent to the site. The Interested Party is now the owner of the development site, having bought it with the benefit of the outline planning permission.
2. The claim proceeds on one ground only, for which I gave permission on 27 March 2018, that the council failed to take into account a material consideration in that it did not take any account of representations made by the claimant on 15 December 2017 including a report by acoustic engineers on its behalf which, it says, casts doubt on a conclusion previously reached that it would in principle be possible to produce a scheme for mitigation of noise emitted by the claimant's factory such that it would be reduced to acceptable levels at houses built to the proposed layout.
3. It is not in dispute that the council received the representations and report concerned, and it is accepted that no consideration was given to them before the reserved matters decision was taken. The position of the council and the Interested Party is that this did not amount to an error of law because the outline permission was in any event subject to a condition (Condition 21) that before any development the council must first have approved "a scheme of noise mitigation for outdoor living areas, bedrooms and living rooms" for the houses to be built which would "include details of proposed ameliorative measures to mitigate against noise from operations within the nearby industrial estate... including the [claimant's] cheese factory...". The reserved matters decision did not amount to discharge of this condition, so that if it turned out in due course that acceptable noise mitigation could not be achieved with the approved layout no development could in any event begin and the developer would have to produce a revised layout, for which acceptable noise levels could be achieved. The representations on noise issues were thus, it is said, not material considerations at the point of approving the layout and no error was committed by ignoring them.
4. The claimant's commercial concern of course is that it should not be at risk in future of claims for noise nuisance by occupiers of the houses that might cause it to have to curtail its operations or pay for noise mitigation measures of its own. Insofar as such measures are necessary, it no doubt wants the developer to undertake them at the outset at its own expense, but it says that to the extent the developer has engaged in any discussion with it as to the measures it is prepared to undertake, they are not capable of producing acceptable levels given the proposed layout. It fears that if the layout is approved, in practice the council will come under pressure (and might even be obliged) to approve a scheme of noise mitigation which could be presented as the best practically achievable with that layout, but which would not be sufficient to protect it from future claims and the trouble and expense they would bring.
5. In return the council says there is no question of it being obliged to accept inadequate noise mitigation, and it would be fully entitled to withhold approval for discharge of condition 21 even if that meant revision of the layout previously approved.
6. It is obvious that there is a linkage between questions of layout of houses on the development and the noise mitigation measures that may be required to produce an acceptable noise level at and within those houses. The nearer a house is to the emitter of a given noise the louder that noise will be, as heard at the house itself, so that more effective measures of noise reduction or attenuation may be required to render it acceptable. Noise received in gardens will be less if the gardens are sited on the far side of the house from the source, and so shielded to some extent, than if they are on the near side. Noise heard in a given room, such as a bedroom, will also be affected by whether that room is on the near or far side from the source. In principle no doubt the two issues could be considered entirely separately, but in reality anyone seeking to design a layout would be bound to have some regard to this interaction and the likely effect of noise on the

houses, not least because it might be very inefficient and expensive to have to revisit the layout if it emerged later that the noise condition could not be satisfied. I do not doubt either that in practice once a layout had been approved there would be a risk that the developer might seek to exert pressure on the planning authority to accept noise reduction measures it proposed, if the alternative was to revisit that layout with the possible delay disruption and expense that might cause. That does not mean of course that the authority would be necessarily bound to accede to any such pressure.

7. Noise was an issue before the Inspector. Her decision letter includes the following:

"Dominant noise sources likely to affect future occupiers are the adjacent industrial units and traffic on Leadon Way and Dymock Road. The appellant's noise report sets out various mitigation measures that could be secured by condition. The measures that provide the baseline for the conclusions in the report do not, it transpires, take account of the proposed roundabout on Leadon Way which would, potentially, introduce noise from vehicles braking on approach, and accelerating away from it. I have no reason to suppose, however, that associated noise would preclude development on the appeal site and am satisfied that an appropriately worded condition would deal with the matter and would ensure that acceptable living conditions were provided for future occupiers.

... As referred to earlier, a scheme of noise attenuation is necessary to ensure acceptable living conditions for future occupiers "

8. The application for approval of reserved matters was submitted in December 2016. It included, amongst other matters, the proposed layout for the site. It was referred by officers for consultation to the council's Environmental Health Department, and it is plain from the consultation responses that the officers in that department were significantly concerned by the potential impact of noise on the proposed houses, and wanted to be satisfied that appropriate mitigation measures could in principle be devised for the layout proposed. The developer's acoustic experts, Wardell Armstrong were asked to submit noise modelling reports to supplement reports they had prepared at the time of the original planning application in 2014 and 2015. These were sent in January and April 2017, and in the consultation response dated 8 May 2017, the Environmental Health Department set out what appear to be fairly serious concerns about the information provided.
9. They said they did not agree with Wardell Armstrong that the appropriate limit for noise garden areas was 55 dB, that the acceptable limit ought to be 50 dB but the modelling provided showed levels between 55 and 60 dB. This was described as "not acceptable", and although this particular point seems to be directed at traffic noise, may indicate that the EHO considered that Wardell Armstrong were tending to seek to apply inadequate standards. In relation to noise from the cheese factory, it was noted that the mitigation levels proposed in the April report produced a worse result than had been suggested in the January report with noise levels "likely to be around 5 dB above background sound levels... This is not desirable."
10. It was noted that in the 2015 report Wardell Armstrong had anticipated that the houses closest to the cheese factory would have their gardens facing away from the factory so that they would be screened by the houses, but the layout now proposed included two houses where this was not the case. Further, the original report had suggested noise mitigation measures being taken on the factory premises but these were now omitted (though it was noted that this might have to be reconsidered). Further information was requested on this and also in relation to night-time noise where it was noted that "our concern is that closest residents may be adversely impacted in their bedrooms at night time when much lower background noise levels exist. Please can the applicants supply further noise contours of the closest dwellings... to evaluate the impact of this noise."
11. Further noise contour drawings were provided by Wardell Armstrong on 23 May, and the EHO made a site visit before submitting a further consultation response on 7 June. In that response it was noted "At visits to the proposed site both during the day and late evening officers from our department noted the constant humming noise emanating from [the cheese factory]... which was identified as the dominant noise source

in the locality and was accompanied by a hissing (pressure relief type) noise every few seconds. Without mitigation, this would seriously impact on the amenity of residential properties in close proximity to the site. Mitigation of the 24/7 sound source on the roof at [the cheese factory] has been mentioned as an option in a number of Wardell Armstrong reports... Despite this at our meeting 26 May 2017 it would appear that... there has been no discussion with [the claimant] on this issue." It was also noted that the information provided indicated that during the daytime noise levels from the cheese factory would be between 5 and 10 dB above background level "thus indicating a likely adverse impact, depending on context." Further, the difference at night time was suggested to be between 23 and 26 dB, significantly more than the level of 10 dB which the relevant British standard suggested would be "likely to be indication of a significant adverse impact depending on context."

12. Further concern was expressed about low-frequency noise measurements, where the council's own measurements showed a significant difference from those provided by Wardell Armstrong. This was evidently a serious concern; this document concluded "we would strongly recommend the Wardell Armstrong proposed option to mitigate the [cheese factory] sound at source and this needs to be further explored with [the claimant]. Alternatively we recommend the site layout and design should be further reviewed to assess the suitability of siting dwellings close to [the cheese factory]... There must either be attenuation of this noise at source or a buffer zone on the site where there is no residential development or a combination of the two so that we could be satisfied that noise from [the cheese factory] (including low-frequency noise) does not impact on the amenity of residents when their windows are open as well as closed."
13. A further response was sent by Wardell Armstrong on 16 June, in relation to which the EHO commented on 5 July 2017 "the proposal for mitigation of the noise [from the cheese factory] at source has been dropped after repeated references to this in earlier submissions. The noise consultants advise that the low-frequency noise can be addressed by residents keeping their windows closed night time. Our submission is that this is not a reasonable expectation on residents... and is contrary to World Health Organisation guidelines... Our low-frequency noise assessment and the officers' site observations would support the BS:4142 assessment findings in that the [cheese factory] noise source is likely to have a significant adverse impact on the dwellings closest to the noise source. This is especially so at night time..." The "strong recommendation" that mitigation measures and or a change of layout be considered was repeated.
14. This led to a yet further proposal by Wardell Armstrong, which was sent on 10 October. That document provided, as had been requested, a specification for proposed mitigation measures on the cheese factory site, in the form of a 3 m high acoustic fence in combination with sound insulation measures at the principal sources of noise from the factory. This led the EHO to send an email to the planning officer dealing with the matter on 17 October in which she said "The proposed mitigation works... will be satisfactory for the site with windows open... as long as the mitigation at the [cheese factory] site namely a) acoustic fencing and b) extract plant mitigation... are undertaken."
15. An officers' report was then prepared for the meeting of the planning committee. It is accepted that it contained an adequate summary of the consultation that had been undertaken with the EHO and the result that had been reached. Members were informed that the layout had been referred to the EHO who had initially been concerned that it might not be possible to achieve acceptable noise mitigation but that "the work that has been completed by [Wardell Armstrong] has demonstrated that there are measures that can be taken. The provisions of condition 21 remain in force and it is incumbent upon the developer to provide further information for the condition to be discharged, but officers are sufficiently content that noise from [the cheese factory and the road] can be mitigated on the basis of the layout shown above."
16. The minutes of the committee meeting make clear that members of the committee were concerned about noise. They record that they were told by the officer "it was not a requirement of the reserved matters application to address all the conditions imposed by the inspector. With reference to condition 21 relating to noise, for example, the Environmental Health Officer had to be satisfied that a scheme could be implemented to mitigate that issue. It was then incumbent upon the developer to submit a suitable scheme to enable the application to proceed. The absence of the detailed scheme at this stage was not a ground

upon which to refuse a reserved matters application." The committee resolved that (subject to conditions not relevant for present purposes) delegated authority be given to officers to issue the reserved matters approval.

17. It was only after this that the claimant became aware of the matters that had been under discussion. There had been no consultation by planning officers or the EHO with the claimant (it is not suggested there was any obligation to undertake such consultation) and the measures that Wardell Armstrong proposed by way of noise mitigation, which would require to be executed on the claimant's land, had not been agreed with the claimant. On 15 December 2017 the email that forms the basis of this challenge was sent, enclosing a report prepared by Hayes McKenzie, the claimant's acoustic consultants, and:

i) drawing attention to the fact that in its calculations of noise impact the latest Wardell Armstrong report had dropped a 6 dB "tonal penalty" that had been applied in its 2014 and 2015 reports, and stated that in their opinion further measurements showed that the sound from the cheese factory was not tonal in quality. However Hayes McKenzie had performed their own measurements which, in their view, showed a distinct tonal quality as a result of which the relevant British standard required a tonal penalty to be applied.

ii) Referring to further background noise data collected by Hayes McKenzie, including measurements for evening and night periods that had not previously been assessed.

iii) Stating that Hayes McKenzie's opinion was that in light of these factors the proposed mitigation measures would not prevent a significant adverse impact on residents likely to give rise to complaints, and that with the layout proposed, it would not be possible to achieve suitable mitigation.

18. The email requested that determination of the reserved matters application should be delayed "until this issue has been properly addressed and a suitable scheme agreed by [the claimant and the developer]". It is not clear exactly what happened on receipt of that email; the planning officer did not however refer the matter back to the EHO for any comment, nor did he ask the developer or Wardell Armstrong to respond to it, nor did he refer the matter back to members of the planning committee. There is no note or other record, or other evidence, showing what if any consideration was given to the email and the Hayes McKenzie report. Thus, although the position of the council now is that any information casting doubt on the advice the EHO had given was irrelevant because it could all be addressed as and when an application was made to discharge condition 21, there is no evidence at all that the relevant planning officer considered the matter and came to that conclusion at the time.

19. In fact, as Mr Richards points out, the email may have somewhat overstated Hayes McKenzie's opinion in relation to proposed mitigation. It is apparent from the content of the report that, whilst it strongly disputes Wardell Armstrong's conclusion that the tonal penalty should not be applied, stating that its measurements show "a tone at around 600 Hz which has a tonal audibility greater than 10 dB confirming the requirement for a 6 dB rating correction under BS 4142" the conclusion reached was that "it is therefore possible that the only way of achieving an acceptable external noise environment is through greater separation distance between the factory and nearby housing." This, Mr Richards says is not a conclusion that adequate noise mitigation *is not* possible, but only that it *may not* be possible.

20. It cannot however be said that this is the reason why no action was taken in relation to the email; there is simply no evidence that any planning officer considered it all came to any view of it at all.

21. Ms Wigley's submission is that the law in relation to what is a material consideration and the obligations on officers acting under a delegated power when a material matter arises after a delegated power is given to them but before they exercise that power to make a decision is set out on the judgment of Jonathan Parker LJ in *R (Kides) v South Cambridgeshire DC* [2002] EWCA Civ 1370, in which he said:

"material considerations"

121 In my judgment a consideration is "material", in this context, if it is relevant to the question whether the application should be granted or refused; that is to say if it is a factor which, when placed in the decision-maker's scales, would tip the balance to some extent, one way or the other. In other words, it must be a factor which has some weight in the decision-making process, although plainly it may not be determinative. The test must, of course, be an objective one in the sense that the choice of material considerations must be a rational one, and the considerations chosen must be rationally related to land use issues.

"have regard to"

122 In my judgment, an authority's duty to "have regard to" material considerations is not to be elevated into a formal requirement that in every case where a new material consideration arises after the passing of a resolution (in principle) to grant planning permission but before the issue of the decision notice there has to be a specific referral of the application back to committee. In my judgment the duty is discharged if, as at the date at which the decision notice is issued, the authority has considered all material considerations affecting the application, and has done so with the application in mind – albeit that the application was not specifically placed before it for reconsideration.

123 The matter cannot be left there, however, since it is necessary to consider what is the position where a material consideration arises for the first time immediately before the delegated officer signs the decision notice.

124 At one extreme, it cannot be a sensible interpretation of section 70(2) to conclude that an authority is in breach of duty in failing to have regard to a material consideration the existence of which it (or its officers) did not discover or anticipate, *and could not reasonably have discovered or anticipated*, prior to the issue of the decision notice. So there has to be some practical flexibility in excluding from the duty material considerations to which the authority did not *and could not* have regard prior to the issue of the decision notice.

125 On the other hand, where the delegated officer who is about to sign the decision notice becomes aware (or ought reasonably to have become aware) of a new material consideration, section 70(2) requires that the authority have regard to that consideration before finally determining the application. In such a situation, therefore, the authority of the delegated officer must be such as to require him to refer the matter back to committee for reconsideration in the light of the new consideration. If he fails to do so, the authority will be in breach of its statutory duty.

126 In practical terms, therefore, where since the passing of the resolution some new factor has arisen of which the delegated officer is aware, and which might rationally be regarded as a "material consideration" for the purposes of section 70(2), it must be a counsel of prudence for the delegated officer to err on the side of caution and refer the application back to the authority for specific reconsideration in the light of that new factor. In such circumstances the delegated officer can only safely proceed to issue the decision notice if he is satisfied (a) that the authority is aware of the new factor, (b) that it has considered it with the application in mind, and (c) that on a reconsideration the authority *would* reach (not *might* reach) the same decision."

22. Issues relating to noise were, she submitted, inevitably material considerations in addressing the reserved matters application because of the link between layout and perceived noise at the houses, notwithstanding the existence of the separate condition specifically requiring acceptable noise mitigation. The council was obliged, she submitted, to be satisfied at least that acceptable mitigation was possible in principle before approving a given layout, even if the detail was then left to a later application to discharge the condition. Alternatively, if the council was not obliged to take noise issues into account at that stage it was entitled to

do so if it wished, and since the council had in this case plainly chosen to take noise into account at the reserved matters stage it had become a material consideration even if it need not have been treated as such.

23. As to the first point, that noise was an obligatory consideration, Ms Wigley submitted that it must be so, since otherwise when an application was made to discharge condition 21 it would be argued that the council could not lawfully refuse that application on the basis that acceptable mitigation was not possible unless the layout was changed. She pointed to *Thirkell v Secretary of State* [1978] JPL 844, holding that reserved matters approval could not be withheld on a ground that had already been decided in principle at the grant of outline planning permission as that would be to reopen an issue already decided and frustrate the permission granted. She accepted this could not be read across directly to the position where a condition is considered after reserved matters approval, but submitted the same would apply by analogy; the council having approved a layout at one stage could not make it impossible to implement that layout by adopting standards for what constituted acceptable noise levels that could not practically be achieved with that layout.
24. Mr Richards submitted that there was no question of frustration. The permission granted was dependent on both an acceptable layout and acceptable noise mitigation; the fact that one layout had been approved did not preclude the developer submitting another and the council would be perfectly entitled to refuse discharge of condition 21 if not satisfied with the mitigation measures proposed, leaving the developer with the option of submitting revised mitigation measures or a revised layout, or a combination of the two.
25. Counsel are agreed there is no prior authority either way directly in point. For my part, I can see force in Ms Wigley's submission, and I do not find particularly persuasive the argument that because the layout was approved as a reserved matter the planning authority could in effect compel submission of a revised layout by a conclusion that the one approved could not result in satisfaction of an outstanding condition as to noise. Such a condition might equally be imposed on a grant of full planning permission, or on a grant of outline permission where layout was not one of the reserved matters. If it might be argued (as presumably it could) that refusal to discharge a condition amounted to frustration of a permission in those forms, why should it make a difference that the permission in place is a composite of an outline permission and a reserved matter approval, as here?
26. No doubt it would be fairly rare for a condition imposed to be absolutely impossible to fulfil. For instance, a condition as to noise could in principle always be discharged by procuring the cessation of the source of noise. In practice, the argument would no doubt be that refusal to discharge the condition made it impossible in the real world to implement the permission because the measures required were impractical or uneconomic (eg perhaps if noise mitigation to the standard required involved the closure of a road or factory). It is fairly easy to imagine circumstances in which such an argument could arise, so it cannot be said that it is so fanciful that the duty argued for cannot exist.
27. In the end however I have concluded that I do not need to decide that point in the present case, because Ms Wigley succeeds on her secondary argument. The interaction of layout with satisfaction of the noise condition was in my view plainly such that the council was entitled to have regard to it in considering the reserved matters application. It is evident from the consultation, the officers' report and the minutes of the meeting that it did so, and approached the matter on the basis it required to be satisfied that satisfaction of the noise condition would not be rendered impossible. The advice given to members was expressly on the basis that having regard to the measures the developer had proposed officers and the EHO were satisfied the condition was capable of discharge without changing the layout, and the delegated authority given to the officers was plainly premised on that advice.
28. In this context it is clear, it seems to me, that further information coming to light that cast significant doubt on the validity of that advice amounted to a material consideration. It would, adopting the test set out in *Kides*, have been bound to tip the balance of consideration to some extent- if for instance members at the meeting had been told that the acceptability of the revised proposals depended on the developers experts having apparently watered down the standards applied by excluding a tonal penalty on a basis that now appeared open to challenge it is not realistic to say this would not have been considered relevant. This is

particularly so given the history of concern on the part of the EHO, including apparent concern that Wardell Armstrong had sought to apply standards the EHO considered inadequate and provided measurements that did not appear to be supported by her own observations.

29. Such information would not I think be an entirely new material consideration, arising for the first time after the grant of delegated authority, such as Jonathan Parker LJ appeared to be envisaging in the passage quoted in *Kides*, but best considered as material bearing on a matter already taken into account. I am bound to say I have some difficulty in reconciling what he said at para 122, which seems to envisage that a new matter must have been considered by the authority before a delegated power is exercised, but not necessarily by the officer referring it back to the authority, and para 125 which seems to indicate that if the new material is received immediately before a decision is taken it must be referred back to the planning authority, ie members. But in the present context I think the resolution is that the delegated authority itself confers on officers a degree of power to consider for themselves new relevant information bearing on the exercise of the power they have been given such that, depending on the terms of the authority conferred, they may properly take a view as to whether in light of such information they should proceed to make a decision or refer the matter back to the members. If they do so, the new information has been considered by the planning authority, at the level of the officers acting under delegated powers, before the decision is taken and its duty is satisfied.
30. There may of course be issues that arise in a particular case whether the scope of the delegated authority is sufficient to allow officers to take their own decision on information they in fact receive, or, if it is, whether the decision they reach on that information is rational. But no such considerations arise in this case, because on the evidence before me the officers did not give any consideration at all to the 15 December email or the report it attached.
31. Mr Richards submitted that even if such consideration had been given, the result would inevitably have been the same because officers would have concluded that the matters raised could (indeed must) have been left to be addressed later on discharge of the condition. But this it seems to me flies in the face of the way the matter had been dealt with previously both by officers and members. Although Mr Richards points to textual matters in the email and the attached report that he says might have led to a conclusion they did not raise a strong enough doubt about the previous advice to prevent the decision proceeding, these are not such that the email and report must inevitably have been dismissed out of hand. It cannot be said, it seems to me, that responsible officers who had advised members they and the EHO were satisfied the noise condition was capable of discharge would inevitably have proceeded to a decision on considering new information, apparently supported by expert advice, casting doubt on what members had been told, without referring that information to the EHO or members or both.
32. It follows in my judgment that an error of law was committed. The error may be considered either as a failure by the planning authority to consider, either at the level of members or officers, a material factor in the form of the information provided with the 15 December email, or as a failure by officers properly to exercise the delegated power they had been given by evaluating and coming to a conclusion on that information.
33. In either case, the result is the same and the decision taken must be quashed and remitted to the authority for redetermination.
34. I will list a hearing at which this judgment will be handed down. I do not require attendance on that occasion, though if there are matters arising that can be conveniently dealt with in 30 minutes I will take them at that hearing. If a longer or later hearing is required, counsel should submit and agreed time estimate and joint availability so that it can be listed.

Appendix III



Appeal Decision

Hearing Held on 28 August 2019

Site visit made on 28 August 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th November 2019

Appeal Ref: APP/P4605/W/18/3217413

18-20 Albion Court, Frederick Street, Birmingham B1 3HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Part 3, Class O of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Seven Capital (Albion) Limited against the decision of Birmingham City Council.
 - The application Ref: 2018/03393/PA, dated 25 April 2018, was refused by notice dated 14 June 2018.
 - The development proposed is a change of use of a building from office use (Class B1(a)) to a 21no. residential apartments (Class C3).
-

Decision

1. The appeal is dismissed.

Application for costs

2. Prior to the hearing an application for costs was made by Seven Capital (Albion) Limited against Birmingham City Council. At the hearing, a third party, Albion Court Action Group, made applications for costs against both Seven Capital (Albion) Limited and Birmingham City Council. These applications are the subject of a separate Decision.

Procedural matters

3. As originally submitted, the appeal proposal sought Prior Approval for the creation of 23 flats within the appeal building. Before the hearing, the appellant submitted an amended drawing that removed two proposed flats within the basement level of the appeal building from the scheme. The Council and third parties were made aware of this amendment and did not raise any objections to it. It was subsequently agreed at the hearing that the description of the proposal should be amended to read 21no. residential apartments.

Main Issue

4. Class O of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), hereinafter the GPDO, grants planning permission for the change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the

Schedule to the Use Classes Order¹, to a use falling within Class C3 (dwellinghouses). It is not in dispute that the building was in a use falling within use Class B1(a) on 29th May 2013, and that the appeal site is not within a safety hazard area or military explosives area, nor is the building a listed building or scheduled monument. The Council accept that the change of use would constitute permitted development.

5. Planning permission granted by Part 3, Class of the GPDO is subject to a condition that, before beginning the development, an application is made to the local planning authority for a determination as to whether the prior approval of the authority will be required in respect of the transport and highways impacts of the development; contamination risks on the site; flooding risks on the site; and the impacts of noise from commercial premises on the intended occupiers of the development. The Council resolved that its prior approval was required, and this was subsequently refused. It is common ground between the main parties that the proposed development would not have any adverse effects in terms of transport and highways and that there are no risks to the development from contamination or flooding. The sole matter in dispute is the efficacy of the noise mitigation measures proposed by the appellant and the effect that noise from nearby premises in commercial use may have on the future residents of the proposed flats.
6. Therefore, the main issue in this appeal is the effect of noise from nearby commercial premises on the future occupiers of the proposed development.

Reasons

7. The appeal building is a two storey structure with a semi-basement level. At the time of the hearing site visit, a further floor had been inserted into the roof space of the building as part of works commenced, and later suspended, under a previous prior approval. It is located within the city's Jewellery Quarter, which is predominantly commercial in nature with some small enclaves of residential uses. In the vicinity of the appeal building are several licenced premises that hold licences for live and recorded music, in particular the 1000 Trades public house which immediately adjoins the appeal building and Acapella on the junction of Albion Street and Frederick Street, opposite the appeal site. The Council state, and it is not contested by the appellant, that the licencing conditions of these premises allow recorded or live music until 03:00 on certain days.
8. Both parties recognise that these premises will be a source of noise that would affect the appeal building. Paragraph 182 of the National Planning Policy Framework (the Framework) seeks to ensure that new development can be effectively integrated with existing businesses and community facilities, which includes music venues, and that such businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Paragraph 182 further states that where the operation of an existing business would have a significant effect on new development nearby, the applicant/appellant should be required to provide suitable mitigation as part of the development.
9. In order to mitigate the potential for noise nuisance, it is proposed to install secondary glazing behind the existing windows in the appeal building and to

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

provide sound insulation on the party wall between the appeal building and the adjoining 1000 Trades public house. During the course of the appeal the specification of these mitigation measures were changed from that originally proposed, however, all the relevant parties have had the opportunity to comment on the revised specification. Mechanical ventilation would be provided throughout the building to provide the air changes required by the Building Regulations.

10. The Council have not challenged the technical findings of the appellant's noise assessments, although these are challenged by Albion Court Action Group who are third party objectors to the proposal and were represented at the hearing. The Council's primary concern is that the mitigation measures relied upon by the proposal would result in the future occupiers of the building having to keep the windows of the flats and the secondary glazing closed to prevent noise ingress, which would result in unsuitable living conditions.
11. Although it was argued by the appellant that Part 3, Class O makes no reference to living conditions and that there are no policy preclusions on sealed windows, in making a determination on a prior approval application, decision makers are required to have regard to the provisions of the Framework, so far as they are relevant to the proposal. Paragraph 127 of the Framework requires that new development should create places which promote health and well-being, with a high standard of amenity for existing and future users. The Planning Practice Guidance also identifies that if proposed noise mitigation relies on windows being kept closed this may have an effect on living conditions.
12. In addition, from the wording of Paragraph O2 (1)(d) of the GPDO, which deals with the conditions subject to which permission is granted, the effect of the proposal on living conditions is implicit in the consideration of the impacts of noise from commercial premises on the intended occupiers of the development. Within this context it is clear that the manner in which it is proposed to mitigate the noise is an integral and non-severable part of assessing the potential effect of noise on the future occupiers.
13. The appellant confirmed at the hearing that the secondary glazing to be installed at the appeal building would be openable and it was also confirmed that the proposed mitigation would only be effective if the windows and secondary glazing are closed.
14. There is no formal policy basis in the Framework that precludes the use of sealed windows, and the Council accepts that the use of mechanical ventilation would meet the requirements of the Building Regulations. Although there may be a psychological effect of living in an environment where it is not possible to open the windows, this is difficult to objectively quantify as it would affect different people in different ways. The Council do not generally support the use of sealed windows or fixed glazing, nevertheless, there is no persuasive evidence that would support the contention that fixed glazing would automatically result in poor living conditions.
15. Whilst the use of sealed windows would not necessarily result in unacceptable living conditions, the key test in this case that has to be met in order to meet the requirements of the GPDO is the effect of noise from commercial premises on the future occupiers and whether that noise can be suitably mitigated in

order to integrate the proposal with existing businesses. The appeal proposal specifically does not include sealed windows or fixed secondary glazing.

16. Although it is suggested by the appellant that people moving into city centre housing are prepared to make compromises in return for the convenience and lifestyle offered by city centre living, future occupiers would nevertheless have expectations regarding their quality of life and it cannot be assumed that any or all future occupiers of the development would necessarily be more tolerant of noise, nor can it be assumed that future occupiers would keep windows closed, even during events that resulted in noise. Whilst a planning condition could ensure that a noise mitigation scheme was put in place, it cannot thereafter ensure that it is used or operated as intended. Regardless of the provision of mechanical ventilation, future occupiers may wish to open the windows for access to fresh air or other reasons, and the actions of the future occupiers are not within the control of either the appellant or the Council.
17. The principal noise sources at this point in time result from evening uses and so windows in the appeal building could potentially be opened without detriment to the occupiers during the day. However, there is no evidence that the activities at the music venues is restricted or do not occur during the daytime. The surrounding area is commercial in nature and other nearby commercial users could at a future date introduce noisier uses or daytime activities that are not necessarily controllable, and the Framework is explicit that existing businesses should not be unreasonably restricted by development permitted after they were established. The ability to open the windows and secondary glazing would, therefore, fatally undermine the effectiveness of the proposed mitigation scheme.
18. In these circumstances, regardless of whether the enhanced glazing and sound insulation on the dividing wall would result in an acceptable internal noise climate and suitable living conditions for the future occupiers, the mitigation proposed is compromised by its reliance on the actions of a third party, namely the future occupiers, which is beyond the control of either the appellant or the Council, and, consequently, the proposal would not suitably address the effect of noise from nearby commercial premises on the future occupiers of the proposed development.
19. I have had regard to Inspector's decision on 50 Frederick Street opposite the site which allowed flats to be created above the premises now known as Acapella and the Inspector's conclusion that as a result of the mitigation measures proposed in that case, the impact of noise from commercial premises on the intended occupiers of the development would be acceptable. However, I note that this resulted in flats that had sealed, non-opening, windows and it was apparent from my site visit that the upper floor windows of this building are sealed units. This is materially different from the case in the present appeal, where the existing opening windows are being retained and openable secondary glazing is being installed. It is not proposed to replace the existing windows in the appeal building with fixed glazing. Nonetheless, I do not consider that this approval represents a precedent to allow the appeal proposal.
20. I have also had regard to the other cases cited by the appellant where the use of sealed windows has been permitted or openable windows have been found acceptable. I do not have the full details of these cases and so cannot be

certain that the circumstances are similar to the case now before me. I note that the Council state in respect of the planning permissions that it has granted that there were other regeneration benefits that outweighed the disadvantages of sealed windows, and I also note that these schemes are markedly different in scale to the appeal proposal. In respect of the appeal decision at Perry Barr², whilst I note that the Inspector concluded that openable windows were acceptable and that the proposal would provide a suitable residential environment, I do not have any details in respect of the nature or proximity of the noise sources, or of the prevailing noise climate in the area. I therefore cannot tell if this is comparable to the case before me, where there are multiple late night noise sources extremely close to the appeal building and, as a result, I can give little weight to this.

21. A number of conditions were discussed at the hearing relating to noise mitigation. Paragraph W of Schedule 2, Part 3 to the GPDO does allow for conditions that are reasonable related to the subject matter of the prior approval. However, the matter of noise mitigation is in itself a condition of the development permitted by the GPDO, is the principal matter in dispute between the parties, and goes to the heart of the main issue in this appeal. In these circumstances it would not be appropriate to require the submission of a further noise mitigation scheme as this would, in effect, reopen the prior approval process.
22. I conclude that the appeal proposal would not suitably address the effect of noise from nearby commercial premises on the future occupiers of the proposed development. It would conflict with the relevant requirements of the Framework which seeks to ensure that new development can be effectively integrated with existing businesses and community facilities; that where the operation of an existing business would have a significant effect on new development nearby, suitable noise mitigation is provided as part of the development; and that new development provides a high standard of amenity for future occupiers.

Other Matters

23. It was argued on behalf of the third parties that allowing the proposal would have a detrimental effect on the operation of the 1000 Trades public house as a music venue. Whilst this pre-supposes that there may be complaints from the future residents in respect of noise, it is also difficult to objectively quantify the likely prospects of success of such complaints. In any event, as this application is for prior approval rather than an application for planning permission, the matter that is before me is ultimately whether the proposed development would provide suitable living conditions for the future occupiers of the proposed development taking into account the existing commercial noise sources in the area and the proposed mitigation measures. It is not for me to determine whether those existing noise sources constitute an actionable noise nuisance but rather whether the proposed noise mitigation is appropriate.
24. The third parties also raised concerns in respect of increased car parking in the area as a consequence of the development. The appeal site has good access to public transport within a short distance of and is within reasonable walking distance of large parts of the city centre. No substantive evidence was submitted in respect of current and future parking demand, or which would

² Appeal reference: APP/P4605/W/18/3201108

demonstrate that the area suffers from parking stress. I also note that the Highways Authority have not raised any objections to the proposal. Based on the evidence, I have no reason to conclude differently.

Conclusion

25. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms N Pindham	Barrister, No. 5 Chambers
Mr K Fenwick	Pegasus Group
Mr N Mann	White Young Green
Mr A Moore	Pegasus Group
Mr L Kelter	White Young Green

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Wells	Principal Planner, Birmingham City Council
Mr M Key	Regulatory Services, Birmingham City Council
Ms A Do	Planning Officer, Birmingham City Council

INTERESTED PERSONS:

On behalf of Albion Court Action
Group:

Ms S Clover	Barrister, Kings Chambers
Mr B Albon	Sandy Brown Associates
Mr J Stapleton	1000 Trades
Mr J Todd	1000 Trades
Mr P Rose	Birmingham Jazz
Mr D Mahoney	Jewellery Quarter Development Trust

DOCUMENTS SUBMITTED AT THE HEARING

Updated drawings showing 21 flats (basement flats omitted)

Updated suggested conditions

Written submission from Jewellery Quarter Development Trust

Written submission from Birmingham Jazz

Appendix IV



Appeal Decision

Site visit made on 10 June 2020

by **A Caines BSc(Hons) MSc TP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 22 June 2020

Appeal Ref: APP/M4510/W/19/3234440

**Land to South of Walker Road, Formerly Saint Peters Scrap Yard,
304 Walker Road, Newcastle upon Tyne NE6 1AH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Alamoudi (Yasser Alamoudi Limited) against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref 2016/1060/01/DET, dated 22 June 2016, was refused by notice dated 28 March 2019.
 - The development proposed is residential development comprising of 58 units in 3 interlinked blocks of 5-6 storeys including a lightweight penthouse level together with associated hard and soft landscaping and 64 car parking spaces with access from Walker Road.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the appeal site address from the Council's decision notice as it is more precise than that given on the planning application form.
3. Prior to the determination of the planning application the scheme was amended and the description of development changed to that set out in the header above. This was the basis upon which the Council determined the scheme and so shall I.
4. The Council's second reason for refusal references a requirement for an open space and recreation contribution of £145,880. It has been clarified that this was a typographical error and should have been £45,880.
5. Since determination of the planning application the Council's Development and Allocations Plan 2015-2030 (DAP) has been found sound, subject to a number of main modifications. Given the advanced stage of the DAP, I have given due weight to the relevant Policies contained within it.

Main Issues

6. The main issues are:
 - Whether the site is an appropriate location for the development, with particular regard to the effects of odour on the living conditions of future occupiers; and

- Whether appropriate provision would be made for affordable housing and other requirements arising from the development.

Reasons

Odour effects

7. The development would be arranged in three linear interlinked blocks utilising the existing access from Walker Road, which passes initially along the western boundary before turning east into the narrow L-shaped site.
8. Immediately to the north west and adjoining the appeal site is the Byker Waste Treatment and Transfer Station (BWTTS) operated by SUEZ Recycling and Recovery UK Ltd on behalf of Newcastle City Council.
9. The BWTTS is a Mechanical and Biological Treatment waste handling facility, which I am informed is the principal waste treatment and transfer facility for Newcastle City's municipal waste collection service. It processes a large amount of household, commercial and industrial waste, including both inert wastes and organic material (such as animal tissue, food waste and green waste) under permit from the Environment Agency (EA).
10. There is no dispute that the BWTTS is a known source of odour and that the residential development falls within the high sensitivity receptor category. Due to the prevailing wind direction, the development would lie directly downwind from the odour source. This, together with the proximity of the development to the odour source and an expectation that residents would want to open windows and enjoy outdoor space within the development, means that the pathway effectiveness from odour source to receptor should be regarded as highly effective.
11. During the planning application, the appellant provided an Odour Impact Assessment¹. The assessment utilised sniff testing of odour intensity at locations within the site and predicted the likely odour effect to be moderate adverse on the two blocks that have since been removed from the proposals, and slight adverse on the three blocks comprising the appeal scheme. The Council commissioned its own Odour Assessment², which utilised a qualitative risk-assessment approach, together with a review of the appellant's assessment. It predicted moderate adverse odour effects across the whole of the development, but its overall conclusions are similar to the appellant's assessment. Both consider the western part of the site to be at risk of potentially significant odour effects from the BWTTS, with the risk decreasing further to the east where the three residential blocks are proposed to be sited.
12. However, the conclusion of the Council's odour assessment is qualified with a statement that odours are still likely to be detectable across the entire site from time to time. Furthermore, the appellant's sniff test results show that on two separate test days unpleasant municipal waste odour was detectable at the eastern end of the site. This is consistent with the history of odour complaints against the BWTTS from greater distances than any part of the development. There is nothing substantive before me to support assumptions that these complaints were a result of abnormal operations at the BWTTS or abnormal meteorological conditions.

¹ By Spectrum environmental support, dated 8 May 2017

² By Air Quality Consultants, dated 4 September 2017

13. The objection from the EA, a statutory consultee, is a very weighty matter. It indicates that in 2018 there was a significant spike in the number of complaints about odour from the BWTTTS within as much as a 1km radius of the development. This is corroborated by the objection from the Council's Waste Management Section, adding that the spike in 2018 complaints came despite efforts made by the facility to control odours after a peak of complaints in 2014-2015. This indicates that even with reasonable odour reduction measures at the source and effective operational pollution regulation in place, the surrounding area still experiences effects from residual odour caused by the BWTTTS.
14. I am also mindful that the BWTTTS is permitted to operate 24 hours per day, 7 days a week. Accordingly, the potential exists for the facility to operate more intensively than at present. The objection from the operator of the facility highlights the importance of flexibility to be able to work longer hours should the need arise, or if waste management requirements and targets change over time. In addition, the Council's Waste Management Section advises that mandatory weekly food waste collection may be introduced in the future. These factors could further increase the risk of odour effects from the facility.
15. Moreover, I am cognisant that the access for the development closely hugs the western boundary with the BWTTTS. It is common ground that the western part of the site could be exposed to potentially significant odour effects. Therefore, irrespective of whether the remaining residential blocks to the east would be exposed to unacceptable odour effects, it is likely that future occupiers of the development could experience the unpleasant odours from the BWTTTS on a regular basis as they enter and leave the site, by foot and by vehicle. Whilst this would be for short periods each time, cumulatively, this experience could cause annoyance and increase the potential for odour complaints against the BWTTTS.
16. In addition, the amendments introduced a "grass amenity" area in the western part of the site where one of the residential blocks was removed from the scheme because of potentially significant odour exposure in that location. As such, it would be likely that its users could be regularly exposed to unpleasant odours, particularly during warmer weather, thereby impacting on their health and well-being, as well as increasing the potential for odour complaints against the BWTTTS.
17. The introduction of dense planting along the western boundary may assist in the dispersion of odour to part of the site, but there is no substantive evidence that it would be highly effective in mitigating the effects of odour exposure from the BWTTTS. Indeed, the appellant's odour assessment acknowledges that this should not be considered as a mitigation plan which is certain to reduce the impact of odour exposure to the proposed development.
18. Drawing all these matters together, I cannot rule out the possibility that future occupiers of the development could be exposed to harmful odour effects from the BWTTTS. There is also a realistic prospect that the proposal could lead to further odour-related complaints against the BWTTTS. This could result in further costly measures and restrictions being placed on its operations. Not only would this disadvantage an existing business, but it could also unacceptably prejudice the Council's essential waste management and

recycling infrastructure and services. In these circumstances, I consider that a precautionary approach is a necessity.

19. For all these reasons, I conclude that the site is not an appropriate location for the development, with particular regard to the effects of odour on the living conditions of future occupiers. Thus, the development would be contrary to Policy CS14 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030 (CSUCP), which requires that the wellbeing and health of communities is maintained and improved by among other things, preventing negative impacts on residential amenity and wider public safety from air quality. It would also conflict with Policy DM23 of the DAP, which includes a requirement for development to provide a high quality environment and a good standard of residential amenity for existing and future occupants, ensuring among other things, that smells, fumes and other harmful effects from surrounding land uses and/or associated operations will not have an unacceptable adverse impact on residential amenity.
20. The development would also be contrary to paragraphs 127f, 180 and 182 of the National Planning Policy Framework, which seek to ensure a high standard of amenity for all existing and future users; that development is appropriate for its location taking into account the likely effects of pollution on living conditions; and that existing businesses and facilities do not have unreasonable restrictions placed on them as a result of development permitted after they were established.

Affordable housing and other requirements arising from the development

21. The Council has identified the need for the provision of 15% affordable housing, a financial contribution of £45,880 towards open space and recreation improvements in the vicinity, a Training Employment Management Plan, internal estate road and footpath management details, and the monitoring costs associated with the obligations. These have been identified and calculated on the basis of the specific development proposed and the Council's adopted development plan policies and supplementary guidance.
22. On the evidence before me, there is no suggestion that these provisions are anything other than necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. I am therefore satisfied that they would comply with the relevant tests for planning obligations as set out in the Framework and in Regulation 122 of the CIL Regulations.
23. The appellant has indicated willingness for all of the above mentioned requirements and contribution to be secured by a legal agreement, but there is no legal agreement before me. I have noted the request for the provision of a legal agreement to be conditioned; however, the Planning Practice Guidance (PPG)³ states that a positively worded condition which requires the applicant to enter into a planning obligation is unlikely to pass the test of enforceability. The PPG also adds that a negatively worded condition limiting the development taking place until a planning obligation is entered into is only appropriate in exceptional circumstances, citing more complex and strategically important development, which the proposal would not constitute.

³ Paragraph: 010 Reference ID: 21a-010-20190723

24. Accordingly, in the absence of any legal agreement, it is the case that the development would not make appropriate provision for affordable housing and the other identified requirements arising from the development. Thus, it is contrary to CSUCP Policies DEL1, CS5, CS11, CS13, CS18, saved UDP Policies OS1.1, OS1.2 and T7.1, and DAP Policies DM14 and DM27, in so far as they require new development to be made acceptable through the provision of affordable housing, and refer to the specific obligations and infrastructure requirements that have been identified.

Other Matters

25. The proposal would make effective use of previously developed land, which is identified for housing potential in the Walker Riverside: Area Action Plan. It would also add to the supply and choice of housing in the area, create employment opportunities and make a contribution to the local economy from additional revenue and expenditure from future occupiers. These are meaningful benefits of the proposal, but they do not outweigh the significant harm identified and the proposal's failure to comply with the policies of the development plan as a whole.
26. I have noted the variety of other issues raised by interested parties that have not been encapsulated above. This includes concerns regarding noise, design, traffic, wildlife, privacy, flooding, archaeology, land contamination and stability. However, these matters did not feature in the Council's refusal reasons and as I am dismissing the appeal for other reasons, it is not necessary to consider these matters any further, as any findings in these respects would not change the appeal outcome.

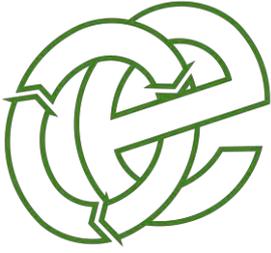
Conclusion

27. For the reasons given, the appeal should be dismissed.

A Caines

INSPECTOR

Appendix V



Oaktree Environmental Limited

Lime House, 2 Road Two,
Winsford, Cheshire, CW7 3QZ

Tel: 01606 558833

Chris Burton
Sutherland Property & Legal Services Ltd
1st Floor
1 Stamford Fort Cottages
Stamford Road
Plymouth
PL9 9SQ

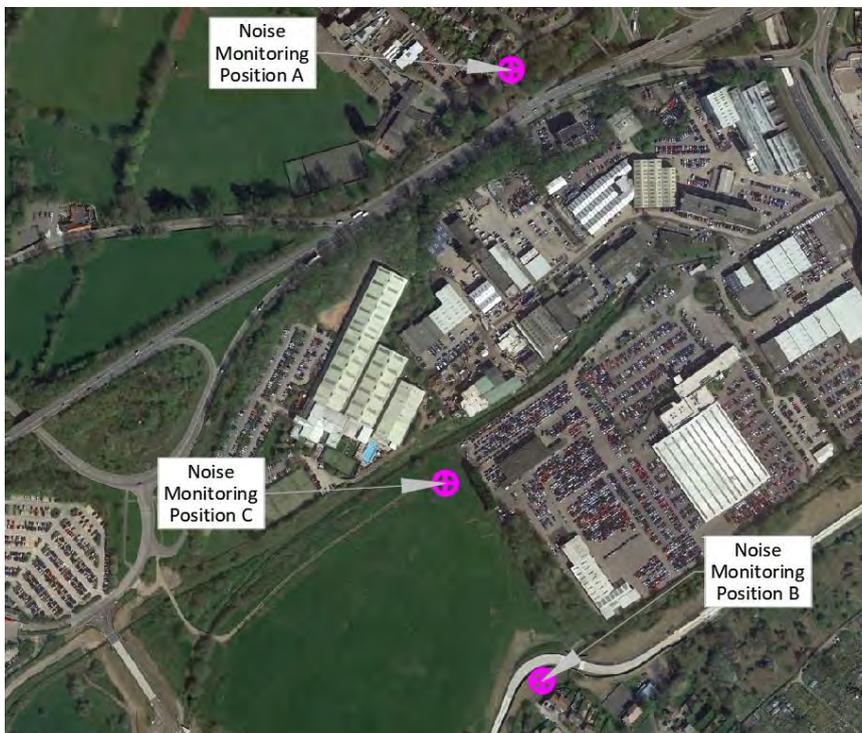
Date: 21st September 2021

Our Ref: 2369_001_v1.2

RE: RESULTS OF NOISE MONITORING DIRECTLY AT NOISE MONITORING POSITION 3, TO THE SOUTH OF ETM RECYCLING FACILITY, ASHTON VALE ROAD, BRISTOL

I have previously prepared and submitted a Noise Impact Assessment in support of a planning application for the extension of hours and annual throughput at a waste recycling site on Ashton Vale Road (application ref: [21/01169/X](#)).

As per the document outlining the scope of my assessment, I have undertaken monitoring at Noise Monitoring Position A (NMP A) and NMP B as per the below, previously submitted plan. However, in the interests of completeness I have undertaken monitoring at NMP C, the results of which were not submitted as part of the application.



Monitoring at this third location has been undertaken in order to accurately ascertain a background sound level for this location to be used in future assessments and to aid in the quantification of noise from the operations at ETM Recycling Ltd.

As per the scoping document submitted to Bristol City Council via email on the 7th December 2020 attended, hour long background measurements were taken in accordance with BS 7445-1: 2003 by Thomas Benson of Oaktree Environmental Ltd. As per the requirements of BS414: 2014, the survey ensured that background levels representative of the proposed operating hours were captured (i.e. 07:00-23:00 and 23:00-07:00 for Weekdays, Saturdays and Sundays). These were undertaken in 7no. individual visits to the area. With regards to the below, the site was operational during the currently consented operational hours i.e. 06:0-18:00 Monday-Saturday.

Measurement Time	LAeq	LAfmax	LA90	LA10	Comments
15/01/2021 09:30-10:30	57.6	71.5	46.8	61.3	Site operational – MRF not running.
15/01/2021 14:30-15:30	59.3	79.0	50.7	62.1	Site operational – MRF running for some of the monitoring period
23/01/2021 09:20-10:20	58.0	70.3	53.1	60.9	Site operational – MRF running for some of the monitoring period
23/01/2021 13:00-14:00	53.1	63.6	50.7	55.0	Site closed
25/01/2021 21:30-22:30	49.1	69.4	44.1	51.4	Site closed
26/01/2021 01:00-02:00	43.1	58.0	39.6	45.7	Site closed
30/01/2021 21:15-22:15	47.0	64.5	44.1	49.0	Site closed

It should of course be noted that the background monitoring undertaken during a period of significant national restrictions taking place during January and February 2021. At this time people are asked to stay at home, except for specific purposes and to avoid meeting people with whom you do not live (including working from home where possible). The closure of schools and certain business and venues is taking place during this time. Further discussion regarding how these restrictions may have affected the results are provided further on in this chapter, however from onsite observations the following noise emitting operators/sites were not active during this time:

- David Lloyd Bristol Long Ashton (5m west) – Large sports and gym centre including external sports pitches and swimming pool. This site was not in use at all during the monitoring and therefore noise arising from; road traffic, external sports and fixed machinery such as ventilation etc. will not be reflected during this round of monitoring.
- Manheim Bristol Auctions (15m south) – Whilst some movements were observed from workers moving stock, it appeared that the site remained closed to the public and no auctions were observed to have taken place during the monitoring.
- Flynn Ltd (20m north) – It is understood that work within the civil engineering yard has ceased completely.
- Long Ashton Park & Ride (275m south/west) – Vehicle movements within this area were extremely limited during the monitoring with no more than 5 vehicles observed per hour. Obviously during less restricted times this would change by orders of magnitude.
- Ashton Gate Stadium (470m east) – At the time of the monitoring football games were being played behind closed doors. Ashton Gate Stadium has a seated capacity of 27,000 which are currently unable to attend games. Evidently noise would arise from associated road traffic, pedestrians, fans attending pubs/eateries etc.

In addition to the above, a 15-minute plant measurement was undertaken between the hours of 03:00-03:15 whilst other noise sources comprising the surround noise climate are lower or not operational. It should be noted that this measurement does not include the contribution from other onsite noise sources such as; loading/unloading of HGVs, sorting/movement of wastes via the loading plant, movement of HGVs etc.

Location	LAeq	LAfmax
45m from southern façade	53.8	65.7

Based on the above, it should be considered that the proposed development of the vacant land to housing is completely at odds with the surrounding land uses and based on the relevant standards (BS4142:2014 and BS8233:2014) as well National Planning Policy and would likely arise in significant levels of disturbance.

In addition, Condition 4 of application ref: 17/06938/F states: *“The rating level of any noise generated by plant & equipment as part of the development shall be at least 4 dB below the background level as determined by BS4142: 2014 Methods for rating and assessing industrial and commercial sound.”*

From review of the background sound levels in the area and the noise levels associated with the site which are provided within the previous tables, it is apparent that the introduction of an additional noise sensitive receptor at such close proximity to the site would cause the site to be in breach of condition 4, the criteria of which would become exceedingly difficult to achieve.

I trust that my comments and monitoring will be placed on record and given appropriate weight.

Yours faithfully

Thomas Benson, Senior Consultant



Between 2007 and 2013 Steve Lansdown and Bristol City Football Club wanted to build a football stadium on these green belt fields in Ashton Vale. Local campaigners fought hard and in the end the proposed development did not happen. See the table below for more information about the history of protecting this site a decade and more ago.

Between 1957 and 1985	Green Belt is established around Bristol. This particular area is known as “Cell 69”. The wider cell is still important to North Somerset as recently as April 2021
12/2007	Steve Lansdown buys the land . It is already protected as green belt
06/2009	Planning permission (09/02242/P) made for a 30,000 seater football stadium and up to 253 dwellings split between Southlands (now the Town and Village Green [TVG]) and Alderman Moores Allotments (now Ashton Rise). Note: the proposed development was across a larger site than the current development
10/2009	The original SAVE campaigners apply for Town and Village Green (TVG) status for the entire green belt area
11/2009	In the first planning officer’s report (4th November 2009), the council reported that it was “minded to approve” the stadium and Alderman Moores housing only. It thought exceptional circumstances for building on the green belt were met by the stadium only. At this early stage, housing on the green belt was turned down by the council, even though (like today) it was included to help finance the stadium (see planning portal)
02/2010	Following revised plans, in the next planning officer’s report (10/02/2010) all mention of additional houses on the green belt is gone (see planning portal)
08/2010	After a public inquiry, Barrister Ross Crail recommends the whole green belt site becomes a TVG (report 26th August 2010)
04/2011	Full planning permission for the stadium and non-green-belt houses on Alderman Moores is granted (05/04/2011) as long as development starts within 5 years. This expired in 2016. Again, this final report notes that it was only the stadium development that outweighed the harm to the green belt (the exceptional circumstances), not houses (see planning portal)
06/2011	Bristol City Council (Cllr Peter Abraham and the public rights of way committee) decides to only register half of the site as TVG. Only the wetlands. (16th June 2011, officially registered on 26 July 2011)
02/2012	High Court judge delays ruling on the new stadium
04/2012	Campaigners for the full TVG granted a judicial review
05/2012	Judicial review narrowly averted just before it starts . Bristol City Council drops its opposition to the full TVG review, pulling out of the process, to avoid further delays and fees
08/2012	Bristol City Council refer the matter back to Barrister Ross Crail
02/2013	Bristol City Football change plans and decide instead to improve their existing stadium site
11/2013	Planned improvements to the existing Bristol City Football stadium approved

Good morning Amanda,

Please find below a summary of issues, I will provide a more in-depth response as soon as possible, however in the interests of providing the evidence to yourself intime for Monday I have provided this brief summary for you to discuss at the meeting.

Introduction

I have reviewed the information submitted during the outline residential application and the information provided by Oaktree Environmental to BCC and to the Environment Agency.

The CADNA modelling produced by Ramboll in support of the application is provided below for ease of reference.

This demonstrates that noise across the vast majority of the site will be greater than 50dB (A), with an area in the northeast of the site being greater than 55dB (A). However, this does not account for the character of noise. The context and subjectivity of noise can have a significant influence on how noise is experienced by receptors. This is discussed at length within BS4142:2014, the relevant standard for assessing noise generated via commercial/industrial uses.

This is also based upon monitoring undertaken during the COVID-19 pandemic and does not take into account the planning application at ETM and therefore is likely to underestimate noise levels. This also represents a procedural deficiency in their assessment, since developments subject to EIA must consider potential for cumulative impacts, such as consideration of applications submitted but not yet determined.

Having reviewed the proposals, it would be my opinion that the residential dwelling application should be refused on the following grounds:

- Lack of evidence supporting layout and revised proposals or as to whether the proposed condition can be achieved
- Against NPPF
- Breach of WHO guideline values
- Against PPG hierarchy
- Against local policies,
- Procedural deficiency in assessment

These are discussed further in the following sections.

Lack of evidence supporting layout and revised proposals

The proposals are accompanied by a chapter on noise within the Environmental Statement. This largely comprises details of noise monitoring and a methodology for achieving internal noise criterion as per BS8233:2014.

Considering the extremely close proximity of noise generating commercial/industrial uses to the residential dwellings it would be expected that a BS4142:2014 assessment to be submitted. This is the accepted methodology for assessing noise generating activities on residential receptors.

Responses to sound can be subjective and are affected by many factors. This can include the margin by which sound exceeds the background sound level, time of day and change in the acoustic environment, as well as local attitudes to the source of the sound and the characteristic of the neighbourhood.

Using this method the background sound level is subtracted from the rating level. The resulting figure is assessed using the following guidance from the document:

- The greater the difference between the background sound level and the rating level, the greater the impact on the receptor.
- An exceedence of the background level of around 10dB or more is likely to be an indication of a significant adverse impact, dependent on the context.
- An exceedence of the background level of around 5dB is likely to be an indication of an adverse impact, dependent on the context.
- The lower the rating level compared to the existing background level, the less likely an adverse impact or a significant adverse impact. Where the rating level does not exceed the background level, this is indicative of a low impact, dependent on context.

The document introduces a requirement to consider and report the uncertainty in the data as well as also including guidance for applying a correction/penalty for certain adverse acoustic features such as tonality, impulsivity or intermittency. The following table summarises the corrections based on the subjective assessment of noise.

	Tonality	Impulsivity	Other characteristics
Just perceptible	+ 2dB	+ 3dB	
Clearly perceptible	+ 4dB	+ 6dB	
Highly perceptible	+ 6dB	+ 9dB	
Readily Distinctive against Residual Environment			+ 3dB

Considering the observable impulsivity and tonal elements of the industrial noise sources at such close range, the rating level could be as 70dB in some areas of the proposed development. Obviously this would equate to a substantial impact which would be exceedingly difficult to mitigate.

It is stated within Table H3.10 of the statement that Ramboll sought clarification that a BS4142 assessment of the ETM Facility would not be required. No justification is provided by either Ramboll or BCC for this decision. As outlined above, the exclusion of consideration of cumulative impacts including ETM sites means the assessment is deficient, given that the EIA regulations required consideration of cumulative impacts, such as with other developments under determination.

It should also be noted that the monitoring was undertaken during the dates of 14-20 October 2020 and 01-26 April 2021, which it should be observed, was during the COVID-19 pandemic. This is referenced only briefly, Section H3.6 states that *“The surveys were undertaken outside of Covid-19 lockdown measures. However, the noise levels measured on site may have been lower due to reduced traffic levels. This is not considered to affect the assessments, because 2019 baseline data has been used from the Transport Consultant and the use of lower background levels would form a worst-case in terms of setting plant noise emission limits.”*

Whilst traffic is a factor within background levels, it should be observed that the site lies adjacent to a large industrial/commercial estate. Noise arising from the uses such as; timber merchants, manufacturers, auction houses, gym and leisure centres (with outdoor swimming pools and games pitches) and civil engineering yards to name a few. It would be entirely reasonable to assume that the level of activity from these sources may be lower during these times. No consideration has been given to this issue, which has the capability to render the baseline monitoring undertaken by Ramboll of little value for the calculation of internal criterion.

The assessment should be updated using more up to date measurements.

In addition, it is stated within Section H3.44 that *“Ramboll have recently reviewed a planning application submitted by ETM which shows that they are moving the majority of their operations into buildings and erecting new structures along the boundary which should mitigate any existing noise levels. Therefore, for the purposes of determining Site Suitability for Residential use, it is assumed that ETM would be compliant with the planning conditions imposed by BCC with regard to noise emissions. This approach has been deemed acceptable by BCC”*; This is an ambiguous statement. The proposed would render condition 15 of planning application ref: 17/06938/f unachievable. This states that *“The rating level of any noise generated by plant & equipment as part of the development shall be at least 4 dB below the background level as determined by BS4142: 2014 Methods for rating and assessing industrial and commercial sound.”* This background level is currently achieved at the existing residential dwellings.

Against the policies contained within the NPPF

The recently revised NPPF (July 2021) includes a significant amount of detail with regards to the “agent of change” principle. This is particularly relevant in this instance given the close proximity of the proposed, sensitive development to the consented materials recycling facility.

With regards to NPPF, paragraph 187 states that *“Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or ‘agent of change’) should be required to provide suitable*

mitigation before the development has been completed.” Clearly considering the lack of satisfactory information with regards to noise in relation to mitigation, it has yet to be demonstrated that the proposed development can be integrated effectively with the existing land uses. Indeed, despite the findings of any future assessment it should be considered that the two land uses are clearly at odds with each other and future restrictions placed on the waste site/additional mitigation required as a result of development permitted after they were established could not be categorically ruled out at this stage.

It is reasonable to assume that any existing business will like seek to grow the operation In the case of the waste site. Evidently this changes the baseline whereby the proposed developemnt is assessed and renders any assessments submitted at the planning stage irrelevant. Indeed, future development would be subject to relevant assessment at permitting and planning stage with the result likely to highlight the requirement for significant mitigation which would not be necessary in the absence of the residential dwellings.

The “agent of change” (in this case the proposed dwellings) will also need to define clearly the mitigation being proposed to address any potential adverse effects that are identified. Given the increased potential for noise complaint should the proposed development proceed, this accordingly increases the risk that the EA could require additional mitigation in the future, placing a financial burden on ETM. The report has not outlined the mitigation that the applicant will implement in the event that a substantiated complaint of noise were to be received from a receptor in the development. In accordance with paragraph 187 of the NPPF, this burden cannot be placed on ETM and must be addressed by the applicant as part of the development proposals. This has not been undertaken at this stage.

Breach of WHO guideline values

The vast majority of the site will be above the WHO threshold for moderate annoyance.

In order to mitigate this, the report submitted in support of the development utilises the “upper limit” of 55dB, which is commensurate with “serious annoyance”.

Section H2.39 of the report states that:

ProPG Stage 2: Element 3 - External Amenity Area Noise Assessment, states the following: "3(v) Where, despite following a good acoustic design process, significant adverse noise impacts remain on any private external amenity space (e.g. garden or balcony) then that impact may be partially off-set if the residents are provided, through the design of the development or the planning process, with access to: a relatively quiet façade (containing openable windows to habitable rooms) or a relatively quiet externally ventilated space (i.e. an enclosed balcony) as part of their dwelling; and/or a relatively quiet, protected, publicly accessible, external amenity space (e.g. a public park or a local green space designated because of its tranquillity) that is nearby (e.g. within a 5 minutes walking distance)."

It should be noted that typically, this clause is utilised for inner-city developments, whereby 50dB would be unachievable as a result of road traffic. It would be argued that the nearby local green space designated because of its tranquillity does not exist in this instance. It should also be noted that the presence of such would only "partially offset" the impact of such high noise levels.

Considering the location and nature of the development it would seem unreasonable to relax this criterion in this instance.

The development of such a high number of dwellings experiencing "moderate annoyance" would seem at odds with relevant local policies. Including BCS23, below, as well as the delivery strategy within BCC core strategy document, which advises that decisions should provide "*Improved mental and physical health of local communities: Green infrastructure ensures access to good quality recreational places and spaces, encourages active travel along cycle and walking routes, provides space for community activities and interaction, reduces noise and water pollution, improves air quality and also allows access to natural areas of space and wildlife*" or indeed policy BCS10 which states that "*Developments should be designed and located to ensure the provision of safe streets and reduce as far as possible the negative impacts of vehicles such as excessive volumes, fumes and noise. Proposals should create places and streets where traffic and other activities are integrated and where buildings, spaces and the needs of people shape the area.*"

Policy BCS23 is listed as a key policy driver within the local list of planning application requirements produced by BCC.

PPG - Noise

A summary of the effects of noise exposure (in terms of health and quality of life) associated with both noise generating developments and noise sensitive developments is presented within the PPG and reproduced below.

PPG does not provide numerical values for the different effect levels, instead recognising that the subjective nature of noise means that there is not a simple relationship between noise levels and the impact on those affected. This will depend on how various factors combine in any particular situation.

It therefore remains for local authorities to consider the PPG noise exposure hierarchy and seek to align it with significance criteria, having regard to British Standards, World Health Organisation guidance and other relevant sources of information.

No formal BS4142:2014 assessment has been provided by the applicant and therefore no assessment as per the PPG can be adequately produced by the applicant.

However, a preliminary assessment would assume that noise is noticeable (given the high noise levels experienced across the site), with the potential to be disruptive. This would be representative of the SOAEL level and the required action would be to avoid (i.e. refuse the planning application.)

Conclusion

Based on the above, it should be considered that the proposals are currently at odds with both national and local policy with regards to noise issues.

Noise arising from the industrial/commercial estate is likely to have a significant impact upon residents with regards to BS4142:2014.

Insufficient assessment and justification of the proposals has been provided and therefore the application should be refused in its current form.

Kind Regards

Tom Benson BSc AMIOA MIEnvSc | Senior Consultant

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STATEMENT NUMBER B4

Dear Development Control 'A' Committee,

I am writing to you today looking for your support on The twin plans submitted by Ashton Gate for planning applications at both Longmoor Developments (Ref:21/031664/P) and Ashton Gate Sporting Quarter (Ref: 21/03165/F), which are due to be heard at next week's Planning Committee Meeting.

I write as not only a passionate supporter of sport, recreation, physical activity and well-being in the Bristol community who has followed the consultation process from the start but also as an International Athlete and former England Netball Captain who has enjoyed living in the community for the past 14 years.

After the challenging past 3 years of covid and lockdown it has never been more crucial that the City grasps an opportunity to build new and exciting sports and recreational facilities. These facilities would bring an increase in the sport and recreation on offer at all ages and all levels of performance and participation activities, leading to further doors opening to address the challenges of Equality, Diversity and Inclusion that still exist within the City. Charities and the local community will benefit in a host of ways in the form of access and useable activity space whilst the facilities could also provide longevity and financial sustainability for existing and new teams and clubs.

The housing proposals submitted alongside this planning concept also solves many issues in the area. Bristol has a housing shortage and the opportunity not only to provide homes but significantly improve the standard of living for so many should not be missed. The concept also boasts affordable housing which is another much needed asset to the area. The proposed site appears to be more than adequate for the development and well linked to the City and surrounding areas through public transport and highways. The project will not only provide housing but also jobs and significant improvement to the community through making best use of a former landfill site whilst having minimal impact on the neighbouring areas.

For all the reasons mentioned and many more, I would ask you to support these applications whole heartedly as I truly believe that this project will build a legacy for our City and our people of all ages to be proud of and benefit from for years to come.

Should you wish to discuss this further, please feel free to contact me.

Kind Regards

Pamela Cookey



STATEMENT NUMBER B5 - 21/03166/P | Land west of Silbury Road, Bristol - Development A Meeting 5 October 2022

Statement relating to the threatened loss of part of our Green Belt

We believe that none of the applicant's so-called 'very special circumstances' justify overruling the protections provided by both the Framework and BCS6 to this Green Belt site. This fact is sufficient, of itself, to justify your refusing this application. Our reasons are set out below.

Paragraphs 137 to 146 of the [National Planning Policy Framework](#) (the Framework) make it clear that any decision to remove Green Belt land should only arise from proposed changes to the Local Plan. It should not be undertaken on an ad hoc basis save in the 'very special circumstances' discussed below. Once established, Green Belt boundaries should only be altered where exceptional circumstances are 'fully evidenced and justified', through the preparation or updating of plans (the Framework, para. 140). The current Local Plan retains this site as part of Bristol's Green Belt and the 2019 draft Local Plan proposals for this site can no longer be relied on as 'emerging plans' under paragraph 48 of the Framework - see harms point 5 below.

This national policy is reflected in Bristol's [Local Plan Core Strategy, BCS6](#): 'Countryside and other open land around the existing built-up areas of the city will be safeguarded by maintaining the current extent of the Green Belt. Land within the Green Belt will be protected from inappropriate development as set out in national planning policy.'

Paragraph 147 of the Framework states that: 'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.' The applicant acknowledges that its proposals to develop the land at Ashton Vale/Longmoor are inappropriate but says that there are 'very special circumstances' (VSCs) which should allow them to proceed, nonetheless.

There is no definition of VSCs, but case law makes it clear that it is for the decision maker (here the Development Control Committee) to determine whether the harm to the Green Belt by way of inappropriate development is 'clearly outweighed by other considerations.' What can constitute a VSC is a matter of fact and degree, but the Framework establishes that substantial weight should be given to any harm (including harm occurring beyond the development site) to the Green Belt.

The harms

1. **Increased urban sprawl:** North Somerset County Council's (NSCC) objects to the proposal on the basis that 'It would result in sprawl of the built-up area towards Long Ashton resulting in a loss of separation between the city and the village and would cause an encroachment of development on a sensitive countryside fringe'. As the NSCC is responsible for most of the Green Belt beyond the western boundaries of Bristol, their view carries a lot of weight. We understand that, in its currently emerging Local Plan, NSCC has resolved to retain all its Green Belt land save for the sites that already have planning permission.

It has been suggested that the value of this part of the Green Belt was somehow diminished with the construction of the Metrobus causeway. This is what the planning inspector's 2012 report concludes. Paragraph 4.23.5 states: 'As set out in paras 4.17.4 - 4.17.5 above, both Works 1A [the scheme selected] and 1B would be appropriate development in the Green Belt and would not harm the openness of it.'

2. **Ecological harms:** Natural England has expressed concerns about the 'significant effects on the North Somerset and Mendip Bats SAC'. They have subsequently commented that their concerns have somewhat been allayed by recent redesign proposals, but state that 'the applicant would need to commit to these measures [they propose two] prior to determination.' The applicant has not yet responded to this comment, but we doubt that one of the suggested mitigations - planting mature trees - is either practicable or sufficient to protect bats foraging on the site, especially during construction. Other ecological harms have been identified.
3. **Loss of biodiversity:** Adopting the applicant's (redundant) model, we calculate that the current



proposal will result in a net loss of 5.40% of biodiversity (BNG). If the correct model is used, the net loss is 16.59%. We note that the Nature Conservation Officer is prepared, reluctantly, to accept a 5.77% net gain, despite the applicant using a redundant model and undervaluing the tree habitats and the site's strategic value; the Council's [Ecological Emergency Action Plan](#) aspires to achieving 10% BNG and which the [Environment Act 2021](#) makes compulsory next year.

4. **Impact on the historic setting:** Historic England have raised concerns that 'the proposed development has the potential to cause likely harm to the setting of Ashton Court's Grade II* Registered Landscape.' There is also the potential impact on the historic setting of the Clifton Suspension Bridge and the impact on the valuable urban landscapes on Bedminster Down, South Bristol Cemetery and at Yew Tree Farm (see DM17: Development Involving Existing Green Infrastructure).
5. **Emerging plan for Bristol undermined:** On 7 September 2021, Full Council unanimously resolved to '...call for a halt to the proposed redevelopment of or incursion into any remaining productive wildlife rich agricultural land...To work with adjacent local authorities and WECA to reinforce our policies on preserving Green Belt, and to work with these bodies to preserve our cherished countryside' (Golden Motion - Protect the Green Belt and Bristol's Green Spaces). To grant this application would undermine this resolution and subvert the Council's stated policy.

The proposal made in the 2019 draft iteration of the Local Plan to remove this site from the city's Green Belt is no longer relevant; it has been superseded by both this motion and by the earlier declarations by the Mayor and Council of climate and ecological emergencies. These policies represent the current state of the city's emerging plans (para. 48 of the Framework), not the now obsolete 2019 draft Local Plan.

Very special circumstances?

The planning officer's report refers to the case of R (Sainsbury's Supermarkets Ltd) -v- Wolverhampton City Council [2011] 1 A.C. 437, which decided that it is legitimate for a local authority to take account of the 'off-site' benefits of a proposed development, provided that such benefits are related to or connected with the development itself. However, this case has nothing to do with the Green Belt or VSCs; it relates to a compulsory purchase order.

Even if the Sainsbury's Supermarkets case is applicable, most of the VSCs cited below are not 'off-site' benefits. The applicant lists the following VSCs to justify why the normal presumption against development on Green Belt land should be overridden. Here are our responses:

1. **The financial linkage between the site and the Sports and Convention Centre (SCC) at the Ashton Gate Stadium site.** A financial linkage alone cannot be a VSC. There must also be a material and real connection between the proposed development and the SCC, in order for the VSC requirement to be fully satisfied.
2. **A substantial increase in housing supply including affordable units.** This is an outline planning application with an aspirational proposal for building over 500 housing units, 30% of which will be 'affordable'. Past experience has taught us that, when it comes to detailed plans, the number of units, especially of affordable units, often declines substantially. At this stage, it is impossible to say if there will indeed be 'a substantial increase in housing supply' as a result of this proposal. A mere aspiration cannot be relied on as a VSC.
In any event, Green Belt land should still not be sacrificed merely to achieve some unrealistic national target which the Prime Minister has recently described as '[Whitehall-inspired Stalinist housing targets](#).' In any event, it is likely to be at least five years before this scheme is delivered if approved.
3. **Improvements to existing pedestrian/cycle linkages.** There is already a PROW running to the north from the Metrobus causeway to Longmoor Brook, then along it to an exit by the Park & Ride. The applicant proposes to have this removed. Save for a short new pedestrian/cycle connection with the Metrobus route in the south-eastern corner of the site, no new pedestrian or cycle links are proposed. In reality, the location of the site - trapped between an industrial estate and a busy 'A' road network - means that the only viable pedestrian and cycle access will be along the Metrobus



causeway to the Park & Ride and the South Bristol Link Road. It is likely that most unaccompanied users (especially those with mobility issues) would only be willing to use this route during daylight hours and in good weather. Bus routes along the Metrobus causeway will remain unchanged.

4. **Increased sport participation with associated health benefits.** These suggested benefits flow wholly from the development of the SCC, not from this development proposal. As such, they alone cannot be considered a VSC. The applicant offers to allow future (but as yet undefined) residents of the development access to the SCC facilities through 'engagement' programmes and undefined discounts, to be provided by a third-party charity. Setting aside whether these vague aspirations can ever be relied on or will be realised, they will not offer any benefit to the current users of the site or the wider community that would not have flowed from the development of the SCC anyway.
5. **Economic impact & employment opportunities.** Save for the usual employment opportunities arising during construction, it is hard to see how these proposals will offer anything other than the usual opportunities required to service any housing development that would justify treating them as a VSC. There may well be economic and employment opportunities arising from the development of the SCC or at Ashton Gate stadium generally, but these are unconnected with these proposals.

Bristol Tree Forum
2 October 2022

STATEMENT NUMBER B6

Statement on behalf of The Friends of the Western Slopes Novers Hill

We object to the development of Land West of Silbury Road.

As a fellow green space under threat from callously ill-thought and destructive planning policy, we, The Friends of the Western Slopes Novers Hill object to the development of this green belt land.

Why does Bristol City Council show such disregard for its' natural green spaces? This is a finite resource in a city that is known for believing in "green" causes, but yet so much of our green space is allocated in a Local Plan that does not speak for, nor reach, ordinary Bristolians. Why is the Green Motion, democratically passed at full council in Sept 2021, not being listened to?

Why is green belt land, in which this site sits, being built on before the 200+ brownfield sites that are available in the city? Indeed, the Mayor confirmed in July 2021 that the city has a "healthy stock" of over 12,000 homes with planning permission...that have not yet been built. It just seems ridiculous to pursue building on green fields and green belt, before these thousands of homes have come to fruition.

The proposed site has been described in ecology reports as being "...particularly important for wintering and breeding wildfowl and waders". The entire development site is also part of a designated wildlife corridor – the loss of this site will no doubt have an affect on neighbouring nature sites, due to the loss of pasture and opportunities for prey species – this is why wildlife corridors are so important. A "5m buffer" between the wetland and development site is merely a piecemeal gesture.

The site is adjacent to a wetland area and is prone to flooding, with some areas in Flood Zones 3 and 2. The Environment Agency has twice objected to the proposed development on the basis of flood risk. Why is this not being heeded?

The proposed development is in close proximity to an existing ETM waste depot. ETM's own noise assessment found noise to be at 59.9 dB, when measured just 45 metres from their site. This distance encompasses the proposed Longmoor Village. This exceeds The World Health Organisation recommendations for outdoor noise being limited to 55dB. To counter this, the applicant proposes to use "thick glass windows". We question whether potential residents will be able to keep their windows open due to their proximity to this existing industrial area and whether it will impact their enjoyment of any outdoor spaces. These homes will likely sell for hundreds of thousands of pounds and residents will likely experience issues of noise, odour and dust from this waste centre. The same can be said for the application for 157 dwellings by Lovell Homes on Novers Hill, which is also subject to virtually the same issue - why do we have such low expectations of developers and development in this city? Why do we allow developers to have us over a barrel?

Like so many new developments, we believe this proposal will increase pressure on already strained local amenities. By increasing the amount of homes by 500+ in the area, this will potentially be another 1500+ residents, all using the same doctors, dentists and schools which are already heavily oversubscribed. What has the applicant contributed to alleviate these issues? How will the local authority support these services?

We feel that this development does not offer anywhere near an appropriate amount of affordable homes – just 153 out of 510 will be classed as affordable. The only people that benefit here will be the developer, whilst nature and ordinary citizens bear the brunt of yet another poor decision by this council.

STATEMENT NUMBER B7

Statement for submission for Development control 'A' Committee Planning application number 21/03166/P- Land West of Silbury Road

Dear Planning committee, Chair and members,

I am representing my family who have farmed in and around Bristol mostly as tenant farmers since c1650's

My Great- Grandfather was born in Kennel farm in Ashton- you probably haven't heard of it because it was compulsory purchased and demolished to make way for the A370, he moved into Parsonage farm Long Ashton before the second world war where my family still farm and a fourth generation are hoping to continue, you hold their future in your hands tonight.

Our family have farmed this land almost continually as tenants for over 150 years- only pausing then resuming whilst the owner used it as a tip. There is now a 90 strong herd of dairy cows plus calves and sheep, it is a greenfield site and always has been.

Expensive investments of a new milking parlour and waste storage have been made. The cows must be within walking distance of the yard and parlour as they need milking twice daily.

This land is essential to the future of the farm- the investments were made in full knowledge that it is greenbelt with associated protections.

The field is used for the very last dairy production within Bristol city- a heritage that should not be wiped out without any consideration; it is viable productive farmland and made up partly of SNCI- there is no replacement land for my family to farm.

Other Issues-

Costings- I would strongly challenge the unlocking element of the proposed development; as previously mentioned this site was a landfill which I can remember being topped off when I was a child- it is a contaminated site.

Simple Costings taken from 2022 prices-

Sale price of 350 units (30% affordable not being included)- **£122.5** million

Taken from an estimate of £350K per unit

Remediation of previous landfill -average cost **£250,000** per acre- this site is 26 acres Totalling -**£6.5** million.

Going on an average size of a new build being 85m² the build cost per unit will be £170k (2022 prices) **£85** million

Sale price of land **24.5** million-

Total cost for builds **£116** million- **not** including infrastructure – roads, pavements, utilities, flood remediation, landscaping etc.

122.5 – 116 = 6.5

Total profit **£6.5** million which equates to only **£18,571** estimated profit per build- no developer I have contacted would touch such poor margins, the risk is too great for unforeseen incidental costs-

It will be for the committee to decide which element of this build does not add up? What will be compromised? The purchase price of the land or the affordable element? Either way the justification for approving the outline plans are negated and it should simply be refused.

Will BCC be again embarrassed by developers not upholding their affordable housing promises? Bristol citizens deserve better.

I also reference this document for you to read

<https://www.legalfutures.co.uk/associate-news/worthless-houses-due-to-developer-and-planning-negligence>

Can I tie the above article in conjunction to representations made on 29th September 2022 to the Growth and regeneration committee by Cllr Richard Eddy and Bristol Tree Forum regarding Bristol's woeful record of planning enforcement?

It would be beyond tragic to find residents of this proposal in a similar position.

Area improvements- I have little to object to regarding the 'sports quarter' however it must be highlighted that the area to be rebuilt is not waste ground or underutilised, there are a number of businesses that will be shut or relocated- it could be argued that net employment could be reduced by the sports quarter. This should be taken into consideration even if the sports quarter is an attractive alternative, with regard to 'exceptional circumstances'

Nature-

I point the committee to the green motion passed by full council on 7th September 2021- this is the first test of the motion for our elected representatives and to the people of Bristol.

The result today will reflect and represent what we as a City stand for. Will we act on the declaration of an ecological emergency or continue to destroy nature?

I have lived in the area all of my life and we have 11 species of bats, including greater and lesser horseshoe, which are very rare. These species thrive in the presence of large herbivores such as the cattle and horses. Herbivores have probably grazed this land for Millenia, please do not believe that by increasing scrub but removing cattle you will be preventing species decline, cattle attract and create insect habitats- we have lost 60 % of insect species in the past 20 years alone.

We are only beginning to understand the importance of grazing herbivores on insect populations and nature recovery.

I note the bat surveys are over two years out of date, this proposal should be refused on these grounds alone. It reflects disregard for the natural world.

Flooding-

I am no flooding expert but as an observation last Summer one of the main water pipes burst on Colliters way, my section of Colliters brook was overwhelmed and the road was impassable- the 'wetland' area filled up within the hour.

I have since discovered there are three such water mains under this road coming from Barrow tanks, this event took place during dry weather in high Summer, what if it happened during a wet Winter combined with a high tide? This field is acting as a soakaway saving other areas in Ashton Vale from flooding.

Food-

We have also achieved Gold City status for food sustainability, it is a poor show that dairy milk production will cease within the city if this land is approved for development- we cannot rely on long food supply chains to feed our cities- it is not resilient to import all our food from abroad - Ukraine and severe droughts and floods created by global climate change has proved to us that local food production is fundamental to human need and our survival. As a food producer I would argue that food production outweighs housing need, when we have not updated our Brownfield register since 2018 and there are significant numbers of vacant buildings within the city- checkout [facebook.com/Brownfieldfirst](https://www.facebook.com/Brownfieldfirst) a recently started page dedicated to locating Bristol's empty buildings, there are many.

Farmers do have their critics but the reality is we would all be dead within a year if there were none of us left.

Thank you for reading my statement.

STATEMENT NUMBER B8

Good Morning

I send this email to express my full support and backing for the application submitted regarding the Longmoor and supporting Quarter application. I truly believe this would benefit the local community and offer new and affordable housing which connects into the work I currently do within the area

I work for St Mungo's the leading homeless providers across Bristol, My role is to manage and support the most vulnerable and complex female clients within the BS3 postcode. The longmoor application I can see is something that connects strongly into the work we are currently doing, both sites are in good locations-walking distance to shops, employment and critically right on the metro bus route which means less car use compared to other sites.

The current partnership between Aston Gate and ST Mungo's shows a commitment to the BS3 community, I believe this Longmoor application is not a typical developer but more in the sense of trying to do great work in the local area

Kind Regards

Kate Windsor, Dean Crescent, Womens Service, Deputy Project Manager

STATEMENT NUMBER B8A

Public Statement by Martyn Cordey

RE: development at Ashton Vale

I totally **object** to the proposal to build on the green space at Ashton vale. There was a vote passed at full council last year, against **any more building on green spaces**. This was a Golden Motion. This planned development flies in the face of a vote that was carried through at full council.

I totally **object** to the proposed housing development.

Martyn Cordey



We represent SAVE (Save Ashton Vale Environment, **STATEMENT NUMBER B9**)

We object to the development of the Land West of Silbury Road, Bristol (21/03166/P). Below we briefly summarise the reasons why, providing more evidence for these objections in the appendices.

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Main Summary of Arguments Against Development on this Site

1. This site is designated as Green Belt land and so is important under both the National Planning Policy Framework. (Appendix A, para 137) and the current core strategy for Bristol (Appendix B).
2. For land to be removed from the Green Belt, it seems the process laid down in the National Planning Policy Framework must be followed. Specifically, it seems changes to the local plan must happen first (Appendix A, para 140 and 143).
3. The 2019 local plan review consultation to remove this area of Green Belt from the local plan was not completed (Appendix B). The local plan review process in Bristol is currently starting again. It seems this application cannot be approved until the new local plan review is complete, and we see if this land is formally removed from the Green Belt.
4. Moreover, para 142 of the National Planning Policy Framework makes it clear that any changes to Green Belt Land must make clear “compensatory improvements to the environmental quality and accessibility of remaining Green Belt land”. This has not taken place yet.
5. On the 7th of September 2021, the council passed a motion to “protect the Green Belt and Bristol’s greens spaces” (Appendix C, especially see point 5). The City of Bristol does not have much Green

Belt land within its boundaries (Appendix D), so the above motion must include protecting this area of Green Belt and green space. This is in addition to Bristol's Declaration of an ecological emergency in February 2020, with the September strategy stating that at least 30% of land in Bristol to be managed for the benefit of wildlife by 2030 (<https://www.bristol.gov.uk/council-and-mayor/policies-plans-and-strategies/energy-and-environment/bristol-ecological-emergency>). Protecting this site, all of which is a wildlife corridor, some of which is a Site of Nature Conservation Interest (SNCI) is surely important (<https://save-21.co.uk/how-to-object/boundaries/>).

6. This area of land still serves its purposes as Green Belt. Green Belt land does not need to be pristine, untouched space. The chief character of Green Belt land is its openness and permanence (Appendix A, para 137). The recent building of "local transport infrastructure" on it does not degrade it, nor stop it achieving its purpose. Indeed, it represents an appropriate development because it keeps the Green Belt open (Appendix A, para 150).

7. The last time planning permission was sought on this site, the applicant tried to fund the development of a stadium with additional housing through means of an "unlocking" argument. The council planning officer very quickly established that building houses on this land, even to help finance the stadium, did not outweigh the harm to the Green Belt and permission was only given for the stadium alone (Appendix E). This time around, this new application does not establish any additional Very Special Circumstances to build on this area of Green Belt land (Appendix A, para 149 and 150), nor has the council yet shared any definitive opinions to the contrary.

8. The recent public reports pack suggests, on three occasions, that local people in South Bristol no longer care about this piece of land and have not stood up for it (Appendix F). This is demonstrably incorrect.

8a. Historically and to this day, this land is an important local amenity. In August 2010, Barrister Ross Crail's report from the previous public inquiry recommended this entire site be designated a town and village green because local people had used the space for leisure for at least twenty years. (Report can be downloaded from: <https://save-21.co.uk/wp-content/uploads/Crail-Ashton-Vale-Fields-Report.pdf>).

8b. In the local plan review consultation of 2019, the people of South Bristol sought to protect this land (see details in Appendix F).

8c. And despite this not being noted in the public reports pack, during this application process, local people, through SAVE and independently, continue to defend this land. They made objections to this application concerning: 1. Greenbelt, 2. Brownfield and Existing Planning Permissions, 3. Climate Emergencies, 4. Nature and Wildlife, 5. Local Amenity, 6. Affordable Homes, 7. Local Residential Services, 8. Height of Proposed Development, 9. Exceptional Unlocking Argument, 10. Flooding, 11. Landfill and 12. ETM Recycling (all detailed in Appendix G).

9. This inaccuracy in the public reports pack (Appendix F), emphasises the importance of the planning committee members closely and carefully examining all the arguments in the report before independently forming their own view.

10. Finally, we are unclear how this application can be approved or refused without resolving the possible objections from Natural England (see planning portal), and the objection from the entire council next door (North Somerset), who necessarily need to approve this application in order that future residents can have access to the site (see planning portal). Thank you for your time.

Appendices

Appendix A. National Planning Policy Framework

Appendix B. Bristol City Council Local Plan concerning this land.

Appendix C. Protect the Green Belt and Bristol's Green Spaces.

Appendix D. Extent of Green Belt land in the Bristol City Council area.

Appendix E. Previous use of the unlocking argument on this site.

Appendix F. Misrepresentation of the level of local support and value for preserving this land.

Appendix G. Comments made by SAVE about this application during the consultation period (August 2021).

Appendix A. National Planning Policy Framework

Summary and commentary: there is nothing in Chapter 13 (paras 137-151) of the National Planning Framework which suggests that housing can be built on this site at all, and certainly not before being fully approved through approved changes to the local plan.

The National Planning Policy Framework was revised on 20 July 2021.

(<https://www.gov.uk/government/publications/national-planning-policy-framework--2>)

Chapter 13 concerns “Protecting Green Belt Land”. It notes:

“The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.” (para 137).

“Green Belt serves five purposes:

- a) to check the unrestricted sprawl of large built-up areas;
- b) to prevent neighbouring towns merging into one another;
- c) to assist in safeguarding the countryside from encroachment;
- d) to preserve the setting and special character of historic towns; and
- e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land”

(para 138).

“Once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans” (para 140).

“When drawing up or reviewing Green Belt boundaries, the need to promote sustainable patterns of development should be taken into account... They should also set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land.” (para 142)

“Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development” (para 143)

Para 149

A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

- a) buildings for agriculture and forestry;
- b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
- e) limited infilling in villages;
- f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
- not have a greater impact on the openness of the Green Belt than the existing development; or
 - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

Para 150

Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

Appendix B. Bristol City Council Local Plan concerning this land.

Summary and comment: The unadopted draft local plan and accompanying consultation documents referenced below can have no bearing on this current application.

The current core strategy for Bristol dates from 2011

(<https://www.bristol.gov.uk/files/documents/64-core-strategy-web-pdf-low-res-with-links/file>).

Echoing the National Planning Policy Framework regarding the Green Belt, Policy BCS6 states:

“Countryside and other open land around the existing built-up areas of the city will be safeguarded by maintaining the current extent of the Green Belt. Land within the Green Belt will be protected from inappropriate development as set out in national planning policy.” (p.60). The proposed development would no longer maintain the current extent of the Green Belt nor protect it from inappropriate development.

Like national policy, the local policy states *“that the general extent and boundaries of the Green Belt should be altered only exceptionally”* (4.6.5, p.61). Exceptional grounds have not been met.

It should be noted, that no details proposing this development were proposed in the Bristol Site Allocations and Development Management Policies Local Plan 2014. This is unlike the nearby recent development of “Ashton Rise” (previously Aldermans Moore’s former allotments). This was listed in the Local plan 2014 (BSA1001) and is not situated on Green Belt land. As such any comparison between the “Ashton Rise” development and this proposed one is not relevant.

However proposed changes to the Green Belt status of this land were noted in the unadopted draft consultation document Bristol Local Plan Review: Draft Policies and Development Allocations (March 2019 - <https://www.bristol.gov.uk/files/documents/2275-local-plan-review-draft-policies-and-development-allocations/file>), under Section 4, DS10 – *“Changes to the Green Belt in South Bristol”* and DS11 in a single lines state: *“Land at Ashton Gate – 500 homes”* (see point 3 below).

Four points need to be noted regarding this:

1. The draft local plan was not adopted. Bristol is still operating from earlier versions.
2. The proposed DS10 noted that: *“On each site 40% of the new homes should be in the form of affordable housing and 5% of the new homes should be in the form of community-led / self-build homes”* (page 46). Neither of these criteria is met by the proposed development.
3. The proposed DS10 also noted that: *“Detailed development considerations for these sites will be included in a future version of this Local Plan, which will be informed by responses to this consultation”* (page 46). This has not happened, as the Local Plan was not adopted.
4. Section 17 of the responses to the consultation noted above (Bristol Local Plan Review consultation – March 2019. Summary of consultation responses – published September 2019) highlights just 3 comments in support of this proposal and 55 comments in objection to the principle of Green Belt release (p.59-61 – see also Appendix F).

Appendix C. Protect the Green Belt and Bristol's Green Spaces.

Summary and comment: Bristol City Council have recently committed to protect the Green Belt and Bristol's Green Spaces. See especially point 5 below.

Passed: Tuesday, 7th September, 2021 6.00 pm
41 for, 0 against, 22 abstentions.

This Council welcomes the importance placed by Her Majesty's Government on the protection of the Green Belt and endorses the main reasons given for preserving this strategic space. These zones are essential to check urban sprawl; prevent the merging of neighbouring towns; safeguard the countryside from encroachment; preserve the setting and special characteristics of historic areas; and assist in urban regeneration by encouraging the recycling of already developed land.

The need to conserve the existing Green Belt, as well as retaining vital green spaces, remains a major priority for most people in our city. As a result, Council notes the Mayor's recent decision to not now build housing on Brislington Meadows and to 'look again' at housing plans which would destroy the Western Slopes wildlife corridor.

Sadly, there are other equally significant sites which remain under the threat of the bulldozer. One such place is Yew Tree Farm, Bristol's last working farm. The family there has been recognised by the Avon Wildlife Trust and RSPB for the huge strides made in achieving sustainable, low-intensity, organic local food production, whilst maintaining abundant and attractive biodiversity.

Council also welcomes the Mayor's pledges around combatting food poverty and encouraging communities to grow more of their own food.

Council notes that much of the land we may think of as Green Belt is in fact designated as Sites of Nature Conservation interest (SNCIs) and wildlife corridors, and that whilst this land has some protection granted under local planning regulation, policy may override these protections.

Full Council resolves:

1. To call for a halt to the proposed redevelopment of or incursion into any remaining productive wildlife rich agricultural land.
2. To ask the Mayor to give a cast-iron commitment that he will look instead to increase the emphasis placed in the Authority's Site Allocations and Development Management policies on re-using or re-purposing existing and emerging 'brownfield', previously developed or urban centres where not also needed as space for nature rather than continuing to erode our surrounding fields and countryside.
3. In the forthcoming update of the site allocations policies, to make every effort to avoid designating any SNCIs for development.
4. To create policy to prioritise the preservation of the integrity of any wildlife corridors contained within sites designated for development.

5. To work with adjacent local authorities and WECA to reinforce our policies on preserving Green Belt, and to work with these bodies to preserve our cherished countryside.
6. To assign or instruct officers to consider adopting the Western Slopes and Brislington Meadows as Local Green Space as provided for within NPPF guidance, providing similar planning protection as for the Green Belt.
7. Furthermore, to work with local communities across Bristol to similarly make every effort to designate much loved green space in other parts of the city and noting that such protection for greenspace was proposed as part of the recent Bristol Local Plan Review.

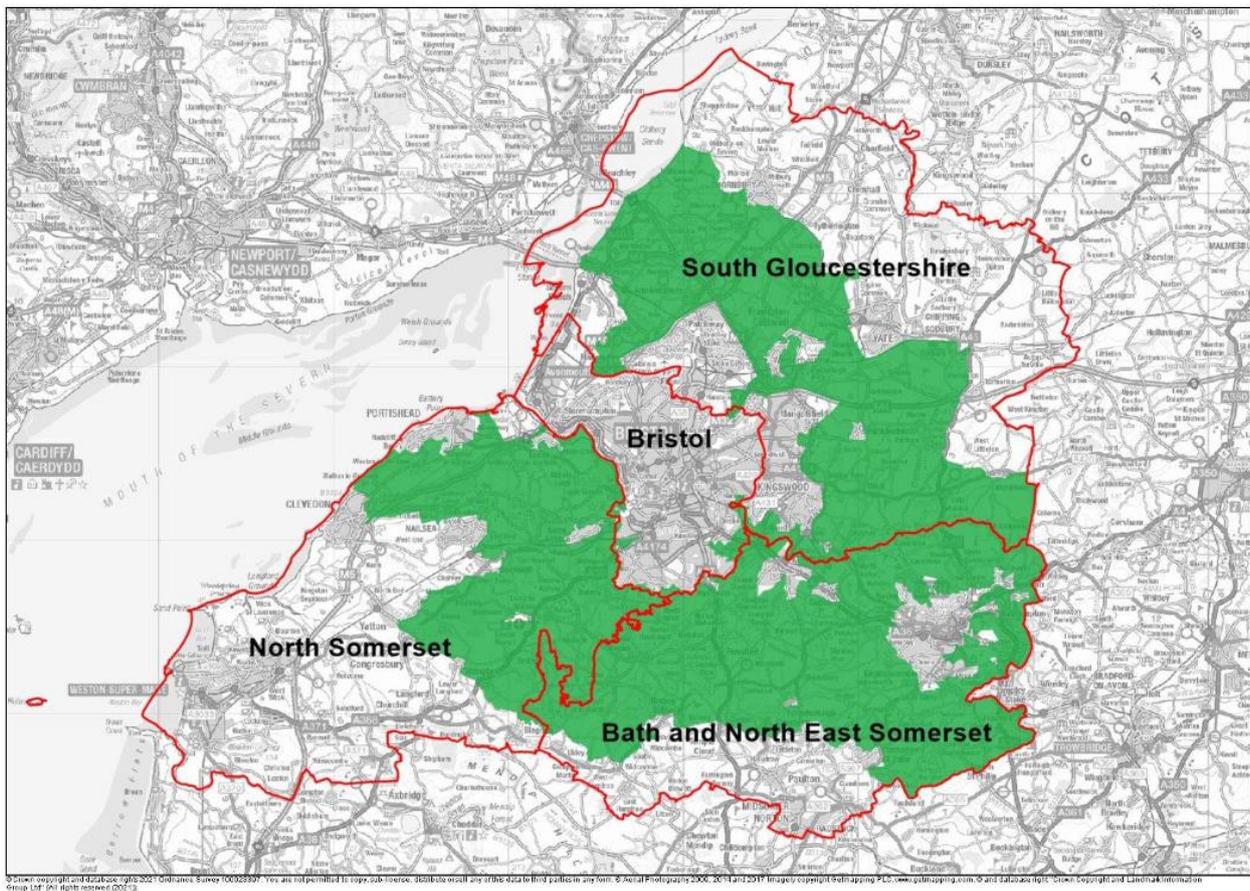
Appendix D. Extent of Green Belt land in the Bristol City Council area.

Summary and comment: There is not a lot of Green Belt land within the Bristol City area, so protecting this area of Green Belt must be important.

Map of Green Belt from North Somerset Green Belt Assessment, April 2021.

Available from: <https://www.n-somerset.gov.uk/sites/default/files/2021-04/North%20Somerset%20green%20belt%20assessment%20April%202021.pdf> (page 3).

Figure 1 Bristol and Bath Green Belt



Appendix E. Previous use of the unlocking argument on this site.

Summary and comment: Bristol City Council has previously rejected the building of housing on this cell of Green Belt land as partial means of paying for the development of a stadium.

In June 2009, planning permission was made for a 30,000 seater football stadium and up to 253 dwellings split between Southlands (now the Town and Village Green [TVG] – but still Green Belt land) and Alderman Moores Allotments (now Ashton Rise; 09/02242/P - <https://pa.bristol.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=KLC6B4DN08900>). It is important to note that the proposed development was across a larger site than the current development.

As soon as 4th November 2009, in the first planning officer's report, the council reported that it was "minded to approve" the stadium and Alderman Moores housing only. It was noted that exceptional circumstances for building on the Green Belt were met by the stadium only. At this early stage, housing on the Green Belt was turned down by the council, even though, like today, the housing was included to help finance the stadium. Back then, it was described as an "enabling" argument rather than a "unlocking" argument.

By February 2010, following revised plans and the next planning officers report, all mention of additional houses on the Green Belt was gone.

Below is some more detail of the enabling argument and its rejection, from the planning officers report from 2009.

From page 57: ***"The importance of the Southlands housing, hotel and food and drink uses as enabling development to assist the funding of a stadium.***

The Southlands housing site and the proposed development comprising a hotel and food and drink uses in front of the proposed main west stand form an integral part of the masterplan. They are essential to the commercial viability of the scheme to deliver the stadium. They are so called 'enabling' development necessary to fund development because the stadium is not viable as a stand alone project. The applicant has submitted a Development Appraisal that shows that there is a development shortfall of £49.5m representing the difference between the costs of £121.6m less the value of the completed project and disposal of land with planning permission of £72.1m The applicant argues that the enabling sites are essential to the project as without them, and the enhanced value of the land as a result of planning permission, the deficit will worsen and make the delivery of the stadium less certain."

Later on page 61: *"Members may be of the opinion that the harm to openness of the Green Belt caused by the Southlands housing element is limited and that the very special circumstances of the wider stadium project outweigh this harm and the other harm to wildlife interests and the lack of connectivity to the existing urban area. If members were to take this view, an "on balance" view to support the Southlands housing element in this case would not be sufficiently strong to constitute a valid position on this issue. Instead, members would have to be confident that the very special circumstances clearly outweighed the harm to openness of the Green Belt and other harm. This is not the view of your officers though."*

Later on page 64: *"The Southlands housing element is not supported by your officers because there is a weaker enabling case due to the poor physical and functional relationship with the stadium and this is not compensated by the relatively higher financial contribution that it would bring to the*

delivery of the stadium. This weaker enabling case combined with additional harm to the openness of the Green Belt on this part of the site, coupled with the addition local plan open space protection afforded to this open area leads the officers to conclude that this element of the scheme is not acceptable. As set out earlier in this report, if members wish to take a different view and support this element, this would have to be on the basis of the very special circumstances of the stadium project clearly outweighing the harm.”

Appendix F. Misrepresentation of the level of local support for preserving this land.

Summary and commentary: contrary to the public reports pack, local people did object to this land being removed from the Green Belt during the local plan review consultation during 2019. Misrepresenting these views seems unfair to the people of Ashton Vale and South Bristol, and downplays the importance of this area of Green Belt land as a local amenity.

The public reports pack put before the planning committee members seems to repeatedly downplay the high regard and value that residents put on this piece of Green Belt land.

On page 98, the reports pack says:

"...This effect is recognised in the Local Plan review consultation of March 2019. During this 2019 consultation process, 7 responses were received regarding the proposal to remove 'land at Ashton Gate' (i.e. land North of Metrobus at Ashton Vale) from the GB and to allocate it for housing development. It is understood that of the 7 responses received, there were only 2 objections to the site being removed from the GB".

This seems to be a misreading of the results of the consultation. At some level it almost seems to be trying to mislead members of the planning committee who would not normally have the time to refer to the original documents.

However the results of the consultation are freely available on the BCC website (results of consultation: <https://www.bristol.gov.uk/files/documents/2281-bristol-local-plan-review-consultation-march-2019-summary-of-responses/file>).

The original consultation document (<https://www.bristol.gov.uk/files/documents/2275-local-plan-review-draft-policies-and-development-allocations/file>) shows proposed changes to this area of Bristol in two places: DS10 and DS11.

DS10 is specifically about changes to the Green Belt in South Bristol, including Ashton Vale (see pages 43-45). DS11 is a much smaller section, about development allocations, in Southwest Bristol including Ashton Vale (see page 46 only). DS11 would apply once areas have been removed from the Green Belt (i.e. after DS10). As the National Planning Policy Framework makes clear these are two different stages which need to happen separately.

In terms of DS10: 64 respondents made 66 comments. Comments in support: 3. Comments in objection: 55.

In terms of DS11: 83 respondents made 149 comments. General comments in support: 1. General comments in objection: 22.

If you selectively drill down and look only at those specific comments only about Ashton Vale in DS11, then you do get a relatively small number. But that is because more people objected to the housing generally. And many more people objected under DS10 in terms of releasing these areas from the Green Belt at all. There is little need to object to DS11 if you have already objected to DS10.

For the public reports pack to suggest that local people do not care about this land, or its value as Green Belt seems both untrue and unfair. More worryingly, this idea of a lack of local support for the Green Belt comes to be an argument the public reports pack relies on twice more.

On page 101/ 102 the reports pack says:

"However, it is acknowledged that the site is allocated for removal from the GB in the Bristol Local Plan review, which first proposed that the application site should be removed back in February 2018 and has progressed through the Regulation 18 consultation with minimum objection"

This is untrue, as already noted. There were objections. Lots of them. Then again, in the conclusion of the report the author repeats the same idea (page 125):

"Officers advise that this "limited contribution to Green Belt purposes", is in part a result of the construction of the new Metrobus route changing the character of the site since the GB was first designated in the development plan. The Metrobus infrastructure has had the effect of separating this relatively small and narrow area of land from the wider GB countryside. This effect is recognised in the Local Plan review consultation of March 2019 where only 2 objections to the site being removed from the GB were received."

Again, untrue.

The author seems to have first built and is now relying on the narrowest data which can be exposed simply by looking at documents freely available on the Bristol City Council website.

We feel it is important that in your roles as planning committee members you know that local people cared about this land during the local plan consultation in 2019 and care about it now.

Appendix G. Comments made by SAVE about this application during the consultation period (August 2021).

Summary and commentary: we were surprised that the objections raised by SAVE (below), posted to the portal in August 2021, were not mentioned at all in the public reports pack. This seems different to the last time this site came before planning when the comments provided by the "Ashton Vale Heritage" group were given space.

(see: https://pa.bristol.gov.uk/online-applications/files/58C44C58C430BC0779C46EB85C81FD62/pdf/09_02242_P-OFFICER_S_REPORT_-_4_NOVEMBER_2009-565521.pdf)

The comments posted by SAVE are posted below.

The objections below have been submitted on behalf of SAVE (Save Ashton Vale Environment - <https://save-21.co.uk/>) under 12 headings:

1. GREENBELT
2. BROWNFIELD AND EXISTING PLANNING PERMISSIONS
3. CLIMATE EMERGENCIES
4. NATURE AND WILDLIFE
5. LOCAL AMENITY
6. AFFORDABLE HOMES
7. LOCAL RESIDENTIAL SERVICES
8. HEIGHT OF PROPOSED DEVELOPMENT
9. EXCEPTIONAL UNLOCKING ARGUMENT
10. FLOODING
11. LANDFILL
12. ETM RECYCLING

1. GREENBELT

This proposed development should be turned down as the site is Green Belt land. Green belt land is protected by national and local planning frameworks. The National Planning Policy Framework (Feb 2019); "attaches great importance to Green Belts" and notes they "should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans." (p.40).

Exceptional circumstances have not been met, see point 9 below. Moreover, the Local Plan has not been updated to remove this area of Green Belt. A draft Local Plan was not adopted (see below). Bristol is still operating from earlier versions, with our current core strategy dating from 2011 (Bristol Development Framework - Core Strategy). Here, Policy BCS6 supports the national planning policy in terms of the Green Belt. As such, until any Local Plan review is completed, no development on Green Belt land should be permitted.

It is worth noting that, unlike Longmoor Village, "Ashton Rise" (previously Aldermans Moore's former allotments) was listed in the Bristol Site Allocations and Development Management Policies Local Plan 2014 (BSA1001). But it was not on Green Belt land, nor land that is a flood risk (see point 10).

Proposed changes to the Green Belt status of this site were noted in the draft consultation document Bristol Local Plan Review: Draft Policies and Development Allocations (March 2019),

under Section 17, DS10. But this draft Local Plan was not adopted. And in the summary of consultation responses - (published September 2019) just 3 comments supported the removal of the Green Belt with 55 comments objecting (p.59-61). Reasons for objection included: lack of exceptional circumstances; land performing its purpose as Green Belt; preference for brownfield development; cumulative impact of Green Belt release; failure to demonstrate sustainable development; pressures on infrastructures and services. All of these objections remain as relevant if not more so and provide reasons to turn down this proposed development.

Moreover, in documents available in the planning portal, Peter Westbury, Team Manager for Major Developments at the council noted on the 6th March 2019: "At the present time, there would be an in principle objection to any application for planning permission for [a] combined development. [As] The land at Silbury Road remains in the Green Belt". This in principle objection remains.

As such, if determining this proposal in accordance with current National and Local Plans or even the councils own advice to the owners of the land in 2019, this and any future proposals should be turned down due to the areas continued status as Green Belt.

2. BROWNFIELD AND EXISTING PLANNING PERMISSIONS.

The Green Belt land at Ashton Vale should not be built on when there are brownfield sites and previously developed land (PDL) available which are not on Green Belt land. Bristol currently has over 200 brownfield sites available. As we come out of the pandemic many more previously developed sites could become available and be redeveloped for housing.

Moreover, as recently as 6th July 2021 the Mayor confirmed: "We now have a healthy stock of 12,750 homes in planning permissions". This is the number of housing units that have been granted planning permission by the Local Planning Authority but not built. With such a "healthy stock" already in place, building on Green Belt land should not take place.

3. CLIMATE EMERGENCIES

Bristol says it is a leading voice in response to the climate and ecological emergencies. Moreover, the One City plan (third iteration) talks about the improved provision of green spaces across the city and the role they can play in increased physical activity, reducing obesity and health inequalities. This proposal destroys Green Belt land and removes green space, at a time we should be protecting it. The importance of green, open space for humans and nature is heightened by the recent floods in Europe (see also 10 Flood risk) and the UN's Intergovernmental Panel on Climate Change (IPCC), the latest report being "a code red for humanity".

4. NATURE AND WILDLIFE

The entire proposed development site is a designated "Wildlife Corridor". The site should not be built on, especially as other local wildlife corridors have been reduced through recent housing development. Specifically, the Alderman Moore allotments (now Ashton Rise).

The Portishead Branch Line Preliminary Environmental Information Report (vol 4), described Ashton Vale Fields (next to the development site) as: "an important bird site" (4-12). It noted: "The site's mosaic of wet grassland, open water, ditches, hedgerows and scrub is particularly important for wintering and breeding wildfowl and waders". However, the current planning documents note: "Potential indirect effects include disturbance to breeding and wintering birds during construction" and even that the area could experience "effects" as a result of the Proposed Development during the operational phase, after construction has been completed.

As well as birds, submitted documents note the unconfirmed presence on-site of various species, including some protected ones, such as: great crested newts, water voles, otters, bats, badgers, hazel dormice and hedgehogs. Documents, including the Environmental Impact Assessment Scoping Report, keep noting that further ecological surveys are recommended, and required in advance of determining the planning application. It is not clear if these wider surveys have been carried out.

Finally, Ashton Vale Fields is a Site of Nature Conservation Interest (SNCI). Importantly, the SNCI is bigger than the Town and Village Green area alone and extends into the proposed development site. It should be protected from being built on, or built near. The main protection currently proposed is only: "a 5 m offset between the development and the SNCI". This does not feel like adequate protection.

5. LOCAL AMENITY

The proposed development site is an important amenity to the local community. The proposal should be turned down as it would hinder the health and wellbeing benefits associated with the site which include walking, dog walking, access to nature and other activities.

The last time development was proposed on this site (Nov. 2009), objections were lengthy and progressed all the way up to judicial review. As part of this process Barrister Ross Crail conducted an inquiry that recommended that all of the lands should be registered as a Town or Village Green (TVG). This was because local people had used the space for leisure for at least twenty years. While the council chose not to designate this piece of land as a TVG, the report and its recommendations demonstrate the established historical and current amenity use of the land to the local population.

Taken with point 4 above, aside from its Green Belt status, under Bristol Core Strategy Policy BCS9, the proposed development site represents part of the "Strategic Green Infrastructure Network" for Bristol and so should not be built on. Indeed, the site is marked as such in diagram 4.9.1. of the Core Strategy (page 79).

6. AFFORDABLE HOMES

The proposal should be turned down because it does not contain enough affordable homes. The planning application notes that it will deliver up to 510 residential units of which only 30% (153) will be affordable. Recent housing developments in South Bristol have shown how property developers can do much, much better.

Old Brewery, Ashton Gate. 107 homes - 100% affordable.

Totterdown Bridge. 152 homes - 100% affordable.

Off Winterstoke Road. 67 homes - 100% affordable.

No one doubts that Bristol needs more "affordable" housing, but 30% is not enough at outline planning. We are all aware, that once planning has been granted developers have been known to try to reduce the level of affordable properties still further.

7. LOCAL RESIDENTIAL SERVICES

This development would put increased pressure on schools, doctors and other services in the local area. Increasing homes in the area by more than 500 dwellings (1,500+ residents), will put

further pressure on local services, negatively impacting the local residential amenities. 133 homes have recently been built in Ashton Rise, without any increase in local residential services, providing a further reason why this development should be turned down.

8. HEIGHT OF PROPOSED DEVELOPMENT

The current application is an "outline proposal" only, so it lacks a lot of detail. However, if approved up to 17% of buildings will be 5 stories high or 18m tall. The rest up to 3 stories or 11m. The visual impact of the development will be significant for those living in the local area. It will be out of scale and out of character compared to the existing housing in the local area. (Ashton Rise is a maximum of 4 stories in height and sits between existing buildings, including the Imperial Tobacco offices). Local houses may face overlooking and loss of privacy issues or even shading / loss of daylight. The loss of current views for existing properties will adversely affect the residential amenity of the neighbourhood and the open outlook of the neighbourhood will be lost.

9. EXCEPTIONAL UNLOCKING ARGUMENT

Building on Green Belt land is only possible in exceptional circumstances. The planning application argues that building on this land is necessary to "unlock" the Ashton Gate Sporting Quarter (AGSQ). Indeed, this unlocking argument is thought to be exceptional enough to warrant building on the Green Belt. A document submitted during planning notes: "The anticipated value of Longmoor with the benefit of planning permission, is £24.1 million. This accounts for 19% of the total costs of construction of the development at AGSQ (£126.5m)".

SAVE is not against the sporting quarter. Nor the founder of Bristol Sport, Steve Lansdown. However, if the unlocking potential of this development is cited as being exceptional, then it must be noted that Steve Lansdown is a billionaire, estimated in the Sunday Times Rich List 2021 (no.124) as being worth 1.365 billion. His wealth is reported to have increased by £15 million in the past year alone. For an individual with such increasing wealth, any argument that Green Belt land needs to be built on in order that he can make £24.1 million more seems questionable. At the very least it does not seem that exceptional circumstances have been "fully evidenced and justified" as the National Planning Policy Framework requires.

10. FLOODING

The National Planning Policy Framework says: "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere." (point 155). The site is at risk of flooding from: i. rivers or the sea, ii. surface water and iii. reservoirs (Barrow Tanks). Some areas of the site are in Flood Zones 2 and 3. It would seem that the development of this land would increase the flood risk either here or elsewhere in the local area. Recent extreme flooding events in Europe should be telling us that we cannot ignore flood risks. Moreover, in their comments on the application, the environment agency objected to the proposal on flood risk grounds (27th July 2021).

11. LANDFILL

Despite the site being Green Belt, it has previously been used for landfill. The Geoenvironmental and Geotechnical Desk Survey in the planning portal concludes: "Overall, it is considered likely that significant soil/ groundwater contamination is present and the associated potential risks from

contaminated land for the proposed development are anticipated to be moderate" (p.40). These include risks such as: ingestion and inhalation of contaminated dust and soils and vapours; ingestion of homegrown produce from contaminated soils; uptake of contaminants in plants; inhalation of fibres, particularly asbestos. These do not sound like sensible risks for future residents to be exposed to without considerable remediation of the site. It seems important that the councils Contaminated Land Officers define an assessment framework that explicitly takes into account the risks raised in this report and ensures satisfactory remediation measures are detailed and stipulated before any planning permission is granted.

12. ETM RECYCLING.

The proposed site borders an existing ETM Recycling Centre. This has implications in terms of odour, dust and noise. In terms of noise, past planning permissions have been given to ETM on the understanding that residential properties have been more than 250 metres away. And more recently, even behind a sound reduction barrier.

WHO recommends that steady, continuous noise should not exceed 55 dB in outdoor living areas (balconies, terraces etc.), with moderate annoyance, being caused by noise above 50 dB (LAeq). In ETMs recent planning application (application: 21/01169/X; doc: 21_01169_X-PART_1_-_NOISE___VIBRATION_MANAGEMENT_PLAN-2901469.pdf; table 6.1), noise levels were found to be at 59.9 at a point 45 metres away from ETM, on the proposed site for Longmoor Village. This seems to be above the threshold level of noise. The outline planning application seems to propose to only deal with these noise levels through the use of thick glass in windows. Worryingly, this may limit the potential of people in these homes to have the enjoyment of outdoor living space close to their homes, or indeed opening the windows in their homes.

Relatedly we also hope the council does not intend to give planning permissions for any affordable homes to be used as a "noise buffer" as has recently been proposed by Lovells elsewhere in South Bristol (<https://www.bristolpost.co.uk/news/bristol-news/anger-social-housing-described-noise-5761189>).

These objections have been submitted by SAVE (Save Ashton Vale Environment)

STATEMENT NUMBER B10

Dear sir / madam

Ref application 21/03166/P land west of Silbury Road Bristol

I would like to ask that this application be refused. A motion was passed by full council last year which stated that no further development should be allowed on Green Belt land. Some of the land covered by this application is Green Belt. I have heard it argued that the new Metro bus route through this land has changed the nature of it, somehow making it a paler shade of green. This is not the case, as the many important species of flora and fauna have continued to thrive. It a hugely valued Green space for local human residents too.

The argument that because this proposed development is linked to and enables a Sport and Convention Centre (SCC) it should be allowed to override Green Belt preservation is not valid. There is no demonstrable need for another sports centre so close to Bristol City's stadium complex. All those facilities are already in place. The SCC in my opinion is being used as a Trojan Horse to open up the whole of the Vale to development. Surely no reminders are needed that we are in a Climate Emergency.

Finally, the area is regarded as at risk of flooding. This alone should have been enough to have stopped the plans a long time ago.

Please refuse this application.

Regards

Catherine Robson 50 Dursley Road Shirehampton

**Statement by Bristol Walking Alliance on
21/03165/F (Ashton Gate Sports Quarter) and 21/03166/P
(Longmoor) - STATEMENT NUMBER B11**



Pedestrian connection between Ashton Gate and Long Ashton Park & Ride

BWA questions why these two planning applications do not address the obvious opportunity to ease event day congestion by providing a direct pedestrian route from the Park and Ride site to the Ashton Gate stadium and Sports Quarter. We argue that the reserved matters conditions should be changed to rectify this omission. Alternatively, we ask committee members to obtain assurances from officers that the reserved matters conditions do not preclude such a route being provided at a later date, and that they as officers will be actively pursuing this.

Route from the P&R site to Winterstoke Road (Longmoor planning app)

Whilst a route exists alongside the Metrobus route, a more direct route is more likely to be used by event-day crowds. Such a direct pedestrian route should be wide enough to cater for event-day volumes of pedestrians. The Longmoor planning application refers to possible direct routes but labels them as future opportunities and does not commit to providing them.

There are essentially two possible direct routes:

- 1) along the Longmoor Brook. This would probably not be wide enough and could have an impact on its role as a wildlife corridor, and it would have to use some space on the edge of the industrial estate.
- 2) through the Longmoor estate and the middle of the Manheim/Cala industrial estates. This route will in any event be needed for all types of traffic when the Portishead rail service is opened. Network Rail and North Somerset Council have both pointed out that to provide a rail station at Ashton Gate (and to increase train frequency on this line) there should be future road access to the industrial estate that avoids the need for the current level crossing. We are unclear why “The Council [i.e.BCC] as Transport Authority has taken the position that a safeguarded route is not required as part of this application.”

Crossing of Winterstoke Road (Ashton Gate planning app)

BCC Transport Development Management has suggested an alternative location for a pedestrian crossing of Winterstoke Road, but no reasons are given why it is preferred. BCC’s option would be 2-stage, whereas the developer’s option would be 1-stage. BWA argues that a 1-stage crossing would be appropriate to cater for large event-day volumes of pedestrians.

Bristol Walking Alliance
4 October 2022

P21/03166/P - STATEMENT NUMBER B12

I am writing to record my support for this application and to encourage members of the planning committee to grant approval.

Development in the green belt is generally prohibited except in cases of "very special circumstances." This application appears to be a prime example of those "very special circumstances" as it addresses unmet housing need in a city with an acute shortage of homes, provides welcome economic benefit in the form of commercial development which will provide employment and helps deliver enormous social benefit in that the proceeds of the development are guaranteed to fund the development of new sporting facilities adjacent to the Ashton Gate stadium.

Whilst there are some valid objections it is worth noting that this is an outline application and it is probable that many if not all objections can be addressed satisfactorily at reserved matters stage.

I hope the planning committee will be minded to approve this application to grant outline consent.

W N Davies MRICS
4th October 2022



DC A Meeting Wednesday 5th October 2022

- STATEMENT NUMBER B13

Public Forum

Statement from Friends of Suburban Bristol Railways

Re: Bristol City Council planning application 21/03166/P (Longmoor Village)

The Longmoor Village outline planning application will, if permitted, have a detrimental impact on the upgrade of the Portishead Line, and on the re-opening of Ashton Gate station.

The Bristol-Portishead railway re-opening was originally intended to provide a half-hourly service in both directions. The current scheme is for an hourly service in each direction, with a 45-minute service at peak times.

The Longmoor Village development will prevent the service being upgraded to half-hourly by removing the potential for an alternative access road from the A370 to the Ashton Vale trading estate, avoiding the Winterstoke Road level crossing:

- A half-hourly service in each direction would mean that the level crossing from Winterstoke Road to the Ashton Vale trading estate would be closed more than 50% of the time, with nowhere for queueing traffic
- Therefore, a half-hourly service would require the permanent closure of this level crossing.
- A new access road would be required to join the Ashton Vale trading estate to the A370, across the land subject to the Longmoor Village development.
- The Longmoor Village development does not in its current form provide an alternative route for Ashton Vale trading estate access.

FoSBR ask Bristol City Council to take note of the Network Rail comments (submitted in Network Rail document P/TP21/442 dated 19th July 2021) and to reject these applications in their current form, ensuring that a corridor across this land is ring-fenced for the future access road.

If permission is given, then the Bristol-Portishead railway will never be able to upgrade to a half-hourly train service. This development will also prevent the construction of Ashton Gate station, a station which Bristol City Council is keen to re-open.

This development will reduce the convenience of a low-carbon mass transport solution for the people of south Bristol, Pill and Portishead. The proposed outline application in its current form and non-upgrading to a half-hourly train service on this line would go against the Bristol City Local Development Plan 2011 Policies BCS1, BCS4, BCS8, BCS10, BCS11, BCS12, BCS13, BCS21, BCS23, DM23, and DM24.

Carol Durrant

Friends of Suburban Bristol Railways

STATEMENT NUMBER B14

Statement to object for application for Land East of Silbury Road No 21/03166/P

Ashton Vale Fields (Longmore Village) application is complex and controversial, and I question if this the best use of an unusual site?

Many issues have been raised, with experts contesting the evidence of outdated bat surveys and where the site sits regarding water and grassland strategic networks. As well as Bristol's commitment to managing parks and green spaces for nature and addressing our ecological emergency.

Heritage concerns for the surrounding context and the impact on Long Ashton Conservation area, and English Heritages concern for the Grade 1 listed Mansion House in Ashton Court.

As well as the impact of ETM, a family company on the Manheim Industrial Estate that has developed a unique waste and mattress recycling business and has a current planning application into increase working hours to 24/7. Particularly issues include noise, air quality and transport.

I argue that the proximity of the ecologically rich Ashton Vale Town Green to the Longmore Village site offers a unique opportunity to develop the ecological theme for the land opposite, whether for housing or another use to creating a new identity for this side of Bedminster which could bring both sites together in terms of themes and ideology.

The Town Green offers the potential to be a unique visitor attraction, including education and leisure resource in partnership with our two universities and other environmental organisations with the potential for new jobs, training and a development that meets Bristol's aim to become net zero.

My argument is that the benefits to the Ashton Vale community and Bedminster in general are limited from the development of the Longmore Village as I consider its aspirations and ambition limited given Bristol's commitment to net zero.

To meeting NPPF's increased commitment to quality urban design and particularly public realm, which has been until now disregarded in the development of Ashton Vale which has no play facilities or green space for leisure and health benefits.

It has one corner shop; the nearest supermarket is a mile away and transport is limited by the railway bridge. It even has its own version of the Berlin Wall, put up when the metro bus route was built and is still there.

I am not convinced that by using the Longmoor proceeds of sale to enable the development of the SCC, that the Longmoor proposal provides the **Very Special Circumstance** required to justify residential development in this part of the Green Belt and I ask my fellow Councillors to look further than the housing offer and consider what this area could provide with further time to address its potential and to turn this application down.

Councillor Tessa Fitzjohn

STATEMENT NUMBER B15

Statement to Development Control A Committee; 5th October 2022. 21/03166/P Land West Of Silbury Road (Longmoor) Ashton Vale, Bedminster

There are mixed views among residents concerning this application for outline planning consent. I welcome the commitment to engagement shown by the applicant and their representatives (including during the Pandemic) to discussing the proposals.

Although the proposed development is on currently designated green belt land (also a former landfill site), it is also physically severed from other green space nearby due to the alignment of the Metrobus route and the additionally wide pedestrian and cycle access built to support this public transport provision.

As we face ever-increasing pressure to build new homes, particularly affordable ones, this site is well-located and connected for this purpose. If outline planning consent is granted, the development would form the administrative boundary of Bristol with North Somerset.

I also note that this development would provide enabling funding for the Ashton Gate expansion, the subject of a separate application.

In supporting this application for outline consent, I want to highlight the following:

- For me, it is critically important that this development provides at least 30% (c.150) affordable homes (plan compliance) and this must be novated in any agreement entered into with a development partner. We should prevent a situation where a developer seeking full permission is able to say that such obligations were not agreed with them.
- I would like a proportion of the affordable housing to be made available for people in or from BS3 on the housing waiting list. This has been done for other developments.
- The developer should be obliged to support local skills, offering opportunities to local people in conjunction with the South Bristol Construction Skills Hub.
- Finding an available and suitable site for young person's play within Ashton Vale has proved challenging and there is modest CIL funding for this requirement. I have already had positive conversations with the applicant and their representatives about how such a facility could be co-located with the residential development, if another site cannot be secured, perhaps providing a more extensive resource for local children and families to enjoy.
- The site is near important biodiversity resources for South Bristol - the Town and Village Green site, Colliters and Longmoor Brooks and Colliters Walk. These need to be protected and the relationship between the development site and these nearby areas must be specified in any consent. I would also ask the Committee to consider how the local community can be supported in terms of capacity and resource to help enhance and make the most of these assets, protecting them for the long term.
- Traffic access to the development site needs to be properly managed and agreed in advance. People in Ashton Vale have faced real problems due to residential streets being used by HGVs delivering to construction sites and causing damage to the road surface.
- Building homes within the immediate area of the intended Ashton Gate rail station (as defined by an earlier passive provision agreement with Network Rail) will strengthen the business case for improved rail services in the Bedminster area.
- Residents for the new homes should be encouraged to use public transport and incentivised by the developer after they take up occupation.

- I have assumed that the Environment Agency is satisfied with the application in terms of flood risk and air quality.
- An important consideration is access to public services, mostly healthcare, education but also emergency services. Given the location of this site at the boundary of two unitary authorities, which are both cooperating in a variety of fora, joint planning and assessment of need would make great sense and help to reassure local people (current and future). Social infrastructure to support this development must not be overlooked and can and should be addressed by joint working across the boundary.

Councillor Mark Bradshaw

Labour Co-op Councillor for Bedminster

4.10.22

STATEMENT NUMBER B16

Statement for submission for Development Control A Committee - Objection

Planning Application Number 21/03166/P – Land West of Silbury Road

Dear Bristol City Council planning committee members,

I would like to submit a statement in opposition of the above development, also known as Longmoor Village and the Sporting Quarter. While I object to both on strong environmental grounds, today I wish to focus on Longmoor Village and the effect on essential services in the local area.

South Bristol is becoming increasingly squeezed service-wise. We have just two large supermarkets, a bus service that is not fit for purpose, a lack of schools and pre-school childcare, very few play parks (none in Ashton Vale) and just two GP practices and a handful of dentists to support the local population which appears to be growing at pace. We cannot sanction further housing development in the area without addressing these dire needs first. My submission today focusses on GP and dental care.

Affordable housing

In February 2022, Bristol pledged to deliver 1000 new affordable homes into the market each year by 2024. One of the arguments for Longmoor Village is that it will deliver 150 affordable homes. However, the delivery of affordable homes alone does not solve the problem of adequate and safe housing. If we introduce so many new people into the area that there is no GP medical care or NHS dental care available, then people will be at risk – particularly those in affordable housing who are statistically higher users of these services.

I'd also suggest that the current building policy does not actually resolve the housing crisis, and council should be looking at far more radical solutions to this serious problem, and ones that do not introduce other social problems at the same time.

Let's look at some numbers. There are currently 20,000 households on the housing waiting list. The above pledge isn't even a sticking plaster on the problem of the lack of affordable housing. If enacted, the above pledge will result in just 11% of the current waiting list being appropriately housed each year. Basing the figures on the UK average of 2.36 people in each home, just 2360 people will be housed annually yet the waiting list grew by 13% between 2020 to 21 – that's 2600 new households being added on to the list each year.

While the proposal for Longmoor Village offers 29% of affordable homes, the usual figure for major applications is around 20%. This means BCC is looking to introduce 15000 new family homes into Bristol City – that's 35,400 new people - to house just a small number of the people desperate for a safe and affordable home. Council is willing to introduce over-population in order to create just 7000 new homes for the 47,000 (and growing) list of

existing Bristol residents in crisis. With none of these applications even considering, let alone supporting, the expansion of GP and Dental services, the pressure being placed on local populations for such a small gain is not in the wider interest of either existing or future residents.

Local Services

Longmoor Village pledges to introduce 510 new homes into South Bristol, which is already the subject of extensive development. In addition, the Sporting Quarter offers 125 new flats. Using the accepted median of 2.36 people per home in the UK, that's 1498.6 people arriving in BS3.

There are two providers of General Practice Medical Care in BS3, The Bedminster Family Practice and Bridge View Medical. Bridge View Medical runs 4 local surgeries. The median number of patients registered at any GP practice in England is 8,488. Bridge View Medical has more than 39,000 patients – almost 10,000 patients per surgery. This is the highest number of patients for a single practice in Bristol. The Bedminster Family Practice has 12,000 patients.

Bedminster only has 12,448 residents, so our area is already picking up the slack from other wards when it comes to medical care in Bristol. The two practices together have more than 2/3rds of patients registered from outside of BS3.

The Longmoor Village development coupled with the flats in the Sporting Quarter will introduce a further 1500 new people needing medical care in this ward, without all the other new builds happening across BS3. GP services currently cannot cope.

I am registered at Bridge View Medical – the wait time just to speak to reception is between 40 and 90 minutes on a daily basis although we have waited over two hours. This is not a result of the pandemic, this was an issue well before the pandemic. Once through, the usual response from reception is that there are no appointments available and to call back later. For those of us who have already taken two hours off work to make the call, and have an urgent need to speak with a GP this is a very disheartening outcome. It has taken our family more than a week of such phone calls to receive an appointment on occasion. Many people arrive at the surgeries at 8.30am when they open to jump the telephone queue. This is an equity issue – parents to young children, people who don't have transport, disabled people and neurodiverse people are all disadvantaged by this practice.

To try and reduce waiting times and pack more people in, the practice will offer everyone a telephone appointment first. These appointments – a symptom of overcrowding and not enough doctors - are inadequate to meet the needs of the local community, with many people complaining on the local facebook page that they have received a lower standard of care than expected, or even a misdiagnosis resulting in further problems. My own husband suffered a minor injury over Christmas 2022 that continued to give him problems into the New Year. Despite phoning the GP surgery many times it was August – 8 months later – before he was able to procure a face to face appointment and secure the necessary treatment.

NHS Dentistry services are equally hard to find. My family moved to Bedminster in 2023, however we did move a way for a few years at one point arriving back in 2019. Since we arrived back we have been unable to register for a dentist. The only option is to go private which we cannot afford. In the last 3 years no local practice has been able to offer our family a place and this is an issue that is city-wide. In a recent Bristol Live article it was revealed that 98% of NHS dentists in Bristol are not accepting new adult patients – making Bristol one of the worst areas in the country for the lack of NHS dental care. (See <https://www.bristolpost.co.uk/news/bristol-news/dental-practices-across-bristol-turning-7434493>). There are no NHS Dental services in BS3 open for new patients at this time.

Local solutions to a central government problem

It would be too easy right now for councillors to say, ‘this is about the government and chronic NHS underfunding.’ Yes, we appreciate that. But with the current Conservative administration unable to keep a grip on the economy, increased funding for services is unlikely to occur any time soon. Bristol City Council cannot keep approving the build of more houses without a plan to alleviate pressure on GP and Dental services. Bristol City Council cannot continue to claim this extensive building programme is about providing affordable houses when, as we have seen, the numbers do not stack up.

I ask you to reject this plan on the basis that:

- It does not provide a solution to the affordable housing crisis
- It does not offer existing Bristol residents in housing crisis a safe place to live as local medical services are not available
- It crowds BS3 with new people putting pressure on already malfunctioning public services
- It is not in the best interests of existing residents to introduce a large volume of new people to an area already struggling to support existing residents.

If council insists on recommending this pass, it should only allow it to pass if it comes with a package of incentives for NHS medical and dental services. Be that the developer required to offer free or low cost surgery space, or to work with existing practices on subsidising their expansion is for you to decide. But you are not serving the people of Bristol if you approve this plan as is, with no capacity for NHS medical services to expand to meet the needs of the existing and new populations.

J Breitnauer
87 Swiss Drive

STATEMENT NUMBER B17

Planning Application Number 21/03166/P - Land West of Silbury Road

Statement:

This proposed development is on Green Belt, a Town and Village Green, partly Site of Nature Conservation Interest, Wildlife Corridor and an old landfill site. This is not an appropriate site for housing. As a city we have declared ecological and climate emergencies. It's such a positive forward thinking move but we need planning decisions to quickly catch up with the future direction of the city. In fact, that future direction is here now, today.

The landowner has himself described the field as having "....methane pipes coming out of the ground..."

<https://www.theguardian.com/sport/2011/sep/20/bristol-city-new-stadium>

Would it be unfair to grant planning permission when the sports facilities application relies on profit from this housing site? "Planning Application Number 21/03165/F - Land to the West of Ashton Gate Stadium"

Under the neighbouring site of David Lloyd Gym is a landfill site containing asbestos. It is presumed that reasonable measures were taken with the landfill site before building on it. But is this documented anywhere?

As the sports application is so dependent on this housing site making a large profit, is more certainty needed about how the landfill on the neighbouring site was dealt with? And much more needs to be known and understood about the Ashton Vale field to have any confidence of safe building and large enough profit.

Noise pollution from the neighbouring ETM recycling facility is also a concern for any future residents.

In planning policy terms there seem to be many reasons where this site is not a good match for housing.

Many thanks for your time.

Tony Pitt



STATEMENT NUMBER B18

Committee Statement – Martin Griffiths, Chairman, Ashton Gate Stadium

21/03166/P - Land West of Silbury Road

The Application we are making today is what I hope will be the completion of a long journey. This Application has been four years in the making during challenging times and following extensive engagement. As many present here today will know, Longmoor is a former landfill site now cut off completely by the M2 Metrobus route from the surrounding countryside (this now forms the new defensible boundary to Green Belt), and was previously intended to be where Bristol City would build a football stadium. Planning consent was granted for that Application to include ancillary commercial development in 2011.

Despite receiving that consent we elected in the years afterwards to follow an alternative path by rebuilding Ashton Gate into the modern stadium many of you will know today. Throughout that period, however, it remained our intention to bring forward this highly sustainable site for development.

The proposal we now make is to build 510 new homes at Longmoor with at least 30% of those being “affordable housing”. Our purpose is to generate a receipt from the sale of the site all of which will be fully reinvested to help fund our proposed Sports and Convention centre within the new Ashton Gate Sporting Quarter.

In turn, this underpins the delivery of a large extension to our current social and community-based activities which operate from Ashton Gate.

To be clear the receipt from Longmoor is to be fully reinvested in the new Sports and Convention Centre at Ashton Gate and without it we cannot proceed.

We have ensured that the excellent sustainable transport links are enhanced further. We have added new cycle and walking routes to those already in place which together with the existing Metrobus provides a highly sustainable location for housing. Our development improves the bio-diversity on this site and provides substantial landscape buffers to the Site of Nature Conservation Importance and the brook corridors.

We want the site to be an exemplar in terms of quality of living for the new community it will support and we believe the carefully prepared parameter plans that form part of the application will ensure that this is achieved.

Altogether this Application helps the Local Authority address a critical shortage of housing in the city, funds a huge extension to our community-based work and is a highly appropriate use of an old landfill site on Bristol’s urban fringe.

Talking directly with you, the community, we’re committed to creating a “friends of” group for the wetlands area and continuing the conversation about a potential play park or nature trail here which we hope comes to fruition in the coming months.

Overall our view is that the Application before you today represents an opportunity to provide very substantial private investment at a time of significant economic need and underpin the creation of valuable new infrastructure at the Ashton Gate Sporting Quarter to benefit generations of Bristolians for years to come.

Martin Griffiths
Chairman

Ashton Gate Limited

Ashton Gate Stadium, Ashton Road, Bristol BS3 2EJ
ashtongatestadium.co.uk | events@bristol-sport | [@ashtongatestad](https://twitter.com/ashtongatestad)

VAT registration No: GB691787968

Committee Statement B19 - Andrew Cockett, Senior Director (Agent)**21/03166/P - Land West of Silbury Road**

The proposals seek to create a new sustainable community that integrates well with its surroundings and includes up to 510 new homes (including at least 30% affordable) plus commercial/community use on a former landfill site. The site is a very logical and sustainable location with direct access to Metrobus affording potential future residents quick travel into the city plus strong Active Travel opportunities. The scheme would create a 20 minute neighbourhood.

Green Belt and Very Special Circumstances

The land is currently Green Belt however is found to make limited contribution to the purposes of Green Belt (acknowledged in a joint study endorsed by both Bristol City and North Somerset Council) and as a result was proposed for housing in the BCC's Regulation 18 Local Plan (2019). The Metrobus and surrounding development has fundamentally changed the Green Belt context in this location. As a former landfill site it was also subject to a previous significant planning permission for a stadium.

Despite this clear direction of travel, the land's current status as Green Belt requires the demonstration of "very special circumstances" (VSC). The planning application and addendum statement set out a detailed case for VSC responding to comments raised by Officers and Counsel. The VSC case can be summarised as follows:

- 1 The core element of the VSC is that Longmoor is required to provide funding towards the construction of Ashton Gate Sporting Quarter (AGSQ) including a new Sports and Convention Centre to be the new purpose built home of the Bristol Flyers basketball team.
- 2 There are significant benefits that accrue from this including sport, health, fitness and wellbeing. Without Longmoor, the AGSQ cannot be delivered.
- 3 The link between the two sites is more than financial. The sites are physically linked by the metrobus route – with the scheme at Longmoor contributing to lighting the pedestrian / cycle route to improve access between the sites. There is also a commitment (through s106) for the sports and community programmes at Bristol Sport, through AGSQ, to provide outreach to new residents at Longmoor.
- 4 The scheme also delivers a significant level of market and affordable housing addressing the housing crisis and assisting to meet housing delivery targets.
- 5 Longmoor would also provide a significant level of formal outdoor amenity space, which would be accessible to the wider community with new local play spaces to be agreed via the reserved matters submission.
- 6 In facilitating the delivery of the AGSQ the proposals assist in meeting wider Health, Sport and Wellbeing objectives as set out in the Corporate Strategy, the One City Plan, the Sport4Life Strategy and the Sport and Physical Activity Facilities Strategy.
- 7 Both schemes will deliver a biodiversity net gain (BNG) as confirmed by your officers.

The schemes combine to realise a significant regeneration project for South West Bristol. Longmoor alone will deliver c. 210 jobs per annum during construction and c. £35m in GVA per annum into the local economy during the same period. And in operation, expenditure into the economy of c. £17m and £886,000 in council tax revenue.

The combination of all these factors and benefits make a compelling and robust case for VSC and underline the wide-ranging benefits of the proposed development. The two schemes will be linked through the legal agreement and an escrow account will be used to hold the proceeds of sale from Longmoor which would be released in accordance with the phased delivery of the AGSQ. The SCC will be the first phase to be completed after enabling works to ensure that the linked benefits are delivered early in the construction programme.

Other Matters

There are a number of other core matters that the scheme delivers on, that are important to highlight:

- 1 The development has responded positively to its neighbouring uses. In discussion with BCC the developable area has been agreed that will ensure that noise levels from adjoining commercial uses will not impact on the residential units and as such the development would be an acceptable agent of change. The ongoing operations at the neighbouring commercial facilities would not be impacted provided they operate in line with the permits and planning conditions that govern their working practices.
- 2 The impact of dust from the same operations will be considered by condition. The prevailing winds in this location mean that dust will be blown away from the site, not into it and adequate mitigation can be provided to ensure no issue is created for new dwellings when neighbouring uses operate in line with their permits and planning conditions.
- 3 The scheme will protect the existing habitats of importance, including the SNCI which remains outside of the developable area and the horseshoe bat commuting corridor along Longmoor Brook. Detail on maintenance access to the brook can be conditioned to address Natural England's comments. The scheme overall delivers a biodiversity net gain.
- 4 The maximum development extents have been tested through a selection of views, agreed with officers and North Somerset Council. The studies demonstrate that the impact on landscape setting and heritage assets would be minimal and more than outweighed by the benefits of the development. The reserved matters submission will also be accompanied by further visual assessment to ensure the detail design and layout is appropriate – in accordance with Historic England's advice.
- 5 The outline proposals have been considered in respect of flooding and the Environment Agency has confirmed that the proposals would not result in any unacceptable degree of flood risk in the locality.
- 6 The main highway access has been agreed with BCC Transport (TDM) as has the approach to pedestrian movement and cycle movement into and out of the site. The scheme will not create any highway safety issues and the s106 obligation will include a contribution for further modelling to agree the detailed junction and traffic signals design.
- 7 The proposals do not prejudice the future operation of Metrowest. Officers are clear that a safeguarded access route is not required as there is no clear policy basis; it is not required for the current Metrowest scheme for an hourly service; and there are other alternatives to access the Ashton Vale Industrial Estate if ever required in the future.
- 8 In addition to a significant level of affordable housing (30%) the development will result in a substantial CIL payment at reserved matters stage (c. £2.37m) and contributions to signal modelling; travel plans, car club membership; lighting of the metrobus route; pedestrian and highway improvements.

Officers have thoroughly considered the key planning considerations and conclude that there are strong grounds to grant planning permission and that VSC are clearly demonstrated.

Claremont SEND: 21/05402/FB

Combined Planning & Architecture Committee

Written Statement - STATEMENT NUMBER C1

Client	Skanska (on behalf of BCC)	File Ref	153645
Project	Claremont SEND	Date	03/10/2022

The information below is presented as the combined Planning Committee Written Statement for application 21/05402/FB. The Statement sets out our responses and where relevant, amendments to the proposed scheme that have been made since either the initial public consultation or since the original scheme was submitted for planning. The statement also addresses the most recent representations made by neighbours to the scheme and held on the Council's website.

It should be emphasised that no new information or changes have been made, all information presented has previously been discussed and submitted as part of the application, there may be some additional photos and annotated plans to emphasis the clarifications we are making. Extracts of the annotated plans from the Claremont Lodge resident representations have also been used to enable comparison and aid discussion.

Firstly, we would like to summarise the numerous changes made to the scheme since the application was submitted for planning:

List of changes / actions taken as a result of neighbour representations and scheme presented at public consultation/ pre-app stage:

1. Building footprint moved further away from boundary with The Bungalow and Claremont Lodge
2. Room and window arrangement changed to move classrooms further away from Claremont Lodge.
3. Obscure glazing added to eastern elevation
4. Change to Materials – Materials on the east elevation were amended to show more buff brick instead of cladding.
5. Angle of the roof changed to lessen potential impact from over shadowing, and lessen bulk of building
6. Trees added to the boundary between the school and Claremont Lodge.
7. High (1.8m) fence added to eastern rear outside student space to prevent overlooking and access to area to the rear of The Bungalow and Claremont Lodge.
8. Change to bin store – pulled back from the boundary with The Bungalow and shape changed to ensure more space between the bin store and residential property.
9. Additional survey work undertaken to confirm existing ground heights.

Hedge Height / Overlooking

Comment - The residents have claimed that the height of the hedge shown on some drawings was reported as being shown higher than it is on site, and that this difference in height gave a false impression of the amount of privacy afforded from it. Figure 1 is taken from the residents' comments.

Response:

- Upon review of the model, from which the image used in Figure 1 was taken, it was discovered that the hedge had been shown higher than found on site. This error has now been corrected and the image shown in Figure 2 now correctly reflects the height of the hedge. N.B. the view from the window shown in Figure 2 would never actually be seen due to the obscure glazing that is proposed in this location.
- Although the hedge was initially shown higher, the effect of this on the privacy of the occupancy of Claremont Lodge is unchanged; the reason for this being that the windows of the school along this section of the eastern elevation are to be obscure glass, so that no direct view can be obtained across the garden – as illustrated by Figure 3.
- The representations also express concern that the error in hedge height affects the ability of the occupants of the school looking out of an open window at first floor into their garden. The marked-up drawing, illustrated by Figure 4 below, demonstrates that the view from an openable window will not negatively affect the privacy of local residents, as the main view will be of the garage roof, or very restricted side views due to the limited opening ability of the window.

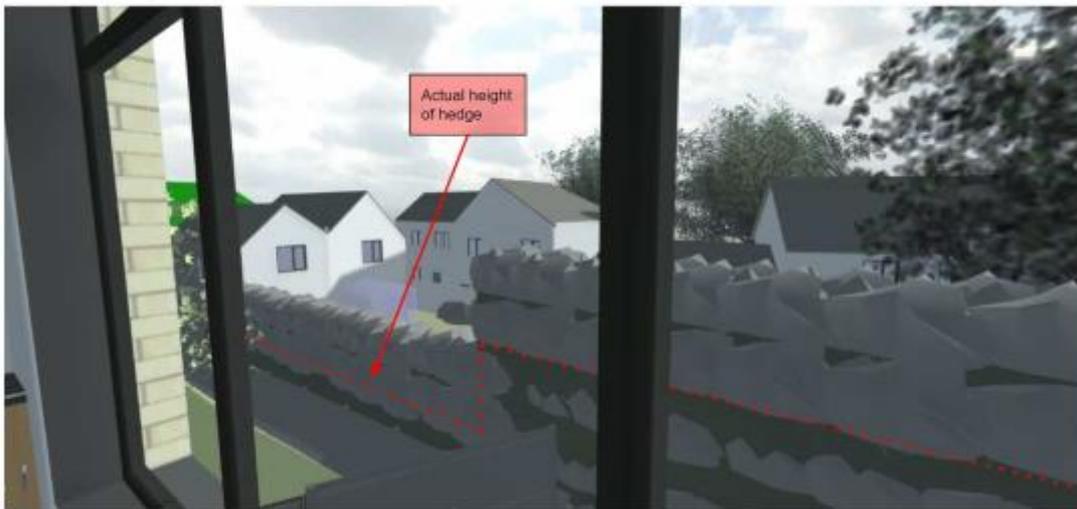


Figure 1 - Drawing taken from Claremont Lodge resident representation.

- It should be noted that the view from the classroom window shown in Figure 1 and 2 are taken from the first set of classroom windows, which are located a number of meters along from the edge of the building with the windows nearest the rear garden of Claremont Lodge being hygiene rooms; these rooms having high level obscure windows due to the nature of the room. The classroom windows are to be obscure glazed, with only certain windows being able to open, where a window can be opened this is hinged at the top and the opening restricted. Figure 4 illustrates the limited range that a person of average height standing at the window would see, this has been illustrated on the plan with the lowered hedge height. Due to the location of the classroom windows being located further south along the eastern boundary any restricted view into a garden or Claremont Court would be restricted and in part mostly obscured by the rear of the garage. The classroom window along the eastern elevation starts approximately in alignment with the garage.



Figure 2 - Revised image showing corrected height hedge.

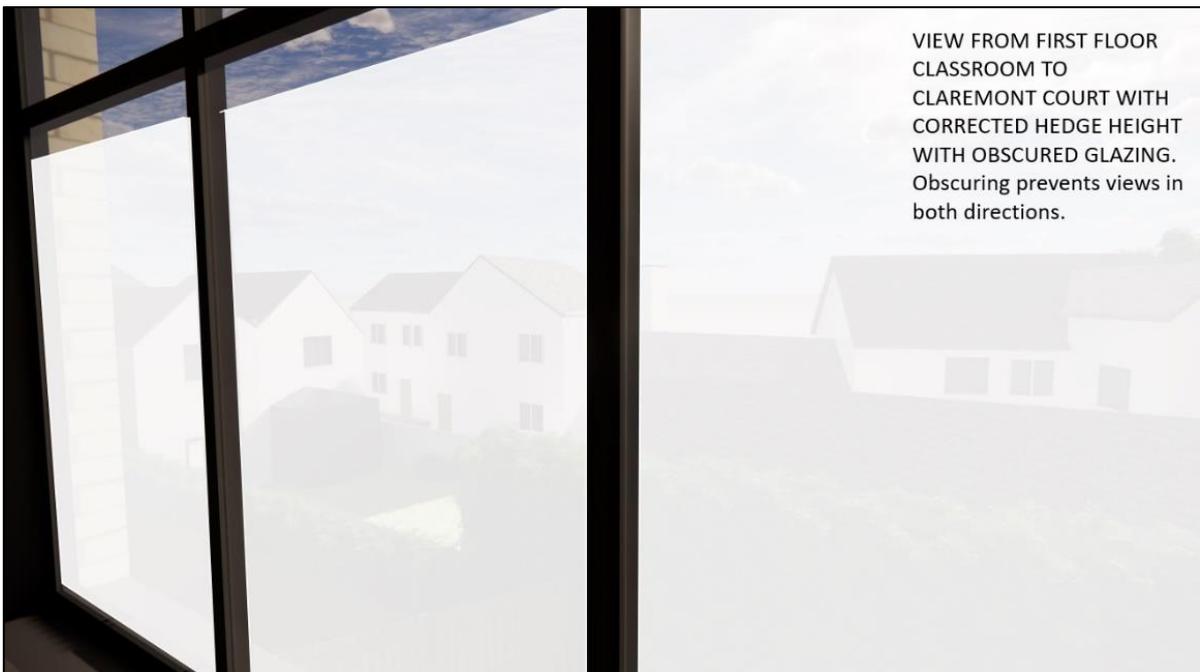


Figure 3 - View from first floor classroom with obscured glazing.

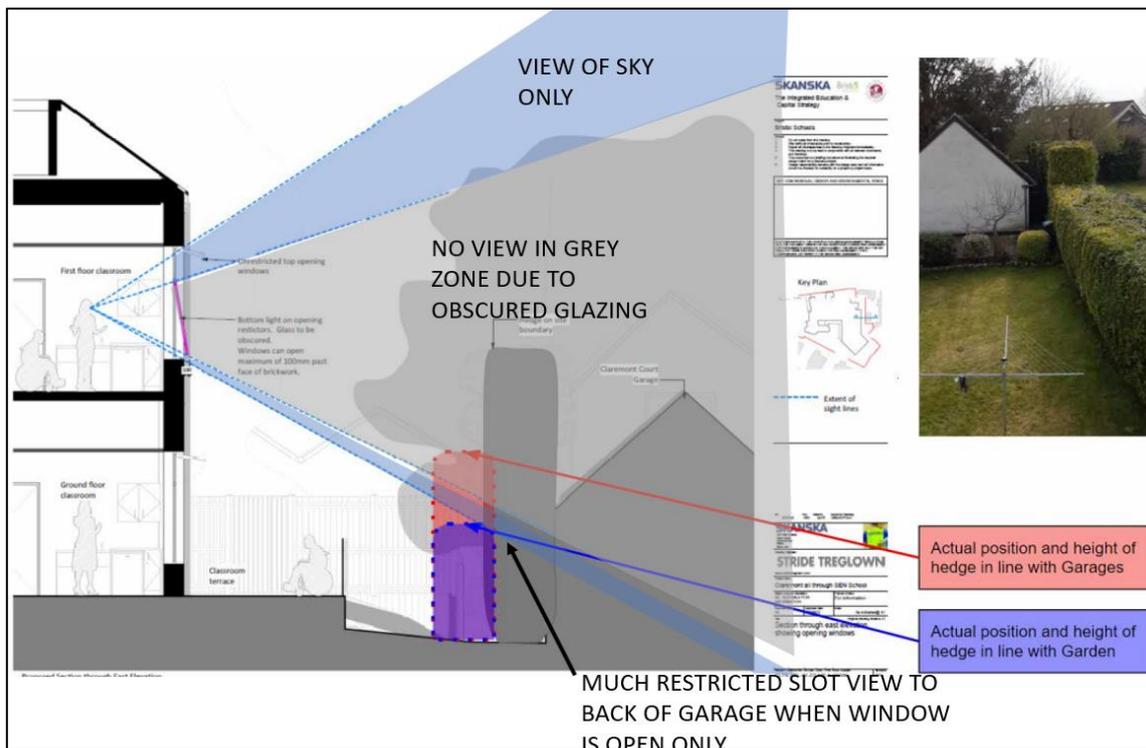


Figure 4 - Image showing extent of available view from classroom window due to use of obscure glazing and bottom opening windows with limiters.

Impact of Hedge Height on Reports

Comment – the validity of the noise impact report and daylight/ overshadowing report have been questioned, in light of the hedge height being modelled inaccurately on some plans.

Response :

- To ensure that the findings of the reports were correct, we have confirmed with both the specialists that produced the two reports the height of hedges used in their modeling. It was confirmed the Daylight, Sunlight, Overshadowing report does not account for the height of vegetation within its modeling, only buildings and standard height fencing, as shown by Figure 5 taken from the Daylight, Sunlight Overshadowing Assessment which does not show the hedge.
- The Noise Impact Assessment also disregards any planting in its assessment.
- Therefore, the error in modeling of hedge height has no impact on the supporting documents / assessments.

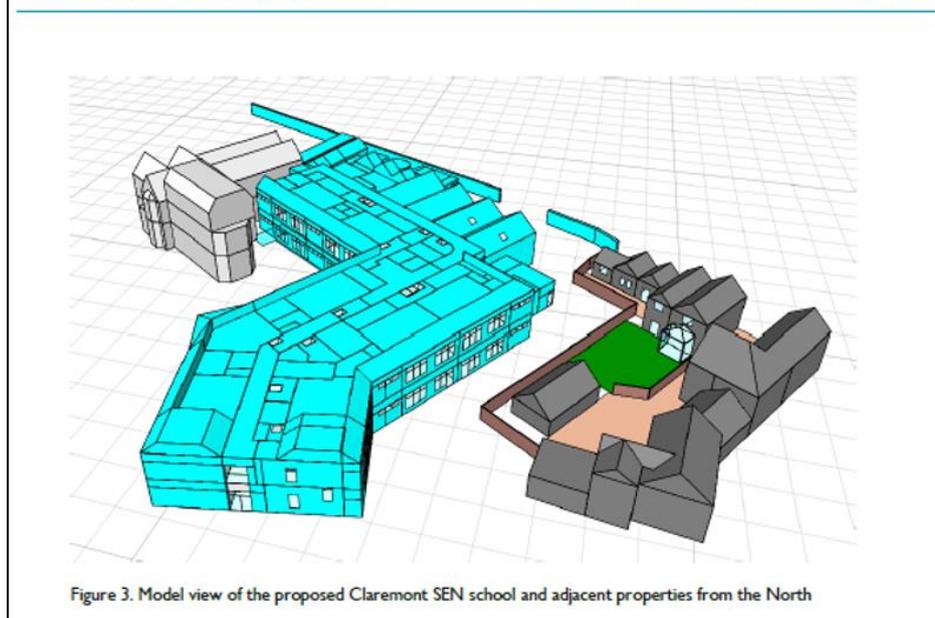


Figure 5 - Extract from Daylight, Sunlight Overshadowing Assessment indicating how hedge height/ vegetation is not considered within assessments. This is an industry accepted method.

Difference in Ground Levels

Residents raised concerns that the levels of the ground initially used in the first set of drawings was incorrect and did not account for / or pick up that there were level differences due to small retaining walls between the boundaries of their properties and the school grounds. To alleviate these concerns and to establish whether the levels were correct or not, an additional topographic survey was commissioned, with the permission of the neighbouring land owners measurements were even taken from within their gardens to accurately establish ground levels within the school and within their gardens. The results of the topographic survey provided additional data that fed into the drawings and modelling. The results of the additional topographic survey showed that the difference between the original data and that of the additional survey was minimal.

View to Claremont Court & extent of obscure glazing.

The concern of the Claremont Lodge resident that the proposed extension may negatively affect the amenity / privacy of other residents within Claremont Court due to overlooking and lack of obscure windows in the end elevation is unfounded.

As shown by Figures 6 and 7 below, the rear elevation of number 4 Claremont Court does not have any windows on the west elevation of the house, and the distance from the proposed extension to the house is 22.5m, over the 20m guidance for direct back-to-back distances, in this instance there is also an oblique angle, so the ability view into the windows from either building to the other is impossible, see Figure 7.

It should also be added that distance between the proposed extension and the rear windows of 4 Claremont Court 20.5m and these windows are obscured glaze, so no overlooking or lack of privacy is possible, again refer to Figure 7.



Figure 6 - Image used by resident in their representation.

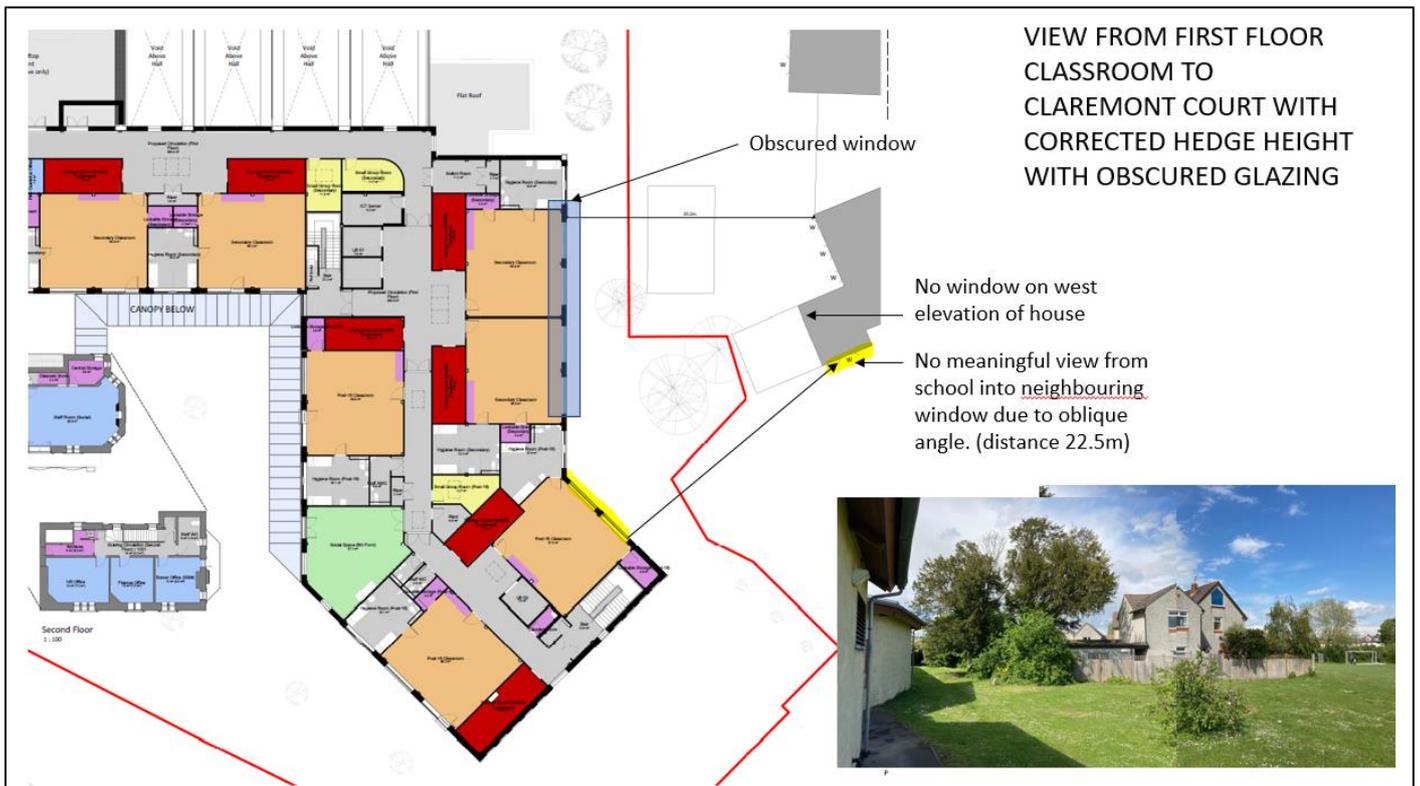


Figure 7 - Illustrated image showing oblique angle from proposed building to 4 Claremont Court, and relationship of other eastern windows to Claremont Court and obscure glazing.

View from Claremont Lodge towards proposed building

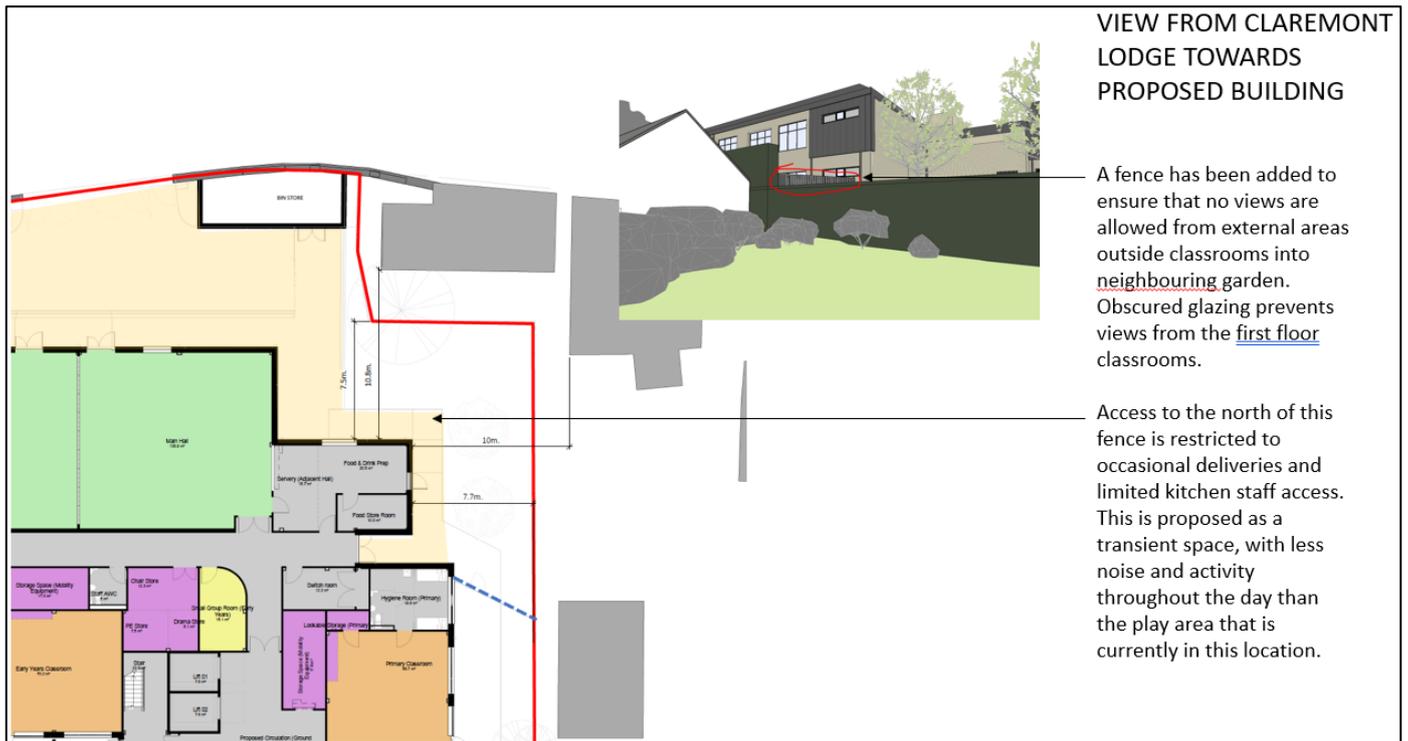


Figure 8 - Plan extract and image indicating the fence to prevent views from classroom external area to Claremont Lodge garden.

Existing view and use of school area to rear of The Bungalow / Claremont Lodge compared to proposed.

- Finished Floor level outside the existing classrooms are only 140mm lower than the proposed levels, making very little difference to views.
- This area is proposed to be a transient space solely for access for deliveries and kitchen staff, compared to the current situation where pupils have access to the area for play – as shown by Figure 9.
- There will therefore be reduced noise and activity close to the neighbours' boundary throughout the day.



Figure 9 - Photo showing existing use of the school site to the rear of The Bungalow; Claremont Lodge and Claremont Court – showing pupil play areas.

Refuse vehicle tracking within rear service yard with bifold gate.

It has been suggested that since the rear service yard gate changed from a sliding gate to a bifold gate that the refuse collection vehicle could not access the service yard. Revised tracking plans produced by the consultant have been issued to the case officer and reviewed by relevant officers. These plans confirm that the bifold gate does still allow the refuse vehicle to enter the service yard, empty the bins and perform the necessary maneuvers to leave.

Changes made since the initial submission as a result of the neighbour representations

Finally, it should be stressed how the design team have worked hard to take account of comments raised by neighbours during the course of the application and where possible amend the scheme. There have been several iterations of design, the snip of a plan below shows the extent of the initial proposed extension (shown red dashed line) which was presented at pre-application and pre-submission consultation stage to the final location of the building in relation to Claremont Lodge / Court and The Bungalow.

The proposed building has now been pulled back away from The Bungalow. Now Approx. 7.7m from boundary fence and 11m from rear elevation of the property. The single storey element of the new build extension is also reduced in height.

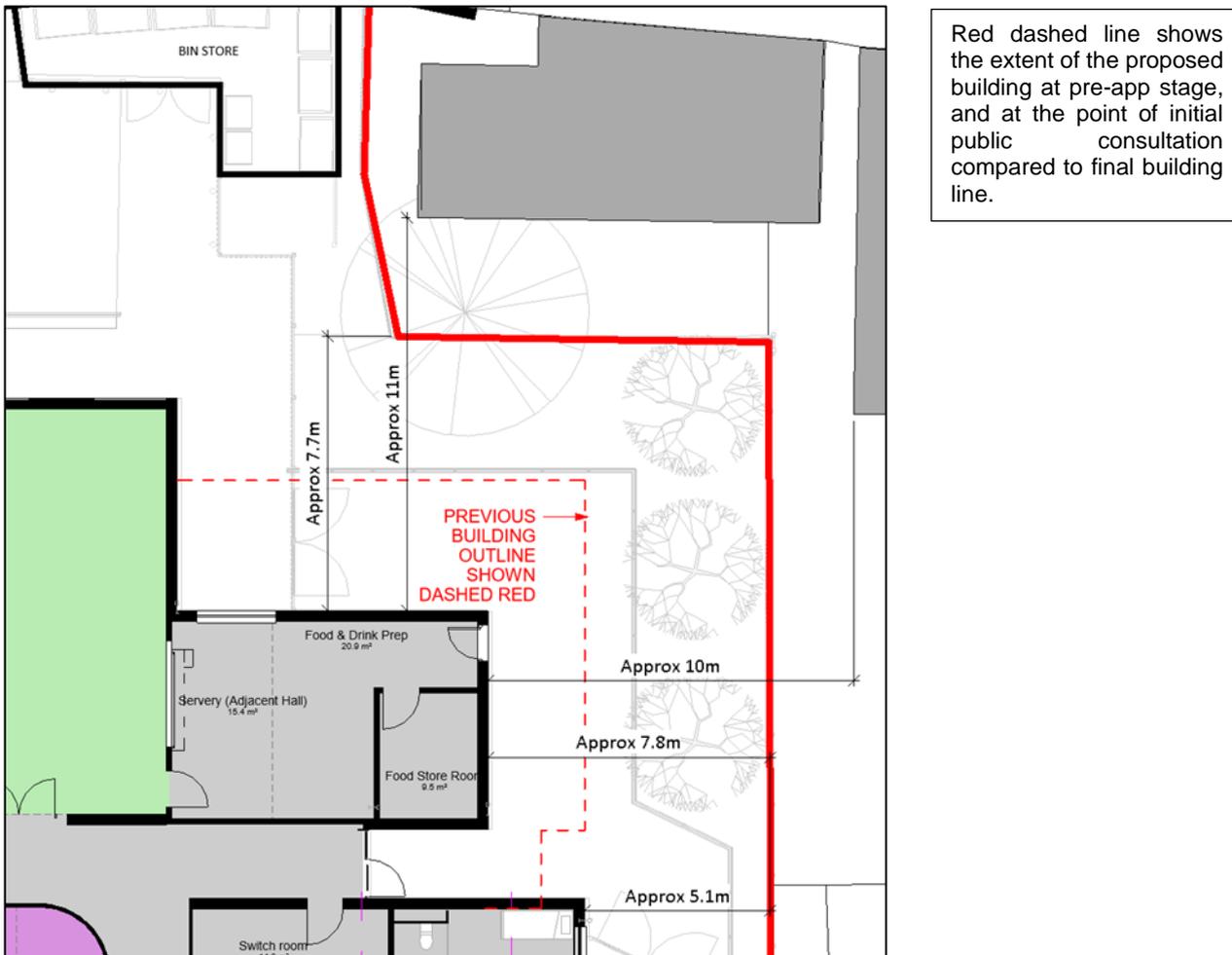


Figure 10 - Plan extract showing difference between original propose scheme at pre-application stage and current scheme.

Finally, as stated within the application submission documents and a highlighted by both the Claremont School Head Teacher and the Bristol City Council Education Team this proposed development is much needed to both provide those children and young people with Profound & Multiple Learning Difficulties and Severe Learning Difficulties (often combined with very complex medical needs and life limiting conditions) with modern day, up-to-date facilities better suited to their needs and modern teaching practices.

This proposed scheme will also assist the Council in meeting the short fall of 148 places for children and young people with Education Health Care Plans who are entitled to specialist education provision but who have yet to secure a place and are currently with independent providers at an additional cost.

Reference is made to NPPF Paragraph 95 which gives weight to widening educational choice and giving weight to the need to expand or alter schools where there is identified need.

Claremont School - **STATEMENT NUMBER C2**
Redevelopment work

Claremont School opened on 1st September 1952 for 15 children with physical disabilities and associated learning difficulties. The school grew quickly and became very successful in the education of children with complex physical needs and was the subject of two BBC documentaries in 1962 and 1966, focusing on its use of Conductive Education.

In 2000, it expanded to accommodate children with profound and multiple learning difficulties, who are some of the most profoundly disabled children within the education system. These children were based at the Henleaze site, and the school took primary aged children only. In 1994 a commitment was made to build a hydrotherapy pool on the Henleaze school site. The pool was opened in September 2001. In 2009 (roughly) the school expanded to take Secondary pupils, and they took on the site at Redland, on the site of Redland Green School. The school opened a hydrotherapy pool on this site in 2015 (roughly).

The school now has pupils from 2-19 years old, based across the 2 sites. The Henleaze site has Early Years and Primary pupils, and since 2019 the Post 16 students are also on this site. The Redland site has the Secondary pupils, and this year also has one class of Post 16 too. We are one school on 2 sites, and we work as Team Claremont.

In September 2022 we celebrated 70 years of Claremont School. We are very proud of the work we do with all of our pupils, meeting their different needs in many different ways. In recent years the number on roll have grown to 72. The majority of our pupils have Physical Disabilities, Profound and Multiple Learning Difficulty and Severe Learning Difficulty. A large number of our pupils have very complex medical needs and many have life limiting conditions. In September 2020 we opened a class for Autistic pupils with severe learning difficulties.

Team Claremont nurtures students to grow towards the warmth of the sun in whichever direction is right for them, breaking down walls to allow the beams to shine through. Rays of light burst through to create opportunities for awe and wonder, so our students expand their horizons today, to dream big tomorrow. Every day the sun rises on Claremont and lights up success.

We currently have 2 sites which are not working for our pupils. The Redland site does not allow our pupils to access the community easily, and has rooms which are small and do not support the equipment needs of our pupils. The Henleaze site is in need of repair and redevelopment.

Claremont School, Henleaze, is not fit for purpose. Hoists are breaking down and being repatched. Some won't lift the pupils high enough to get onto toilets or changing beds, so the pupils need to access a bathroom which is a distance away.

Claremont School
Redevelopment work

Corridors and classrooms are variable in temperature - freezing cold in the winter and boiling hot in the summer, so there is the need for continued air conditioning or air heating. When we have heavy rain there are many areas across the school which leak. The corridors are not wide enough to allow pupils to use walkers or larger wheelchairs as they can't physically get through narrow turns. There are several slopes across the site of varying gradient which are not easily accessible for staff to push wheelchairs.

We aim high for our pupils, as we believe they can all make achievements and we measure their achievement on an individual level. We want their experiences to be meaningful. We don't want to put limits in their way. We break down barriers to their learning in many areas. We adapt the national curriculum to make it appropriate to the pupils' needs. We aim for them to be as independent as they can be. We use technology to enable pupils to have control of their environment and to give them a voice. This might be through using eye gaze technology to enable them to turn on a TV or close blinds in one room. We use technology so they can be involved in cooking meals. This might be using a switch accessible grater to grate cheese, or whisking a dessert for pudding. But we want our pupils to have access to so much more. We want a room set up for them to encounter some of the latest technology so they can control their whole environment, and be purposeful in their actions, taking control of their lives as much as they can. We need a new school with the right space and technology for this.

We want all of our pupils to have the opportunity to come together in one space, as one school. We want all of our staff to have the chance to come together in one space for training. We want our school to be one, and for relationships built in classes to continue throughout the school. We need a school with a hall space which is large enough to accommodate all pupils in their wheelchairs and staff to support them.

We want our pupils to have classrooms which are in a good state of repair, which are warm (rather than variable in temperature), with good lighting and the ability to make the rooms light or dark to meet sensory needs. We need classrooms which are purpose built, with up to date heating, lighting. We need rooms which have been designed with our pupils in mind, to meet their requirements.

We want our pupils to have the chance to work one to one or in small groups so that they can focus on specific learning activities or sensory experiences. We need break out rooms just off their classroom which will give them the space to do this.

We want all of our pupils to have toilet spaces which are near to their classroom so that they can easily go to the toilet and not miss time out of their learning activities. And when they are ready to learn to use the toilet we want them to be able to do this

Claremont School
Redevelopment work

easily too. We need a school with toilets off the classrooms and hoists which will lift the pupils onto toilets, at different heights depending on the size of the pupils.

We want all of our pupils to access a hydrotherapy pool each week. We want them to swim comfortably in it, without needing to get on a minibus to visit another site. We want a hydrotherapy pool which is located in a space which does not compromise the safety of the school site so that we can consider letting it. We need a hydrotherapy pool which is in working order so that pupils can access it each week. We need a hydrotherapy pool which is deep enough for all pupils to swim in it.

We want our pupils to have access to the wonderful community at Henleaze where our pupils can access the supermarket to buy ingredients to make meals and learn to be more independent. We want our pupils to visit the cafes or shops in Henleaze and use their communication aides to have conversations and buy the items they need. We want our pupils to be able to access local buses to get to places such as The Mall. We want our pupils to be able to visit the locality without needing to get on a minibus. We love the fact that we can walk to this community, boosting our vitamin D levels, giving us some fresh air and allowing us the chance to experience the weather.

Over the last couple of years the school has worked closely with Architects to design a school which accommodates the needs of the pupils. We have then redesigned spaces to meet the concerns of the neighbours. We want to work with our community, and have made concessions to spaces inside the school so that this addresses their concerns. We listened to concerns about parking in the streets around the school and we approached Golden Hill Sports club to pay them to use their car park now and in the future. We try to make sure that our carpark is managed efficiently so that local authority transport does not impact on the roads around the school, and this has been part of many discussions for future design and impact.

I believe that Claremont pupils deserve a school which is so much better than their current one. I believe staff deserve a school where they can support pupils to learn without 'making do'. I believe we deserve a redeveloped school which will enable us to meet our vision for our unique and inspirational pupils.

Claremont Special School

CONSTRUCTION MANAGEMENT - STATEMENT NUMBER C3

1. Introduction

Skanska has proven experience in delivering numerous tightly constrained, complex projects to an exceptional standard and quality as part of the Local Education Partnership we have had with Bristol City Council over the past 15 years. During this time Skanska have successfully delivered over 80 education projects across the city with a combined value of over half a billion pounds.



Proposed new entrance elevation to Claremont House

Skanska recognise the importance of the impact that construction projects can have on their neighbours. Skanska are aware that construction activity may be an inconvenience at times and with good planning and efficient execution of the construction phase these inconveniences can be minimised and managed.

This statement outlines the process and systems that will be put in place to ensure good neighbourliness.

Prior to the commencement of the works a full dilapidation survey will be carried to the area being occupied by Skanska, neighbouring school property, the brick boundary wall to the site and Henleaze Park (carriageway and pavement).

2. The Proposal

The foundation for the brief for accommodation has been the Department for Education's (DfE) Output Specification: Generic Design brief, Technical Annexes and BB104 (Area guidance for SEN Schools). The brief also evolved with input from the school to meet the specialist needs required of PMLD students and individual requirements of Claremont School.

The general scope for this project is as follows:

- Refurbishment of the existing historic Claremont House updating learning areas and administration spaces.

- Demolition of the existing hydrotherapy pool, various ad hoc additions to Claremont House and the larger part of the single storey extension to the school.
- The construction of a two-storey modern SEN school including a new hydrotherapy pool, common hall spaces, 13 classes with supporting accommodation.
- Reworking of the external areas providing minibus set down and parking, 26 parking spaces, sensory gardens, external learning areas, delivery reception area, play spaces
- Final landscaping and ecological enhancements to the scheme, delivering a building to achieve an Outstanding BREAAAM rating.

1. Basic Hours of Working

Construction work on the site will only be carried out during the time periods detailed below or as otherwise agreed with the Local Authority.

Site working hours:

- 08.00 to 18.00 Hrs Monday - Friday
- 08.00 to 13.00 Hrs Saturdays
- No construction work will be undertaken on Sundays or Bank Holidays.

Finishes and materials incorporated have been chosen to avoid works outside of the normal working day.

Out of Hours Working:

Should events arise which require work to be undertaken outside of agreed normal working hours, a system will be put in place that allows advice and approval to be sought from Bristol City Council's Pollution Control Team prior to any such works.

2. Approach to Construction Noise, Vibration and Dust

Skanska appreciates that during the construction stage there is the potential for the works to have a negative impact upon our neighbours. Skanska works hard to design and plan the works to minimise possible risk of disruption and inconvenience to the adjacent school and properties.

A method statement will be produced outlining the measures that will be put in place to control construction noise and vibration. This will include, but not be limited to the use of 2m high solid panel hoarding, off-site manufacture where possible, modern efficient site plant and equipment.

Information about the project, construction programme and working hours will be disseminated in the neighbourhood via the school and the local network groups as well as letter drops. This approach ensures all parties are kept informed of the contractor's intentions and that there is a clear mechanism for dealing with any problems that may arise.

Dust arising from construction activities will be minimised and controlled by Best Practicable Means. The control of dust shall be considered at the design stage and appropriate mitigation measures will ensure that the levels of dust generated by construction activities are minimised.

Access to site will be via existing road network, via Henleaze Park, this will limit any impacts of construction traffic on any of the other neighbouring residential road. The site will have a dedicated vehicle marshal/ gateman responsible for the vehicle movements and condition of the site access areas. Road brushes will be employed as and when necessary.

3. Construction Traffic – HGV`s

Skanska understands that construction traffic may be a nuisance to local people and will take necessary measures to minimise the impact. All delivery vehicles will conform to the requirements of FORS (Fleet Operators Recognition Scheme).

Noting the proximity to the Henleaze Infant and Junior School, recognising the potential for congestion / disruption construction deliveries will be restricted to periods that avoid the peak school traffic drop off and collection times wherever possible:

- No deliveries before 09:00 and between 14:45 -15:30. (need to confirm these hours)
- Any vehicles that are within the site will not be permitted to leave until outside these restrictions.

Skanska will liaise with Bristol City Highways to discuss if any temporary traffic management restrictions are required. Skanska will work with the local community to minimise disruption to the neighbourhood. Vehicle turning/reversing will take place preferably on site where possible, in all instances there will be a banksman present.

Construction pedestrian access will be via a separate pedestrian gate to maintain segregation from construction traffic for pedestrian safety.

A delivery control system will be applied to avoid vehicle backup onto public highways.

All necessary precautions will be taken to ensure that traffic volumes, mud, dust, and debris are kept to a minimum and do not become a nuisance to the surrounding road network.

4. Design and Build Construction Management

The Project will be managed by Skanska from its Bristol office located at Aztec West.

Skanska will appoint a Project Director to lead the management team who will have sole responsibility for the delivery of Project objectives to the Board of Directors of Skanska JV Projects Ltd.

The Project Director will be supported in the execution of the works by a dedicated management team organised in three levels,

1. A core team located at the local Bristol office with responsibilities covering Health and Safety, Finance, Strategic Planning, Procurement, Design and System Compliance.
2. A specific operational site-based management team covering Technical Construction organisation and implementation of Health, Safety and Environmental and Strategic Objectives, on-site supervision of the works, trade contractor management and payment, design buildability and document control.
3. The full support of specialist head office services located at Maple Cross providing Environmental Engineering, Environmental control, sustainability, Construction and Building Services Technical Support, IT, Human Resources, recruitment, and system audit.

This approach utilises the diversity of experience and skills available within Skanska. The site will develop detailed Project Specific Health and Safety, Environmental and Construction Plans integrated to ensure mutual compatibility using the skills described above.

A Neighbour Liaison Policy will be developed, and a senior member of the Project Team will be responsible for implementing the Policy throughout the duration of the construction operations.

7. Health & Safety

Skanska's overriding policy for the site will be the health and safety of everyone, the public and our site operatives and staff.

A project specific construction phase plan will be prepared together with method statements, risk assessments and Control of Substances Hazardous to Health (COSHH) assessments for all aspects of our works. Regular inspections and system audits will be undertaken to ensure procedures are being followed.

Skanska invest in safety through regular training both on and off site. All site personnel including trade contractors must receive induction training before being allowed on site. Regular toolbox talks are held to keep personnel up to date with site conditions and hazards.

8. Considerate Constructors Scheme

The Considerate Constructors Scheme is a voluntary scheme aiming to present a more positive image of the construction industry. Participating constructors commit themselves to higher standards of site cleanliness and tidiness, improved site safety, better site housekeeping and traffic management leading to a reduction in their impact on the local community and the wider environment.

The Scheme gives advice on:

- Minimising any disturbance or negative impact (in terms of noise, dirt, and inconvenience) sometimes caused by construction sites to the immediate neighbourhood
- Eradicating offensive behaviour and language from construction site

Recognising and rewarding the contractor's commitment to raise standards of site management, safety, and environmental awareness beyond statutory requirements.

The Scheme commits the contractor to be considerate good neighbours, as well as clean, respectful, safe, environmentally conscious, responsible, and accountable.

Posters are displayed around the construction site advertising the Scheme detailing the Code to which the constructor is committed. If passers-by wish to make a comment, the name and telephone number of the Site Manager and Scheme Administrator is clearly displayed. Those contacted will respond immediately and implement the corrective action required.

The site will be monitored by highly experienced site monitors drawn from senior positions of every discipline within the industry. Monitoring consists of an impression of the site from the point of view of the neighbour and/or the public. The monitor may talk to site neighbours if it seems that it would

be informative to do so. The Scheme requires constructors to adhere to the Code of Considerate Constructors.

Other Skanska projects have won gold and silver awards for their continuing commitment to adhere to the Code of Considerate Constructor

The details of our project staff will be available should any member of the public wish to seek clarification concerning the work we are undertaking.

9. Considerate Contractors Code of Practice

Consideration:

- All work is to be carried out with positive consideration of the needs of traders and businesses, site personnel and visitors, pedestrians, shoppers, the public, and the environment in general.
- Special attention is to be given to the needs of those with sight, hearing and mobility difficulties.

Environment:

- Noise from construction operatives and other sources is to be kept to a minimum at all times.
- Consideration should be given in the selection and use of resources - local resources should be used wherever possible.
- Attention should be paid to waste management and the avoidance of pollution - recycling of surplus materials is to be encouraged.
- All operatives to be inducted on the issues specific to the site.

Cleanliness:

- The working site is to be kept clean and in good order at all times.
- Temporary safety barriers, lights and warning signs are to be maintained in a clean and safe condition.
- Surplus materials, rubbish etc. shall not be allowed to accumulate on the site or spill over to the surrounding environment.
- Dust etc. from construction operations shall be kept to a minimum.

Neighbourliness:

- Full and regular consultation with neighbours including adjacent traders and business regarding programming and site activities shall be maintained from pre-start to completion.
- General information regarding the Scheme for these neighbours using the area shall be provided.

Respect:

- Respectable and safe standards of dress, appropriate to the weather conditions, shall be maintained at all times.
- Lewd or derogatory behaviour and language should not be tolerated under threat of severe disciplinary action.
- Pride in the management and appearance of the site and the surrounding environment is to be shown at all times.

- Operatives shall be instructed in dealing with the public.

Safety:

- Construction operatives and site vehicle movements are to be carried out with great care and consideration for the safety of the public, school population, and site personnel.
- No building activity shall be a safety or security risk to others.

Responsibility:

- Considerate Constructors will ensure that all site personnel, specialist sub-contractors, drivers and any other persons working on the site understand and implement the obligations of this Code and monitor their compliance with it.

Accountability:

- Posters relating to the Scheme will be displayed around the site, giving names and telephone numbers of staff who can be contacted in response to issues raised by the public, school population, and others affected by the site operation.

10. Commitment to successful Construction Management

As part of the planning process and ahead of the works starting on site Skanska will be required to submit a series of documents for approval under the 'pre-commencement conditions' detailed in the Committee Report many of the items discussed above will be fully detailed in this information to be submitted and include :

- Construction Environmental Management Plan
- Construction Management Plan
- Protection of Retained Trees
- Arboricultural Supervision
- Ecological Mitigation and Enhancement
- Highway Condition Survey

These documents, combined with Skanska's approach to ensuring and maintaining good neighbourly relations and communication ensure that the project can both be safely and successfully constructed to the benefit not only of the end users, but as an asset and to the benefit to the local community.

Claremont School – 21/05402/FB - STATEMENT NUMBER C4

Written Statement from Richard Hanks, Acting Director, Education and Skills

There are currently 148 children and young people with Education Health Care Plans (EHCP's) who are entitled to specialist provision arranged and funded by the Council, however, due to insufficient specialist provision sufficiency these children and young people have not yet secured a specialist provision place. For the year 2021/2022 the Authority has had to place 192 children and young people with EHCPs into independent providers at a cost of £10.3m. The number of EHCP assessment requests is growing, most recently with a notable 17% increase for the month of July 2022. Claremont Special School is not only in poor condition but also unsuited to the specialist service it provides making teaching and learning challenging. New and refurbished facilities at the school would provide high quality learning environments for vulnerable children as well as the opportunity for school expansion to meet growing need.

Claremont SEND: 21/05402/FB

Combined Planning & Architecture Committee

Written Statement - STATEMENT NUMBER C5

Client	Skanska (on behalf of BCC)	File Ref	153645
Project	Claremont SEND	Date	03/10/2022

The information below is presented as the combined Planning Committee Written Statement for application 21/05402/FB. The Statement sets out our responses and where relevant, amendments to the proposed scheme that have been made since either the initial public consultation or since the original scheme was submitted for planning. The statement also addresses the most recent representations made by neighbours to the scheme and held on the Council's website.

It should be emphasised that no new information or changes have been made, all information presented has previously been discussed and submitted as part of the application, there may be some additional photos and annotated plans to emphasis the clarifications we are making. Extracts of the annotated plans from the Claremont Lodge resident representations have also been used to enable comparison and aid discussion.

Firstly, we would like to summarise the numerous changes made to the scheme since the application was submitted for planning:

List of changes / actions taken as a result of neighbour representations and scheme presented at public consultation/ pre-app stage:

1. Building footprint moved further away from boundary with The Bungalow and Claremont Lodge
2. Room and window arrangement changed to move classrooms further away from Claremont Lodge.
3. Obscure glazing added to eastern elevation
4. Change to Materials – Materials on the east elevation were amended to show more buff brick instead of cladding.
5. Angle of the roof changed to lessen potential impact from over shadowing, and lessen bulk of building
6. Trees added to the boundary between the school and Claremont Lodge.
7. High (1.8m) fence added to eastern rear outside student space to prevent overlooking and access to area to the rear of The Bungalow and Claremont Lodge.
8. Change to bin store – pulled back from the boundary with The Bungalow and shape changed to ensure more space between the bin store and residential property.
9. Additional survey work undertaken to confirm existing ground heights.

Hedge Height / Overlooking

Comment - The residents have claimed that the height of the hedge shown on some drawings was reported as being shown higher than it is on site, and that this difference in height gave a false impression of the amount of privacy afforded from it. Figure 1 is taken from the residents' comments.

Response:

- Upon review of the model, from which the image used in Figure 1 was taken, it was discovered that the hedge had been shown higher than found on site. This error has now been corrected and the image shown in Figure 2 now correctly reflects the height of the hedge. N.B. the view from the window shown in Figure 2 would never actually be seen due to the obscure glazing that is proposed in this location.
- Although the hedge was initially shown higher, the effect of this on the privacy of the occupancy of Claremont Lodge is unchanged; the reason for this being that the windows of the school along this section of the eastern elevation are to be obscure glass, so that no direct view can be obtained across the garden – as illustrated by Figure 3.
- The representations also express concern that the error in hedge height affects the ability of the occupants of the school looking out of an open window at first floor into their garden. The marked-up drawing, illustrated by Figure 4 below, demonstrates that the view from an openable window will not negatively affect the privacy of local residents, as the main view will be of the garage roof, or very restricted side views due to the limited opening ability of the window.

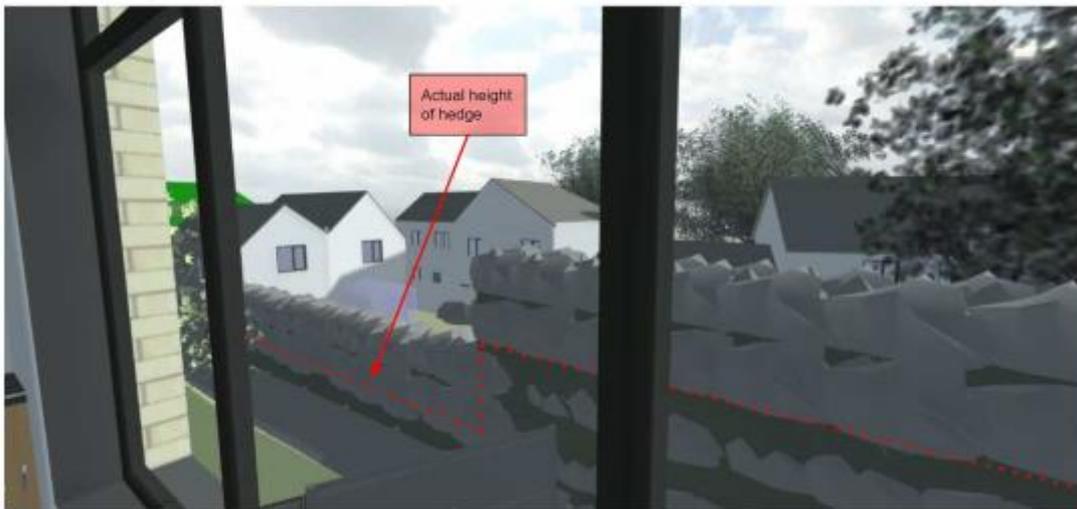


Figure 1 - Drawing taken from Claremont Lodge resident representation.

- It should be noted that the view from the classroom window shown in Figure 1 and 2 are taken from the first set of classroom windows, which are located a number of meters along from the edge of the building with the windows nearest the rear garden of Claremont Lodge being hygiene rooms; these rooms having high level obscure windows due to the nature of the room. The classroom windows are to be obscure glazed, with only certain windows being able to open, where a window can be opened this is hinged at the top and the opening restricted. Figure 4 illustrates the limited range that a person of average height standing at the window would see, this has been illustrated on the plan with the lowered hedge height. Due to the location of the classroom windows being located further south along the eastern boundary any restricted view into a garden or Claremont Court would be restricted and in part mostly obscured by the rear of the garage. The classroom window along the eastern elevation starts approximately in alignment with the garage.



Figure 2 - Revised image showing corrected height hedge.



Figure 3 - View from first floor classroom with obscured glazing.

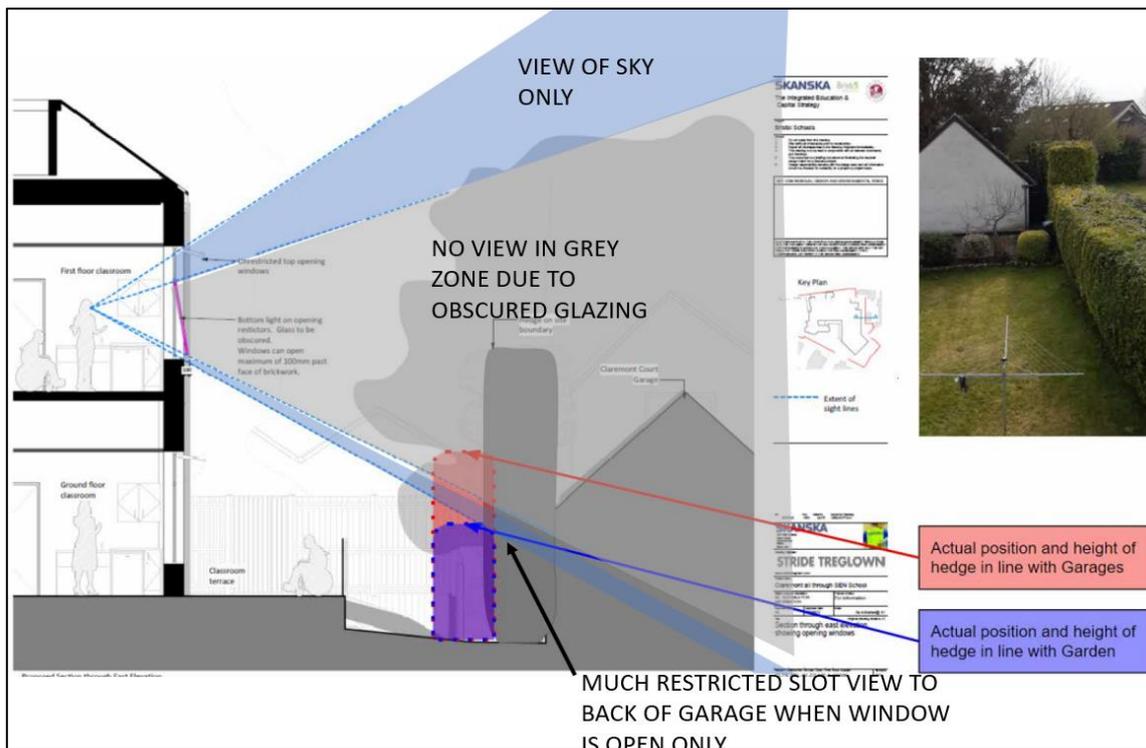


Figure 4 - Image showing extent of available view from classroom window due to use of obscure glazing and bottom opening windows with limiters.

Impact of Hedge Height on Reports

Comment – the validity of the noise impact report and daylight/ overshadowing report have been questioned, in light of the hedge height being modelled inaccurately on some plans.

Response :

- To ensure that the findings of the reports were correct, we have confirmed with both the specialists that produced the two reports the height of hedges used in their modeling. It was confirmed the Daylight, Sunlight, Overshadowing report does not account for the height of vegetation within its modeling, only buildings and standard height fencing, as shown by Figure 5 taken from the Daylight, Sunlight Overshadowing Assessment which does not show the hedge.
- The Noise Impact Assessment also disregards any planting in its assessment.
- Therefore, the error in modeling of hedge height has no impact on the supporting documents / assessments.

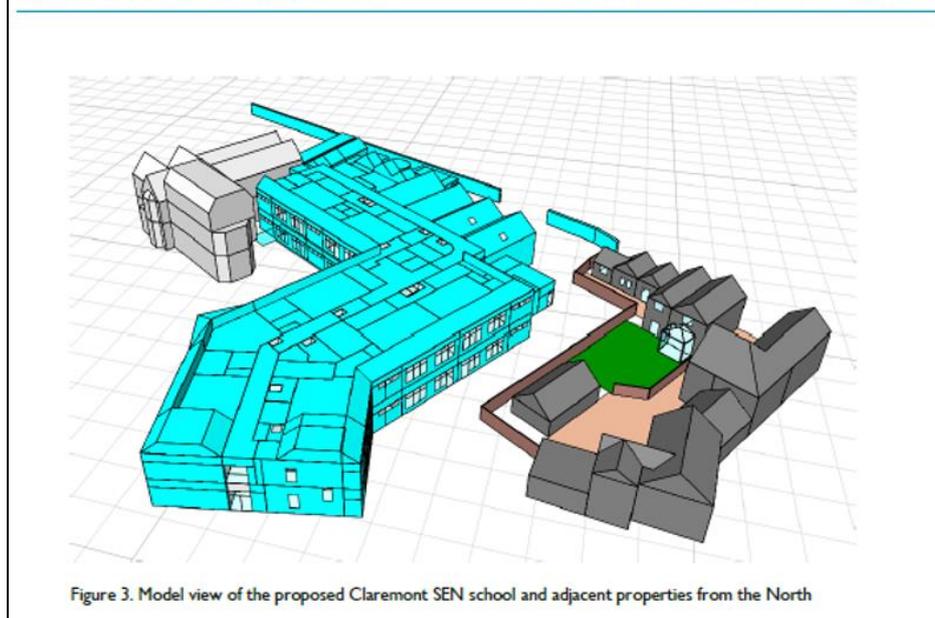


Figure 5 - Extract from Daylight, Sunlight Overshadowing Assessment indicating how hedge height/ vegetation is not considered within assessments. This is an industry accepted method.

Difference in Ground Levels

Residents raised concerns that the levels of the ground initially used in the first set of drawings was incorrect and did not account for / or pick up that there were level differences due to small retaining walls between the boundaries of their properties and the school grounds. To alleviate these concerns and to establish whether the levels were correct or not, an additional topographic survey was commissioned, with the permission of the neighbouring land owners measurements were even taken from within their gardens to accurately establish ground levels within the school and within their gardens. The results of the topographic survey provided additional data that fed into the drawings and modelling. The results of the additional topographic survey showed that the difference between the original data and that of the additional survey was minimal.

View to Claremont Court & extent of obscure glazing.

The concern of the Claremont Lodge resident that the proposed extension may negatively affect the amenity / privacy of other residents within Claremont Court due to overlooking and lack of obscure windows in the end elevation is unfounded.

As shown by Figures 6 and 7 below, the rear elevation of number 4 Claremont Court does not have any windows on the west elevation of the house, and the distance from the proposed extension to the house is 22.5m, over the 20m guidance for direct back-to-back distances, in this instance there is also an oblique angle, so the ability view into the windows from either building to the other is impossible, see Figure 7.

It should also be added that distance between the proposed extension and the rear windows of 4 Claremont Court 20.5m and these windows are obscured glaze, so no overlooking or lack of privacy is possible, again refer to Figure 7.



Figure 6 - Image used by resident in their representation.

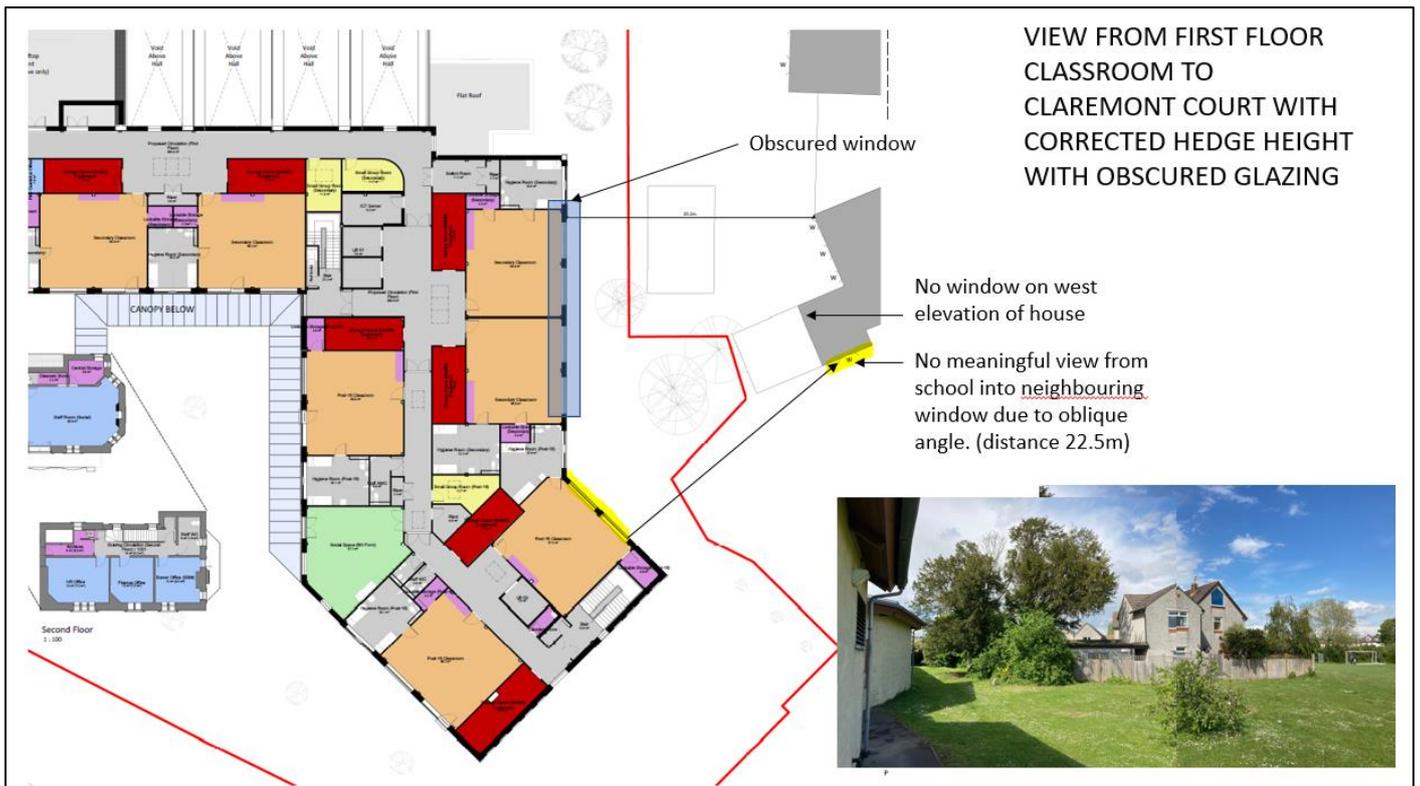


Figure 7 - Illustrated image showing oblique angle from proposed building to 4 Claremont Court, and relationship of other eastern windows to Claremont Court and obscure glazing.

View from Claremont Lodge towards proposed building

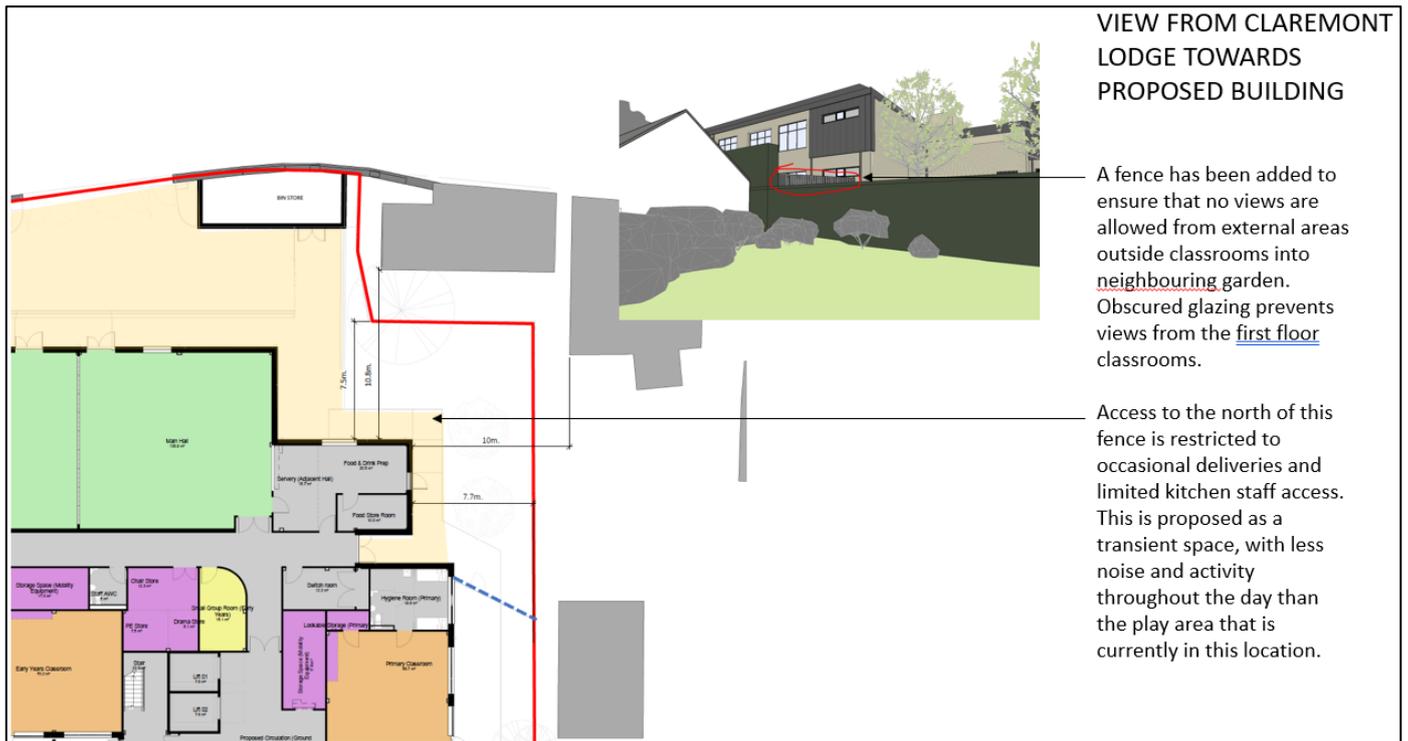


Figure 8 - Plan extract and image indicating the fence to prevent views from classroom external area to Claremont Lodge garden.

Existing view and use of school area to rear of The Bungalow / Claremont Lodge compared to proposed.

- Finished Floor level outside the existing classrooms are only 140mm lower than the proposed levels, making very little difference to views.
- This area is proposed to be a transient space solely for access for deliveries and kitchen staff, compared to the current situation where pupils have access to the area for play – as shown by Figure 9.
- There will therefore be reduced noise and activity close to the neighbours' boundary throughout the day.



Figure 9 - Photo showing existing use of the school site to the rear of The Bungalow; Claremont Lodge and Claremont Court – showing pupil play areas.

Refuse vehicle tracking within rear service yard with bifold gate.

It has been suggested that since the rear service yard gate changed from a sliding gate to a bifold gate that the refuse collection vehicle could not access the service yard. Revised tracking plans produced by the consultant have been issued to the case officer and reviewed by relevant officers. These plans confirm that the bifold gate does still allow the refuse vehicle to enter the service yard, empty the bins and perform the necessary maneuvers to leave.

Changes made since the initial submission as a result of the neighbour representations

Finally, it should be stressed how the design team have worked hard to take account of comments raised by neighbours during the course of the application and where possible amend the scheme. There have been several iterations of design, the snip of a plan below shows the extent of the initial proposed extension (shown red dashed line) which was presented at pre-application and pre-submission consultation stage to the final location of the building in relation to Claremont Lodge / Court and The Bungalow.

The proposed building has now been pulled back away from The Bungalow. Now Approx. 7.7m from boundary fence and 11m from rear elevation of the property. The single storey element of the new build extension is also reduced in height.

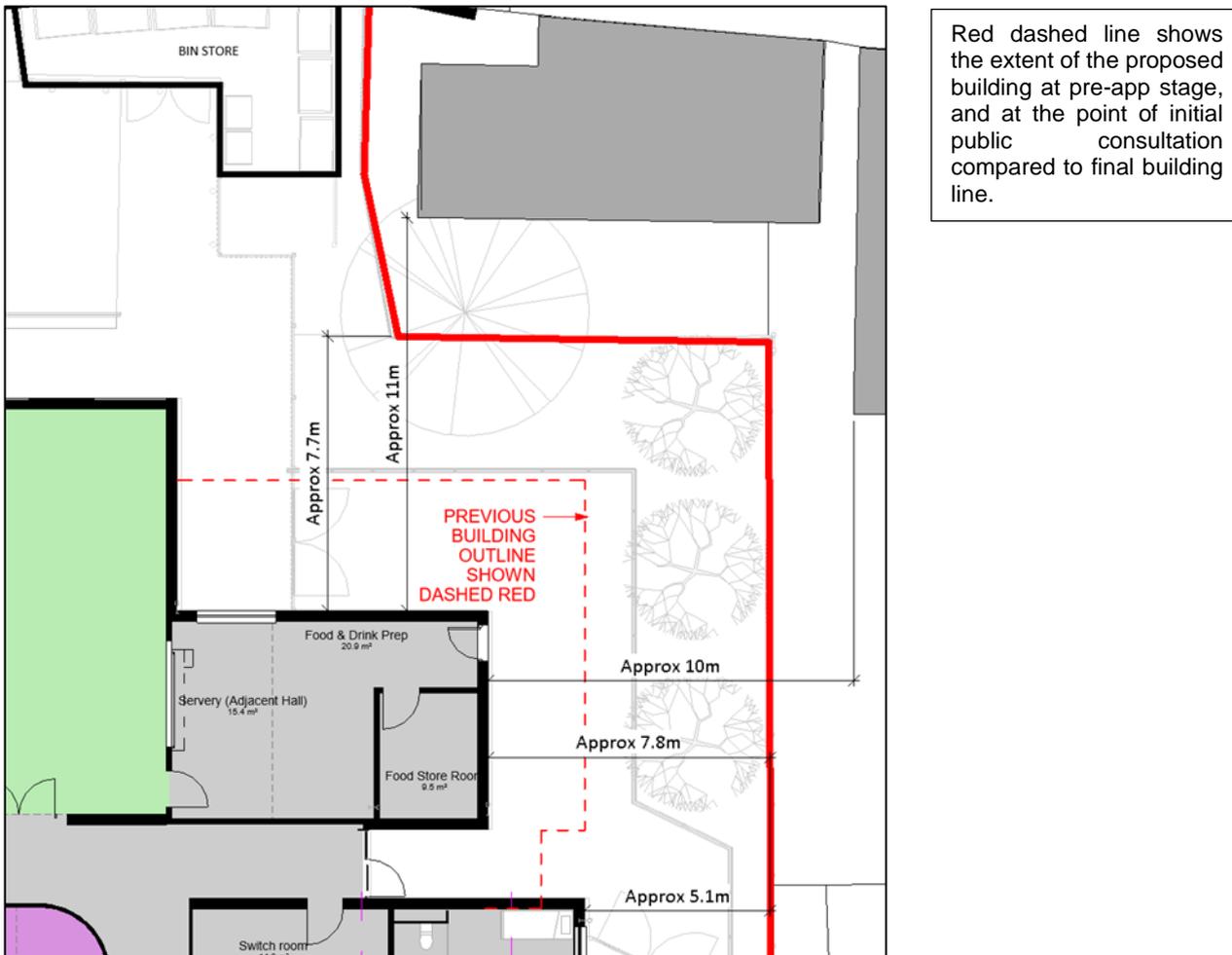


Figure 10 - Plan extract showing difference between original propose scheme at pre-application stage and current scheme.

Finally, as stated within the application submission documents and a highlighted by both the Claremont School Head Teacher and the Bristol City Council Education Team this proposed development is much needed to both provide those children and young people with Profound & Multiple Learning Difficulties and Severe Learning Difficulties (often combined with very complex medical needs and life limiting conditions) with modern day, up-to-date facilities better suited to their needs and modern teaching practices.

This proposed scheme will also assist the Council in meeting the short fall of 148 places for children and young people with Education Health Care Plans who are entitled to specialist education provision but who have yet to secure a place and are currently with independent providers at an additional cost.

Reference is made to NPPF Paragraph 95 which gives weight to widening educational choice and giving weight to the need to expand or alter schools where there is identified need.

STATEMENT NUMBER C6

As local residents, we wish to make this written statement for consideration at the Development Control meeting on 5 October. We are unable to attend in person, so do not wish to register to speak.

We ask the Committee to take the following road safety concerns into account before reaching its decision:

- detailed travel assessments should be carried out before any plans are approved (rather than reactive measures such as more detailed plans to follow the Management Statement and a Travel Plan being a pre-occupation condition). The Travel Plan should be assessed before building commences in order that any required changes to the building plans can be incorporated in to the design.
- to press ahead without first properly investigating these issues is to raise the risk of accidents and create major problems to be solved in the future. Once the new school is built, it's too late to influence and change the road and parking layouts in any meaningful way so as to actually make things safer at the busiest times.
- no site visits to properly assess the impact on road safety appear to have been carried out. Any visit at school drop off and pick up times would demonstrate that the narrow residential roads already struggle to cope with the traffic.
- it has not yet been demonstrated that pedestrians (including young children), cyclists and motorists will be able to safely share the roads around the site.
- the officer's report does not mention the the blind corner from Henleaze Park/St. Margaret's Drive into Kenton Mews. Minibuses and cars already park across 'keep clear' zig zag and double yellow lines, where pedestrians, cyclists and other road users are trying to safely cross the road. This suggests that additional road markings as part of a package of measures will not in reality make areas near the school any less dangerous during these times - drivers will continue to park where they can rather than where they are allowed to.
- scale of the expansion - although there is provision for additional minibuses within Claremont, parents and carers who drop pupils off by private vehicle will need to stop close to the school and staff will try to park close to their work. Whilst the additional staff may be arriving at different times to the pupils, the extra 33 (for sake of argument) parking spaces taken up on local roads by them will heavily impact the situation at pupil drop-off time, especially when also considering the pupils attending the infant and junior schools.

Thank you for your consideration.

Best wishes.

Mairi & Simon Granville-George

STATEMENT NUMBER C7

Public Forum Item 9c

21/05402/FB Claremont School

We want to start by making it clear we welcome investment in Claremont School and see this development of the site overall as positive. However, from the start we were concerned about the traffic and road safety implications for the seriously congested roads in the area, and the impact of the mass of the building on the most immediate neighbours.

Fundamentally, we see the issue as Skanska attempting to cram too much onto too small a site. This would give rise to not just the traffic issues but the need to double the height of the existing buildings and push them as close as possible to neighbouring properties with all the impacts that arise from this.

The report acknowledges justification for one of these points by saying *“the impact on neighbouring properties... is not ideal”*, and the TDM team also acknowledged the increased traffic problems.

We were not happy with Skanska’s approach to dealing with local residents throughout this process and we highlight those concerns below. Local residents have a much less complimentary view of the three consultations which were really briefing sessions.

It should be worth noting that when this proposed development was first presented to Cabinet for approval on 1 Sep 2020, it was clearly stated in Appendix B dated 30 Jul 2020 that there must be *“full engagement of Local Community Groups, neighbours, adjacent residents early during the initial design development and ongoing from planning to project completion”*, advice that has sadly been ignored.

As for the plans, they appear to have been drawn up with no consideration for what is outside the boundary of the site, only what they need from the site.

As detailed in the application, the school has never had a travel plan. It has inadequate parking on site for staff vehicles or for minibuses delivering and collecting pupils at its current staff and pupil levels. The requirement to deliver a travel plan is welcome but we believe the condition needs to be much more specific and attached to the planning permission. Claremont needs to liaise with the two neighbouring schools on daily timings and to be responsible for ensuring that arrangements are made for staff travel and staff parking away from residential roads. The school must commit to ensuring a delivery and collection timetable that sees all visiting minibuses accommodated in the car park. There should be a named contact at the school responsible for travel and traffic, who residents can contact with problems. Local residents should be formally consulted on and approve the travel plan.

Without very firm conditions attached, we fear a travel plan will be prepared but never enforced.

There are additional issues regarding the building itself. Despite requests at the three *“consultations”*, the plan still sees buildings at a height that have been refused on the opposite side of the road, in close proximity to a neighbour, whose property was missed off of the original plan.

To compound the mass of the building, there is machinery based on the roof nearest one of the local residents. Furthermore, the overbearing building is to be built in an oppressive dark brick which will add to the dominating nature of the development.

We attended consultations held by Skanska. Whilst they made positive noises about engaging, they only took on board very minor changes and did not listen to wider concerns which could have contributed to vastly improved development of the site. They appear to have failed to understand that local residents are very supportive of the school and wanted to work on ways that they and the school could co-exist.

Another key point that only came to light last week with the publication of the Planning Officer's report, is that the inaccuracies and contradictions in the information provided by Skanska have not been corrected and have been used by Council Officers in making their assessments. These errors have been reproduced in the Planning Officer's report, even though they have been made aware of them. For example, the drawing on the last page claiming residents won't be overlooked though the open windows shows the boundary hedge twice the height it actually is. If the hedge is drawn at the correct height, it shows that residents will be overlooked as pointed out in comments made on 5 Jul 2022. It will also be possible to see out of the side of the open window into a resident's house and garden, a fact that has also been omitted. Given this, the residents have informed us that they shall be making a formal complaint to the Council that the Planning Committee have been knowingly misled by being presented with incorrect information regarding this application and that the consideration be adjourned as any decision they make will be unsafe.

Skanska have not compromised on their part whatsoever or made the application factually correct and we therefore urge you to:

- Attach rigid conditions on traffic and parking,
- Request a travel plan,
- Request the rooftop machinery is moved further away from neighbouring properties,
- Request a change in the brick colour before approving.

Cllrs Sharon Scott, Steve Smith and Geoff Gollop

Comments on Planning Application 21/05402/FB

STATEMENT NUMBER C8 - Partial demolition of existing building and erection of new school buildings with landscaped areas, revised entrance and parking area, and associated infrastructure works at Claremont School Henleaze Park Bristol BS9 4LR

Kenneth and Clare Haddow
4 Claremont Court
Henleaze Park
Bristol - 04-Oct-2022

The members of the committee should be aware that if they support the recommendation to grant the application they are supporting a textbook case of squeezing 'a quart into a pint pot'. Whilst the planning officer's report says in a number of places the negative effect and impact of the proposed development will not be *severe*, they have the potential to be *significant, bad* or even *very bad*. That is not reasonable.

That fact that Claremont School is a SEN school appears to tip the balance at every turn. That is not fair. That said, we local residents are probably as guilty to date of that as any: we put up with significant disruption caused by the school at its present capacity because we are mindful of its purpose. And we are probably also guilty because of that of not calling out the appearing bubble mentality of the school's management that appears unaware of, or not caring of the impact the school has on its neighbourhood.

Despite these negative introductory remarks, the concept of improving the facilities of the school through redevelopment, even of expanding the school a bit, is absolutely to be supported. It is simply the scale of the proposal that is so disturbing (there are of course details of concern, but those seem addressable or to have been addressed).

The planning officer's report acknowledges that the area is "a predominantly residential area" yet goes onto to justify support for this physically and operationally substantial development with two seeming streams of argument: (1) the city needs more and better SEN capacity, (2) the development would yield "expanded educational capacity for the local community".

This is not for the *local community*. This is a citywide facility, to which pupils and staff arrive by motor vehicle from all over the city, and in the case of the latter from all over the region. To even quote *Paragraph 95 of the National planning Policy Framework (2021)* as stating "that it is important that a sufficient choice of school places is available to meet the needs of existing and new communities" etc is a weak support for proposing to overdevelop a school site in a quiet

residential area with which the school has little or no association other than that is where it is.

Three major aspects of the proposed development are core to ours and others' concerns:

1. The scale of the buildings necessitated by the expansion of the school (principally caused by bringing pupils from Redland Green). The planning officer's support (and the attitude of the consultants, the school and school authority) can be reasonably summarised as "Yes, we acknowledge this will be overbearing, but we need to reorganise and expand SEN capacity, so we give priority to the latter." And it is the Council that is the client, the sponsor and the judge. Do they need to reorganise SEN capacity? They say they do, but that is a major component of the expansion requirement that could be avoided.
2. The increase in traffic and parking. The committee should understand that the present situation is barely tolerable. Staff at present fill the surrounding streets with their parked cars; pupil drop-off/pick-up vehicles stop haphazardly and ignore the present double yellow lines – they have no alternative. Investment is needed to resolve this.

The school team and consultants explained at the one opportunity given to discuss the proposals that the internal arrangements of the buildings are poorly suited to the equipment needs of today's pupils. That makes a good case for redevelopment of the buildings, and with it a site reorganisation that reflects the traffic realities of the school.

Any significant redevelopment will involve a significant transient impact on the neighbourhood, but it can be reasonably expected that the local community would be tolerant of that in the knowledge that it was to bring about improved SEN school facility and improve the neighbourhood, a win win.

To reiterate, it is not that we object to redevelopment of the school, possibly even some expansion, it is the scale and nature of the proposal that disturbs us.

3. The proposals include mechanical ventilation. The planning officer's recommendation notes that "The predicted noise rating level set out in the report for all plant of 30 dBA outside is very low and not at a level that should cause any *harm* to neighbouring residents." No harm is not the same as no disturbance. The present hydrotherapy pool emits low level sound that is quiet enough to be even difficult to measure and would definitely not qualify as harmful, but it is disturbing and distressing enough for you to want to get away from it after not too long.

And anecdotally, that hydrotherapy noise/sound issue has grown over

the 20 year life of that pool, perhaps suggesting that maintenance has an important part to play. Knowing the challenges of local authority budgets, maintenance will surely always be squeezed and therefore installing equipment that is allegedly tolerable at first, may be laying the way to a very unpleasant future for those around the school.

Conclusion

Perhaps what is most surprising about the planning officer's recommendation to grant this approval is the perceived precedents it sets:

1. In an area of low rise housing, where hitherto even a house has not been allowed to go above the height of neighbouring properties, it is now acceptable to place two storey block with roof above on the other side of the street (because the Council says it needs it, sponsors it, and consequently supports it).
2. In an area of quiet, low capacity residential streets that are currently challenged by the traffic and parking associated with the current school capacity it is now acceptable to bring extra traffic from all over the city and beyond (because the Council says it needs it, sponsors it, and consequently supports it).
3. In an area which is *actually quiet* it is acceptable to introduce persistent sound, that may well increase over time, (because the Council says it needs it, sponsors it, and consequently supports it).

The SEN case is used to argue that what would most probably be refused in other cases is acceptable in this case. Given the nature of this location and the size of the impacts this development will have, approving this certainly seems to a layperson to stretch the boundary of what is acceptable in general.

The best outcome for local residents and potentially the best outcome for residents of the city in terms of precedents set would be this proposal being scaled back whilst a reduced development also being subject to the conditions that are currently proposed. It is worth repeating that the school already has negative impacts on the neighbourhood that are barely tolerable but that are tolerated because the community is supportive of the school's purpose. If redevelopment can improve delivery of the school's purpose and improve its presence in the neighbourhood, that would be wonderful.

In short, that is to say, big or small – preferably smaller – conditions on development are critical to any approval by the committee and must be permanently enforceable through clear contractual requirements on organisations and individuals.

Ken Haddow
4 October 2022

**Statement C9 for Development Control A Committee on
Planning Application 21/05402/FB**

**Partial demolition of existing building and erection of new school buildings
with landscaped areas, revised entrance and parking area, and associated
infrastructure works at Claremont School Henleaze Park Bristol BS9 4LR**

Simon and Susan Tomlinson
Claremont Lodge
Henleaze Park
Bristol

05-Oct-2022

1. Introduction

We have always been hugely supportive of our neighbours at Claremont School and up to recently have had a good relationship with them working jointly to find solutions to any problems that occur. We thus initially welcomed this opportunity to invest in the school and improve the provision it is able to provide for SEND children in Bristol. This is why it has been hugely disappointing that Skanska has not engaged with us, nor made any serious attempt to address our concerns. This has resulted in a design that will have a significant and adverse impact on us and our neighbours, impacts which could have been avoided or reduced had we been engaged early and ongoing from planning to project completion as requested by Cabinet in September 2020.

Our concerns and issues are covered in detail in the three comprehensive reports we submitted during the planning process in Nov-21, Feb-22 and Jul-22 so we won't repeat them here. However, what we will do is summarise why we feel that the plans are too immature at this stage for the Planning Committee to make a safe decision on this application, and that any decision should be deferred with a clear instruction that Skanska properly engage with local residents and neighbours, work with them to design a school that both meets the needs for additional SEND provision in Bristol and minimises the impact on the local area, residents and neighbours. They can then submit a set of mature and stable plans for all to review.

2. Impact of Development

Over the last 12 months local residents have highlighted multiple problems and issues with this development, and the unacceptable impact it will have on them. It is good that the planning officer has acknowledged these and agreed that we are adversely impacted and that this is far from ideal. However, it is disappointing that despite this he has decided that on balance the benefits delivered by this development outweigh any negative impacts on us,

and has thus recommended approval, particularly as many of the impacts have been underestimated or downplayed in his report.

We accept that a development of this size will inevitably result in some loss of amenity. However, the fact that so many rules and regulations are being ignored on so many aspects of the development means that the cumulative impact will be such as to make living in this location unbearable. What is more frustrating is that many of these could have been avoided or much reduced whilst still delivering the required benefits with minimal compromise for the school had our concerns been taken into account from the outset.

Concerns have also been raised previously but ignored concerning the security of the Bungalow, which is owned and inhabited by a single female living alone, who will feel extremely unsafe in her own home on the basis of this development. The proposed raised ground and decking causes The Bungalow's boundary fence to reach less than waist height on the school side. Alongside the removal of the existing security fence, with the main gate providing no obstacle to trespass, and an additional proposed handrail on one side to further facilitate climbing over the boundary, this renders the property both highly insecure and with no privacy whatsoever. The proposed mitigation to install CCTV cameras on the site boundaries with residential properties just adds to the loss of privacy.

It is worrying that yet more new information has been cited in the report from the planning officer that was not included in any of the documents presented for review as part of the planning process. This includes a statement that there will be CCTV cameras on the site boundaries with residential properties, and reference to a detailed ventilation strategy stating the importance of having opening windows and night time purging of classrooms even though the noise assessment report states that only the the pool AHU, server room condensers and one air source heat pump will run at night. This constant changing and adding of documents and information throughout the application process has made it almost impossible to know what we are commenting on and gives us no confidence that more changes won't be made in the future leading to more and increased negative impacts on us.

3. Engagement of Neighbours and adjacent residents

When this proposed development was first presented to Cabinet for approval on 01-Sep-20 it was clearly stated in Appendix B dated 30-Jul-20 that there must be full *engagement of Local Community Groups, neighbours, adjacent residents early during the initial design development and ongoing from planning to project completion*. The planning officers report implies that this has been the case but this is not true.

The first local residents learnt of the planned redevelopment of the school was from an article in the Bristol Post in Nov-20. Many then commented through the public consultation on Citizen Space that ran from 13-Nov-20 to 06-Dec-20 but the report issued from that consultation stated it was not intended or designed for engagement with wider stakeholders and that any comments received from within the community should therefore not be used in whole or in part. It was not until 26-Apr-21 that the local community were given the opportunity to comment, but this was done through an online questionnaire that was very

narrow and leading in scope with minimal opportunity to comment outside the questions asked. Skanska only met with the residents of nearby homes on 07-Jun-21 when we were presented with a fait accompli. Some minor actions were completed after this including adding a fence at the end of decking, providing timed shadow diagrams and taking accurate height measurements (eventually) but despite chasing on several occasions most of the others actions were never completed.

This lack of engagement and attempts to steamroller this application are continuing. The short notice residents have been given of this going to the planning committee has made it difficult for us to fully prepare our contribution, cancel previous commitments so we can attend, and to make our voice heard.

4. Accuracy of Information

It is hugely concerning that the fundamental inaccuracies and contradictions in the information provided by Skanska have not been corrected. Instead they have been used by Council Officers in making their assessments and have been reproduced in the Planning Officer's report, even though he has been made aware of them in the comments submitted by us and other local residents. For example:

- The drawing on the last page claiming we won't be overlooked through the open windows shows the boundary hedge twice the height it actually is. If the hedge is drawn at the correct height it shows that we will be overlooked. This was pointed out in our comments of 05-Jul-22 but has not been corrected. This is particularly important as it is also possible to see out of the side of a top hinged window as well as the bottom as shown, a fact that has been conveniently omitted from the assessment.
- The projected increase in traffic is based on out of date and inappropriate census data. Also, it includes staff relocating from Redland Green in the as-is numbers and not in the increased numbers
- The swept paths of refuse and service vehicles using the eastern yard used by the Transport Development Management Team are based on the width of the entrance before the bifold gate was added. This bifold gate significantly reduces that width of the opening and thus the ability of refuse and delivery lorries to use this entrance safely.
- The noise impact report has been taken at face value even though it concludes that the noise levels with rooftop plant units running will be less than the current noise levels without them!

Given that the Planning Committee have been knowingly misled by being presented with incorrect information with regard to this application, any decision they make will be unsafe. Consideration of the application must thus be deferred until all the information is properly and independently fact checked and the committee and local residents are presented with a true and accurate representation of the proposed development and its impacts. It is also disappointing that there have been no requests from either Skanska, Council Officers or members of this committee to visit adjacent properties to understand and see first hand the impact this development will have on us.

5. Business Case

The reason given for recommending approval of this planning application is that Bristol as a whole needs a new SEND school, and that this is the only location and design that can deliver what is needed, even though it is agreed that it will have an unacceptable impact on the local area, residents, and neighbours. However, no information has been made public for independent review as to why this design, in this location, at this time is the only way to deliver the additional SEND places needed. Given the unacceptable impact of this development this information must be made fully available before a decision is made to validate this assumption.

No evidence has been provided that this development offers value for money. This huge investment will create just 18 additional SEND places for Bristol. With proposals to reduce the yearly intake at the adjacent Henleaze Infant and Juniors schools from 90 to 60 there is scope to use some of the space released to accommodate the planned expansion of Claremont School without the need to cram so much onto the existing Claremont site.

No forecast data has been provided on the future SEND provision needed in the City or on general pupil numbers across the City. We have already seen the spike in primary school place needs pass resulting in overcapacity in junior and infant school provision. By the time this development is complete this spike will have passed through the secondary schools easing pressure on provision there too. It is likely that there will also be a similar reduction in the need for SEND provision.

6. Environmental Impact

The site currently has many mature trees and grassed areas. These not only provide a green lung for this part of Bristol but form an important visual amenity. The Arboricultural team agrees that the loss of most of the mature trees is not ideal but as with all the other officers has decided that on balance the requirements of the pupils justifies the loss of these trees. The requirement in condition 20 a) that a scaled plan be provided showing the new trees to be planted be submitted and accepted is welcome but this lacks the details of what will be acceptable, and given the poor maintenance of trees on site there is no guarantee going forward that these trees will grow to full maturity.

The environmental impact of demolishing the old school, disposing of it, and building a new school has been justified by comparing the CO2 produced by operating the old school against that of the new school. However, what has not been considered is the level of CO2 reduction that could be achieved by refurbishment and enhancement of the existing school through such things as the installation of solar panels, an air source heat pump heating system and improved insulation. This would not only save the CO2 impact of replacing the school but would also be a lot more cost effective overall.

7. Conditions of Approval

As this planning application is likely to be approved regardless of the cost, the adverse impact on this neighbourhood and adjacent properties, and the high financial and environmental cost, we would request that the Planning Committee require the following changes and additional conditions be made, and that a clear instruction is given that they are not to be relaxed at any point in the future along with the other conditions required by the Planning Officer:

- The new buildings to be built with light coloured bricks to match the colour of those of Claremont House and of the current school buildings
To reduce the visual impact of the mass of the building, to compliment better the heritage asset of Claremont House, and to make it less overbearing on adjacent properties
- For all plant and machinery other than that required for the Swimmingpool and server rooms to only operate between the hours of 8am and 6pm
To protect the amenity of adjacent properties and comply with the assumptions made in the noise assessment report
- For all first floor windows on the east elevation overlooking Claremont Court including those on the crank to be obscured, restricted to 100mm opening and to be hinged vertically to the left so they open towards the school playing field to the south
To prevent overlooking of Claremont Lodge through the glass and open window
- Building works to only take place between 8:30am and 5pm, Monday to Friday and for building contractors not to be allowed access to site before 8am
To protect neighbouring properties from noise and dust
- The eastern entrance to the site by Kenton Mews is only used for deliveries and is never to be used for dropping off and collecting pupils
To minimise traffic congestion around the school and endanger people using PROW 128.
- The handrail between the bin store and the food and drink preparation area to be replaced with a 2m high security fence with a secure gate
To protect the privacy and security of The Bungalow
- The area of the site around the north-eastern element of the building near the lower section of hedge between the school and Claremont Lodge is not to be accessible by the everyday user of the school (pupils or teachers) and will only be used for maintenance access and for fire escape purposes, and will never be used a general thoroughfare and or by pupils.
To protect the privacy and security of The Bungalow and Claremont Lodge

We would also request that there be improved engagement, consultation and empowerment of local residents and neighbours going forward. In particular that:

- Before the commencement of any demolition or building works:
 - Local residents and neighbours are allowed to comment on the construction plan and that any concerns raised or requests made by them are acted upon
 - Any deviations from the construction plan are promptly enforced and no concessions are allowed without the agreement of local residents and neighbours

- Before the new school is occupied:
 - Local residents and neighbours are allowed to comment on the Travel Plan and that any concerns raised or requests made by them are acted upon
 - All mitigations included in the plans to protect local residents and neighbours are enforced such as illegal and dangerous parking double yellow lines and zig zags.

8. Conclusion

We have always been supportive of Claremont School and had there been full engagement of Local Community Groups, neighbours, adjacent residents early during the initial design development as agreed by Cabinet on 01-Sept-20 then we feel it could have been possible to come up with a design that was acceptable to all. However, as Skanska has chosen to ignore this requirement and have progressed without proper consultation with local residents and neighbours our concerns have been largely ignored and only addressed where it requires no compromise on their part. Throughout we have been presented with a fait accompli that was always going to be approved by Bristol Planning as the need to increase SEND provision in North Bristol was always going to take precedence over any impact on the local area, residents and neighbours, irrespective of how large the impact and how many planning rules and Council policies it broke, a fact not lost on Skanska.

The information provided throughout has been unstable and inaccurate and many aspects are still unworkable. Despite these errors and contradictions being highlighted throughout the planning process they have not been corrected and instead used to generate incorrect conclusions that have been presented to the Planning Committee. This makes any decision made unsafe.

We would request that consideration of this planning application be adjourned to allow full and genuine consultation to take place with the local community, neighbours and adjacent residents and to correct the inaccuracies, inconsistencies and completeness in the plan presented. However, if this planning application must be approved on the unsafe information provided by council officers then we would request that the additional mitigations listed in this document along with those requested by the Planning Office be made a condition of that approval, and that a clear instruction is given that they must never be relaxed.

Statement Number D1 – Ben Dubuisson

I notice with interest the very small changes to the plans and wish to re iterate my comments from before and the awful effect I believe this development will have on the entire area.

2. The imposition of an "aparthotel" with many daily comings and goings will detract from the mixed use and unique nature of Colston Yard. There are very few areas like this left in the city centre and they are worth fighting to maintain.

3. The height and positioning of the balconies will mean the guests are looking into the gardens and properties of many residents. As someone who has lived here for 30 years and quite rightly been subject to strict building control around invasion of privacy, approval of this scheme would be totally against existing policy and result in unnecessary loss of privacy and probability of increased noise.

4. The construction management plan would have a terrible impact on businesses both on Colston Street and below by the Hotel Du Vin. By taking already limited parking spaces on Colston Street and the noise and disruption of concrete lorries pumping during shop opening hours, I doubt many of the businesses would survive a few weeks let alone 1-2 years of this disruption. The street is also increasingly busy with traffic due to road closures throughout the city and the top of Colston street is a pinch point totally unsuitable for large plant.

5. The disruption caused by the construction management plan of such a large building will also have a terrible impact on local residents with proposed hours of site construction far too long for such an enclosed site overlooked as it is by many bedrooms.

6. I fear the term "aparthotel" could easily morph into another student block which already over dominate the city centre. With all rooms congaing a kitchen and bathroom what is to say that the accommodation will not just be offered to students.

7. There is already a huge problem with waste in the area and such a large apartment block would need space to store large amounts of rubbish. There is no room on Colston Street for any more bin storage and so much extra waste would blight the Yard and street in general.

Finally, The area in general is a unique and interesting mix of residential, live/work and commercial use. The totally out of scale proposal would threaten the very eco system of mixed usage that has built up over many years. Fragile already, I don't think the area would survive the building process and operation of the "hotel" in anything like it's current unique form

Application Summary: - STATEMENT NUMBER D2

Application Number: 21/04208/F Address: 1A-C Colston Yard Bristol BS1 5BD Proposal: Partial demolition, conversion of no. 1A Colston Yard from offices to a house in multiple occupation and conversion of nos. 1B-C to an apart-hotel (Use Class C1) with a business hub and associated new-build development containing serviced apartments. Case Officer: Ben Royston

26th September 2022

Customer Details:

Name: Matt Golding

Address: Flat 1, 72 Colston Street, Bristol

26.09.22

Comment Details:

Comment Type: Neighbour

Stance: Customer objects to the planning application

Comment reasons: I notice that the plans for the "Aparthotel" consist of surprisingly small changes to the plans that were submitted before and I refer to my previous comments on the effects of this development on what is an already very busy and fragile area.

1: Colston Yard and the area around it which the proposed "Aparthotel" would sprawl alongside consists of a very mixed use with an already fragile balance of residential, commercial and entertainment properties butted up next to each other. The area has a strong community and is a historic draw to the city, but the balance between the varying uses of properties is already under some strain, and post lockdown has more residents working from home so in all day, more entertainment venues struggling to make back lost revenues and so needing to open longer or later, and commercial properties in dire need of customers. The last thing the area needs, when people are already feeling the strain, is a huge development that would in the short term add huge noise and disruption, and in the long term overload an already strained area with more people coming and going than it can healthily support. This "aparthotel" would not add to the culture or community of the area, but would strain the services, parking, rubbish provision and noise levels which are already in a fragile balance.

2: I personally live (and post covid have to frequently work) in a flat who's only rooms (bar the kitchen and bathroom) face directly onto the proposed site. I live there with my partner and two children, in a small flat, and the majority of our accommodation - our bedroom, living room, conservatory and kids bedroom, face directly onto the site in question. Only our kitchen and bathroom are somewhat sheltered by being underground with no windows.

The proposed development will make living and working in our home unbearable for the 72 weeks it'll take to build, and will then block our view and light in perpetuity beyond that. We won't have anywhere to escape. Construction will be loud, requiring pile driving, heavy equipment and ongoing work which if it ran to time, from 7:30am to 6pm weekdays and 8am to 1pm Saturdays. I work from home for the majority of the week - and we have a 1 year old baby. They still sleep in the day.

3: The statement of community involvement stated neighbours had been consulted. Given my property is probably the most exposed to this building work having my view and ability

to live work and sleep affected far more than the properties that are claimed to have been consulted, it is ridiculous the developers feel they have done their due diligence whilst undertaking a development which will radically alter my quality of life, and drastically reduce the amenity of my home. The developers seem to have approached this as if it is purely a development of Colston Yard, and not, as is the reality, a development which directly borders a plethora of residential and live work properties which it would directly overshadow and overlook.

4: It will be argued that this is of value to the area and the economy by filling in a brownfield site. Whilst we should be looking for ways to boost our economy and filling in unused urban land is a way do so, it has to be done within the bounds of common sense. This plot is absurdly difficult to actually develop with no real access for many of the major components of construction needed. Heavy machinery already needs to be craned over historic buildings or dismantled were construction ever to go ahead, and that's before the question of how to get things out once the site is developed - with difficult for rubbish removal and collection due to the only access being down alleyways or through the already pressured Colston Yard. The disruption this would cause during building, and then forever after, would be excessive and pressure the independent businesses which make the area unique, and the residents who would have to suffer through development and afterwards through increased noise and loss of privacy.

Overall this concept is a triumph of greed over sense. Either it could inflate the value of the land for the applicants to sell on with little hope of ever seeing the light of day, but in doing so diminish the property values or all adjacent properties for no reason, or worse it would go ahead and decimate the quality of life and functional amenity of the already busy and fragile local area. It would turn a historic tourist area into a building site and then a rubbish dump and taxi stop. The idea that this could go ahead and not destroy the very special but fragile balance of the existing residents and venues that make this area so unique is naive to say the least.



STATEMENT NUMBER D3 - RESIDENTS AND TRADERS

Chair: Cllr. Ani Stafford-Townsend

Treasurer: Amelie Caswell

Secretary: David Chilton

Planning Scrutiny Committee: Hamilton Caswell

Statement to Building Control Committee A on 05/10/22 re. 21/04208/F

On behalf of the Christmas Steps Arts Quarter planning scrutiny committee, this proposed 7-storey hotel in historic Colston Yard has received 69 objections from our residents/traders/Bristol Civic Society/Conservation Advisory Panel/Christmas Steps Arts Quarter Planning Scrutiny Committee and from our Ward Councillor Ani Stafford-Townsend.

Colston Yard is very constricted in size and served solely by a narrow entrance tunnel between shops. It has a traditional and unique character, containing a fascinating mix of small intimate studios and workshops, plus limited parking for the Colston Street traders backing on to it.

The virtually unanimous local feeling is that a corporate hotel would overwhelm Colston Yard and would greatly harm its historic character in our Conservation Area. It would hamper the Yard's ability to function, both during the construction and during the future operating. The main points in the 69 objections include:

1. Over-development. Far too big and massive' 7 storeys.
2. Loss of air and light from the Colston Street properties.
3. "Modern" corporate hotel architecture harmful to the character of historic Colston Yard and its little studios/workshops.
4. Construction noise and disturbance for 1 – 2 years.
5. Pumping the liquid concrete through Colston Yard would hamper access to and from the yard's businesses.
6. Those lorries commandeering of Colston Street's vital parking spaces for months would be disastrous to Colston Street's traders.
7. The proposed building materials yard in front of the Hotel Du Vin has been objected to.
8. Closing-off Johnny Ball Lane public right of way for over a year would damage footfall.
9. An application for a development of more traditional character and of less than 50% of the size would have received more favoble local consideration.

We trust that you will vote to refuse this application.

Hamilton Caswell, CSAQ's planning scrutiny committee

STATEMENT NUMBER D4

Dear Committee,

Statement as follows:

I along with my neighbours object to the application for planning permission for a large scale HMO and hotel development among the small artisan workshops of Colston Yard and backing onto Johnny Ball Lane.

This development is far too big a mass, is far too high and would tower over and cut out light to our gardens and homes. It will overlook our gardens so there would be a privacy issue. and it would dominate the view from Lewins Mead.

It does not compliment the aesthetic of the conservation zone which consists of many historic grade I and II listed buildings so will detrimentally affect the character of the area.

This development will create noise and mess. I understood it was a policy that HMOs were to be limited in the area. The increase in HMOs locally has resulted in a huge proliferation of bins left in the street and rubbish is left to accumulate around them, so that there is now a serious rat infestation. Many of the HMOs here create frequent disturbance, loud music, have noisy groups congregating, late parties, leaving broken glass and discarded bottles on the pavements. This area should not have to support any more HMOs.

A hotel and a two year construction process will certainly have a massive impact on parking and traffic flow on an already sensitive site. The yard itself is small and has one narrow entrance. A hotel would presumably require regular visits from service vehicles as well as taxis etc..creating a noise issue as well as pollution and congestion.

Traffic in the area is increasingly dire. Since September at peak times there are traffic jams on Colston street and Perry road, often solid between Clifton Downs to the M32. Exiting Trenchard Street carpark can sometimes take over an hour. The added traffic and obstruction of builders vehicles will make this even worse. Frequently ambulances trying to get to or from the hospital are delayed in the heavily congested roads.

Parking is already very problematic here - finding space evenings and weekends is challenging since the Perry Road spaces were closed, and for this application there is now a plan to close off the spaces at the top of Colston Street. Many disabled hospital users park along Colston Street, along with hospital visitors, residents and shoppers visiting our traders to collect goods or use services. The impact will be extremely negative on trade, and quality of life generally for all who live in or frequent the area.

Concerns around drainage and sewerage have been voiced. Some properties that have been here nearly 400 years without too much movement have suffered recent subsidence presenting a potential risk of structural damage following groundwork for construction.

In short there simply isn't capacity for this scale of development here - our heavily stretched infrastructure is already under pressure as it is.

I urge the committee to deny permission on the grounds that the proposed development conflicts with Site Allocations and Development Management Policies Local Plan Policies DM2, DM23, DM27 and DM31 and paragraphs 85 and 130 of the NPPF for the reasons listed here. It should be rejected outright.

Many Thanks

Dawn Shorten.

STATEMENT NUMBER D5

My statement

I would like to object to this planning application for a variety of reasons. I have lived and worked in the area for nearly 30 years and enjoy the diverse community that I am part of.

As a shop owner on the street I believe the impact of building this hotel will lead to many businesses closing down (as a result of the parking being taken, the noise and disruption from so many contractors being on the street). This area is one that is visited by many people who come for a calm peaceful shopping trip, visiting all the small independent businesses in the area. So many visitors comment on how lucky we are to have a shop in such a vibrant interesting area. The type of area that doesn't exist in other cities. It will disappear if this hotel is built.

As a resident I am concerned about being over looked by this building. The balconies and windows are going to overlook a quiet city centre green space that many residents use. As it is a hotel these balconies will be occupied with people who do not care about the area and have no respect for those living close by. The area is already blighted by 1 air bib that had regular noisy parties in the garden. Unsupervised outside spaces in hotels will not be quiet and smoke free.

I am concerned about the noise and disruption to hundreds of people while it is built.

I am concerned about how the refuse from the hotel will be dealt with. currently there are massive problems with refuse in the area. This will compound the problems that already exist. How can this be built with out causing misery for many people?

I do not understand how they the opinions of so many local residents can be ignored in a democratic society. People who have lived and worked in the area for years, who pay rates and taxes in the area do not want this built. Smaller buildings with families, live work houses we would support but another massive block to house people not committed to the area is not acceptable and will ruin a vibrant area.

STATEMENT NUMBER D6

I am writing to object to the above development at 1a-c Colston yard

We are a shop at 84 Colston Street

The plan for this is Far too big, so many storeys.

There will be a Loss of air and light from the Colston Street properties.

The "Modern" corporate hotel architecture will be harmful to the Conservation Area and to the character of historic Colston Yard and its intimate studios/workshops.

The Site is too confined and inappropriate for large development and would need a geological survey.

There will be so much noise, dust and dirt. A loss of parking spaces that are already limited. We have had workmen on the street directly outside us before who shout and swear to each other, putting potential customers off coming into the shop. There will be a loss of footfall,

The small businesses along the road have been struggling though covid and now again through the cost of living crisis....

I could really go on.

Yours

Lucy, B L A Z E, 84 Colston Street, Bristol

STATEMENT NUMBER D7

I would like to object the development:21/04208/F.

The access to this building site can not be through Colston Street as it will negatively affect the livelihood of everyone living and working here.

As residents we are struggling with parking as it is and the amount of traffic going through our street is affecting our business.

Therefore I object the use of Colston Street parking lots for storing construction materials and units.

Unfortunately I can't think of a different route to the jobsite but this project would affect us massively as a community of makers and small independent business owners.

Thank you for your time.

Filip. 52 Colston Street, Lone Rambler Dry Goods Store

STATEMENT NUMBER D8

To whom it may concern,

The application for an apartment/ hotel within Colston Yard is entirely unsuitable and will have an immediate supremely detrimental and long term negative impact on our business.

The noise, air pollution and chaos will mean our doors will have to be closed for years and customers will simply choose to shop elsewhere.

Our gallery Makers at 82 Colston Street supports many artists and creatives that rely on regular income that we have worked extremely hard to build over the last decade.

Our gallery is almost adjacent to the entrance tunnel to Colston Yard , the size of which is totally unsuitable for construction equipment and vehicles.

The size of the proposed building is excessive, it will block light and air from the rear of our building.

Construction traffic will cause severe problems for residents, business,cycle routes, loading deliveries and customer experience / access.

We request that the application be rejected but should it be recommended for approval we suggest that it be considered by s committee to include a site visit.

Joanna Boyd and Sarah Salaman

Makers shop & gallery: 82 Colston Street, Bristol

STATEMENT NUMBER D9

Application Address 1A-C Colston Yard Bristol BS1 5BD

Application 21/04208/F

Dear Sir/Madam,

I would like to object to the application above as I believe that it will be very detrimental to the area, including to the shop where I work (Les Fleurs, 80 Colston Street BS1 5BB)

I have run this Flower shop for over 12 years and feel that the very essence of our business existence will be compromised. This is a fragile business community that depends on people being drawn to the area and this project would undeniably impact the area and reduce the number of shoppers.

Most businesses (including mine) have their entrance door and shop front directly next to the parking area and having construction vehicles parking there would be a real nuisance in terms of noise, dust and would obstruct the light inside our small shops. When cars sometimes idle in front of the shop I can hardly hear customers placing flower orders on the phone so having larger trucks coming and going would be a real problem. I also use the shop to do Wedding consultations and it will not be possible if the proposal goes ahead. I also need access to load and unload Wedding flowers and fear that the parking near the shop will be reduced further.

I therefore request that this be rejected.

Thanks,

Vanina Shoemark

Les Fleurs Floral Design

80 Colston Street

Bristol

STATEMENT NUMBER D10

Dear Committee,

As a resident and business owner at 68 Colston Street I wish to register my objection to this planning application on the following grounds:

A development of this size and nature is simply too big and wholly inappropriate for the site.

Colston Yard has no means of access suitable for a 22 apartment, 7 storey structure, whatever the proposed use might be, both for construction and for potential occupants.

Colston street itself is already full to capacity with traffic, both vehicular and pedestrian, much of which now continues late into the night - we don't need any more.

22 'apartments' will generate a considerable volume of rubbish for which there is simply no space - either in Colston Yard or on Colston Street, again we don't need anymore.

No. 68 is fortunate to have a relatively private and quiet rear garden. The proposed structure will simply overwhelm us and many other properties that border the site.

Then there is the proposed construction phase, lasting for up to 2 years, resulting in the loss of parking bays and the intrusion of the noise and other disturbances from the site.

Finally I would make the comment that this 'development' would do nothing that might benefit the area, rather it's possibly the least appropriate scheme for this site, it should be rejected and finally laid to rest.

Kind regards

David Wilkinson



STATEMENT OF OBJECTION ON BEHALF OF HOTEL DU VIN BRISTOL - STATEMENT NUMBER D11

APPLICATION REF: 21/04208/F AT 1A-C COLSTON YARD, BRISTOL, BS1 5BD

This statement is submitted on behalf of Hotel Du Vin (HDV) Bristol in objection to the above application. HDV Bristol is a Grade II listed building located immediately to the east of the application site. The hotel is an asset to Bristol, which employs approximately 55 members of staff, and which assists in bringing in tourism and investment into the city. The setting of HDV's hotels plays a key role in the experience it offers to its customers.

HDV objects to the proposals as they would have a detrimental impact on amenity and the operations of the hotel, throughout both the construction and operational phases of development. The proposals would also cause harm to the setting of the Grade II listed building that is occupied by HDV.

The issues raised by HDV were submitted in an objection to the application on 4 November 2021, which are attached to this statement. However, despite the design of the scheme being revised in January 2022, the issues were not addressed and therefore HDV's concerns remain outstanding. As such, HDV requests that Members refuse the application, for the reasons summarised below.

Intensification of Colston Yard and Johnny Ball Lane

Firstly, the proposed scheme would result in the intensification of both Colston Yard; a quiet back street accessed only via a narrow tunnel, and Johnny Ball Lane; a narrow pedestrian footpath identified as a Public Right of Way that runs along HDV's southern and western boundaries. The increased level of activity, and the associated noise and disruption, would have a detrimental impact on the quiet character of this area, and on the level of amenity that occupants and residents of the hotel currently enjoy.

Whilst we are aware that planning permission was previously granted at 1A for its conversion to an HMO, the current application also proposes an apart-hotel in the adjacent 1B and 1C. The level of activity associated with the HMO (which is proposed to be occupied by students) has the potential to conflict with both the proposed apart-hotel use and also HDV.

The Council's Transport Development Management Officer objects to the application on highways and pedestrian safety grounds. This is on the basis that the pedestrian and cycle movements associated with the proposal at Colston Yard would conflict with the existing industrial uses.

For the reasons mentioned above, the proposal is in conflict with Policy DM23, which expects development to provide safe and adequate access, and protect and enhance the function and amenity of Public Rights of Way.

Heritage

The proposal would appear as a tall, dominant, solid block above the roofs of the listed building occupied by HDV. It would obscure the existing connection with the high-quality historic townscape that currently forms the backdrop to, and makes an important part of the setting of, the listed building and this would cause harm to the significance of the Grade II listed building.

This issue has not been properly addressed through the revisions that were made to the scheme in early 2022. The proposal is therefore not in accordance with Policy DM31 (Heritage Assets), as it fails to conserve the heritage asset and its setting.

Disruption during construction

The proposal would result in an unacceptable level of disruption during the construction phase, for a long period of time (72 weeks according to the submitted Construction Management Plan). Johnny Ball Lane is identified as the primary access for construction, which is entirely inappropriate given the associated likely impact on amenity with respect to noise, air quality and mud / construction material. As an example, HDV has an external roof terrace to its Lombard Suite (which is used for special events such as wedding receptions). Noise and dust from construction would have a significant detrimental impact on the use of the roof terrace.

Furthermore, HDV is aware that at times, water runs from the wall that sits behind Johnny Ball Lane onto the hotel's site. HDV is therefore concerned that the proposal and associated construction process will exacerbate this further, given the proposed use of Johnny Ball Lane. HDV is not aware of any surveys that have been undertaken to demonstrate otherwise. Similarly, HDV is also concerned about the impact of the construction process on the stability of the existing chimney that forms part of the listed building.

Another key concern associated with the construction phase is that the Construction Management Plan identifies an area immediately in front of HDV as a delivery and unloading area. This is entirely impractical for HDV's guests and operations, and it has the potential to impact on the hotel's day to day trading. Similarly, a raised ramp is identified along Johnny Ball Lane for plant and materials. There is no indication of the height or any further details of this ramp, and HDV is concerned of the security implications for its guests and property. Furthermore, HDV currently uses Johnny Ball Lane as a fire escape route, which is likely to be compromised by this proposed ramp.

Of relevance, scaffolding was erected on the application site recently and it resulted in HDV receiving a significant number of noise complaints from hotel guests. The scaffolding also prevented delivery vehicles and taxis from turning properly. This was on a smaller scale than what is likely to be required for the proposal, yet it demonstrates the impact that such works can create if they are not managed properly.

In our view, the applicant has failed to demonstrate that the construction of the proposed development would protect the amenity of HDV's guests and nearby occupants. There are instead clear issues with the information that has been submitted with respect to construction management. Given the proximity of the application site to the listed building that houses HDV, the construction process should be agreed in consultation with HDV. However, HDV agrees with the Transport Development Management Team's recommended refusal of the application.

Conditions

As explained above, HDV strongly recommends that the application is refused. However, if Members are minded to approve it, HDV requests that the following comments are incorporated into any final list of conditions.

HDV does not understand why there are two separate conditions requiring the submission and approval of two very similar documents; a Construction Management Plan (Condition 3) and a Construction Management Plan (Environmental) (Condition 10). In our view, the information required by these conditions should be provided in one concise document, which should be prepared in consultation with HDV. Given the proximity of the hotel to the application site, and the concerns raised above, a Construction Management Plan should not be approved unless it has been agreed with HDV.

For example, HDV does not consider that the working hours set out in Condition 10 are acceptable. Construction works at 8am on a Saturday are likely to have a significant detrimental impact on HDV's guests, which will result in complaints.

Furthermore, we request that the following information is included within any Construction Management Plan that is approved, as it is not currently required by either Condition 3 or Condition 10:

- Identification of an area that is suitable for loading and unloading, which must not be located in front of HDV's property;
- Identification of a dedicated compound area, which must not be located in front of HDV's property;

- Details of how Johnny Ball Lane and Colston Yard will continue to be available for the use of the general public without compromise to safety.

Please note that the above list is not exhaustive and, in addition to consultation and agreement with HDV, any submitted document should be considered and agreed by the Council's Transport Development and Environmental Health Officers, and the Fire Service.

We also request that additional pre-commencement conditions are included, which require the submission and approval of surveys that assess the impact of the proposal on the stability of the existing chimney and on the existing water / drainage issue on Johnny Ball Lane.

Conclusion

HDV is significantly concerned that the proposals will have a detrimental impact on the amenity of its guests and the existing occupants of Colston Yard, the operations of the hotel, and on the character of the area and setting of the listed building. HDV is aware that a considerable number of objections have been received from members of the public, community groups and also from the Council's Transport Development Management Officer. This demonstrates the proposal fails to address a number of key issues and concerns, and it is greatly unwelcomed by the local community. As explained above, it is also contrary to planning policy.

On this basis, we respectfully request that Members refuse the application.

ANDREW THRESH

General Manager

STATEMENT NUMBER D12

Planning permission, Colston yard, Bristol

Reference 21/04208/F

Neil Whitcombe, 76 Colston Street

As a business owner who has maintained a team of over 10 people over the past sixteen years, I am deeply concerned regarding the proposal of an apartment hotel to the rear of the property I am currently leasing.

The proposed property will literally be looking in to my garden and the back window of my property, this will affect the natural light that I currently have but also the privacy of my staff and all of the clients that visit the shop.

The building work will be of serious concern to me and every other business on colston street, noise pollution and a clogging of the street will have a seriously detrimental impact on a business like mine.

This area is already struggling under the pressure of many basic services, refuse collection is a serious problem that will only be exacerbated by the build proposed.

I strongly object to this proposal, based only on the impact to the currently thriving, independent businesses that form a truly unique corner of the old city.

Neil Whitcombe

STATEMENT NUMBER D13

Application ref. no: 21/04208/F

Application address: 1A-C Colston Yard Bristol BS1 5BD

I would like this planning application to be considered by a Development Control Committee if it is proposed to be recommended for approval (please delete as necessary).

Reasons for referral (must be on planning grounds):

The application is for an overbearing, apartment hotel within a Conservation area which includes Grade II and Grade II* listed buildings such as Christmas Steps, Colston Street and St Bartholomew's Hospital. This proposed development is entirely unsuitable for the actual plot and the location.

Traffic, Access & Highway Safety:

Proposed site plan misleading, access into the yard is shown as an open route when it is in fact a low height, single storey tunnel.

Access rights to the Yard should be shared between the freeholders with Yard access. To my understanding, their consent and approval has not been sought or obtained. In some cases, they have not been contacted & consulted by the applicant.

Construction traffic. Construction will be from the Colston Street side. Colston Street is the only street in the Christmas Steps Arts Quarter that has currently got on street car parking for residents & businesses, plus the only loading bays for the area. Colston Street is also currently part of a cycle lane & traffic consultation for the area that is considering options such as narrowing Colston Street. Construction traffic would cause extreme disruption for the area.

Car parking. Regardless of developer intention, there will be additional car traffic as a result of this development. Colston Street is already at traffic and car parking saturation, with the nearest car park continually full with resident visitor, business customers, and the staff, patients and visitors to the hospital. There is not the capacity for this development.

Economic impact:

The impact of the build on the surrounding businesses would be astronomical. The Active Travel scheme running through the area, which is due to go to consultation in November and be actioned in 2023 makes permanent the cycle lanes on Perry Road. Depending on the final design, the parking bays on Colston Street would be the only remaining on street parking. To lose several spaces for construction use would cause an already stretched situation for shoppers, hospital visitors and deliveries beyond capacity. The great concern about the impact could potentially cause needless objections to the Active Travel consultation.

The Christmas Steps Arts Quarter is a filming location for many film and TV productions. Colston Yard itself is a regular location, for which residents are compensated, as are Christmas Steps and Colston Street. When this happens, both the local area and the city is financially benefited. The construction work would prevent this for the several years it would take to complete.

In the process of commandeering several parking spaces, the shops immediately opposite the spaces would have their access, their light and their marketing potential hindered as shoppers may not be able to easily pass by or view them. In uncertain trading times, this would have an unacceptable economic effect on the area.

The infrastructure of the area is already under strain when it comes to waste collection and parking, but also importantly the digital infrastructure struggles to meet the demands of the existing residents and traders. 40 more units would increase the strain.

Privacy/overbearing:

The proximity to homes and businesses on Colston St is too much and too overbearing. The rear of Colston is south east facing, and a development so high would block out much of the light especially to lower units. The design also includes much potential of over looking and loss of privacy for the residents.

Noise, odours, Pollution

Sound bounces around this enclave like an amphitheatre. Recently a licencing application was turned down within the enclave, largely on basis of this. The noise during construction would be incredibly detrimental to residents and businesses alike. The building through which Colston Yard is accessed is inhabited by many businesses, and includes at least 5 therapists who require a calm, quiet setting in order to provide much needed mental health support. The noise from the construction would prevent the therapists from carrying out their therapeutic work.

Air pollution would be much increased through construction traffic of material deliveries and construction workers.

Neighbourhood consultation:

The applicant met with a small group of residents, including myself as Chair of CSAQ & ward councillor in June to discuss plans. Due to the covid rules of the time, the group was limited to 6 people. At the meeting and following the meeting, many issues and objections were given in response to the application. Unfortunately none of this feedback was accepted by the applicant, and no action was taken to address the issues raised. Furthermore, local residents and businesses with access rights to the Yard but with postal addresses on Upper Maudlin Street have not been contacted or consulted. The many objections that have been submitted in response to the application are as a result of our own community engagement not due to any engagement or consultation from the applicant.

This raises many concerns about how respectful the construction period would be towards the surrounding neighbours.

I request that this be rejected. However should it be recommended for approval, I request that it is considered by committee and a site visit be part of the consideration.

STATEMENT NUMBER D14

Objection to 21/04208/F - 1A-C Colston Yard Bristol BS1 5BD

As a business owner and resident on Christmas Steps, I'd like to object to this planning proposal as I think it would be detrimental to the area as a whole.

I'm very concerned about the impact the building work could have to the businesses on Colston Street, and those in Colston Yard, and the knock-on impact to the whole community.

The Christmas Steps Arts Quarter relies on the variety of little shops, and people visit it to wander along the charming streets, shop in the independent shops and take photos of the beautiful and varied buildings and street scenes.

The area has already been hit hard by the pandemic with many of these independent businesses relying on footfall rather than having an online presence. The footfall is now beginning to return, and I fear that with the building works and loss of parking for customers and pedestrian access to these shops (caused by the comings and goings from a building site/proposed lengthy concrete pouring process) this footfall will disappear as pedestrians avoid the busy site works entrance. If these businesses are forced to close as a consequence then it will be very damaging to the area as a whole.

The proposal to suspend 4 parking bays (and realistically this means the whole stretch of pavement adjacent to these parking bays) for the duration of the build (18 months or so) would be hugely problematic for that stretch of shops in terms of footfall of customers, and for the residents and business owners who already struggle to deliver items to their shops/homes.

There are already long tailbacks on that stretch of Colston Street, it is a busy street and buses already struggle to make it down that top part of Colston Street with the traffic as it is, I can't imagine how that will work when a cement mixer is positioned there for long periods of time for example.

The size of the hotel itself feels out of keeping with the area, with too many proposed bedrooms. There is already huge problems with rubbish being dumped in the area, and there is already not enough room for the existing commercial bins along Colston Street.

There is also the issue of the volume of people who will be coming and going into Colston Yard to stay at the hotel, on what is, as previously said, a very busy stretch of road, and a very narrow entranceway. Cars and taxis trying to turn around/park whilst dropping off customers for the hotel will only add to the congestions and problem with pollution in the area from the long queue of cars on that stretch. Not to mention the problematic access through the very narrow archway to Colston Yard that needs to be shared by pedestrians and cyclists, and for access to the yard, cars must cross directly over a busy pavement.

D15: Development Control Committee A – 5th October 2022

1A-C Colston Yard, Bristol, BS1 5BD – Application No. 21/04208/

F Supporting Statement on Behalf of the Applicants

1. The application proposes a major development combining a new-build apart-hotel containing 20 serviced apartments and a business hub, and 8-bed HMO within a converted building. The site is located within a highly accessible and sustainable part of the city centre. As well as providing new bespoke accommodation for which there is an identified need, the development will result in an efficient use of the land and will bring with it many benefits that outweigh any perceived harm. Indeed, the future occupiers will no doubt use the local shops and services which are located around the site.
2. The new building's form and appearance is designed to respond positively to the opportunities and constraints of the site and historic context, the mixed character and scale of buildings within the immediate area. The photomontages and other visuals submitted in support of the application clearly illustrate how the development will assimilate into the context. The resulting architecture will enhance the character and appearance of the conservation area, as well as preserve the setting of the adjacent listed buildings. The proposal has been carefully design to preserve the amenity of neighbouring building occupiers.
3. Following consultation on the application and feedback from the planning officer the scheme has been amended and reduced in terms of the quantum of bedrooms and the building's scale. Other issues raised including transport management and ecology have been addressed with additional information. Further technical information will also be provided as conditions of planning permission.
4. Whilst it is noted there have been objections to the development, the merits and appropriateness of the development has result in the planning and design officers supporting the proposals. In undertaking the 'balancing' exercise, the officer's report notes the development '*... offers an inventive and creative use of land, including a parcel of brownfield land*'.
5. It is worth noting that the proposals follow a previous planning permission that was granted consent in 2009 for a mixed use redevelopment that included 18no. new residential units. The ownership of the site has changed hands since. The current owners and applicants are a Bristol-based firm who has a track record of delivering their developments. Their vision is to create spacious, high-quality visitor accommodation within easy walking distance of all the attractions within the central area, the University of Bristol and Bristol Royal Infirmary. They wish to create attractive accommodation and a development that will complement its setting.
6. Given the proposals accord with the principles of sustainable development, there are sound reasons for the application to be supported and approved. The development will bring with it a significant CIL contribution to the City's infrastructure.
7. The proposal represents a genuine opportunity to regenerate an under-used and beleaguered site, creating sustainable development and uses which would make a positive contribution to the area. As such, the Committee is respectfully requested to grant consent for the development.

STATEMENT NUMBER D16

Application ref. no: 21/04208/F

Application address: 1A-C Colston Yard Bristol BS1 5BD

I object to this application as not only the ward councillor, but as Chair & member of the Christmas Steps Arts Quarter Residents and Traders Association.

The application is for an overbearing, apartment hotel within a Conservation area which includes Grade II and Grade II* listed buildings such as Christmas Steps, Colston Street and St Bartholomew's Hospital. This proposed development is entirely unsuitable for the actual plot and the location. The plot is rich in wildlife with foxes, goldfinches, great tits and other animals visiting the neighbouring gardens, balconies and windowsills, despite efforts to clear it. The city centre has low levels of tree canopy and green spaces, pockets such as this plot require protection.

Traffic, Access & Highway Safety:

Proposed site plan misleading, access into the yard is shown as an open route when it is in fact a low height, single storey tunnel.

Access rights to the Yard should be shared between the freeholders with Yard access. To my understanding, their consent and approval has not been sought or obtained. In some cases, they have not been contacted & consulted by the applicant.

Construction traffic. Construction will be from the Colston Street side. Colston Street is the only street in the Christmas Steps Arts Quarter that has currently got on street car parking for residents & businesses, plus the only loading bays for the area. Colston Street is also currently part of a cycle lane & traffic consultation for the area that is considering options such as narrowing Colston Street. Construction traffic would cause extreme disruption for the area.

Car parking. Regardless of developer intention, there will be additional car traffic as a result of this development. Colston Street is already at traffic and car parking saturation, with the nearest car park continually full with resident visitor, business customers, and the staff, patients and visitors to the hospital. There is not the capacity for this development.

The closure of Johnny Ball Lane for an extended period would be the loss of a crucial walking route for the area and the hospitals.

Economic impact:

The impact of the build on the surrounding businesses would be astronomical. The Active Travel scheme running through the area, which is due to be actioned in the same time scale as this development makes permanent the cycle lanes on Perry Road. Depending on the final design, the parking bays on Colston Street would be the only remaining on street parking. To lose several spaces for construction use would cause an already stretched situation for shoppers, hospital visitors and deliveries beyond capacity.

The Christmas Steps Arts Quarter is a filming location for many film and TV productions. Colston Yard itself is a regular location, for which residents are compensated, as are Christmas Steps and Colston Street. When this happens, both the local area and the city is financially benefited. The construction work would prevent this for the several years it would take to complete.

In the process of commandeering several parking spaces, the shops immediately opposite the spaces would have their access, their light and their marketing potential hindered as shoppers may not be able to easily pass by or view them. In uncertain trading times, this would have an unacceptable economic effect on the area. Many businesses would be very likely forced to close.

The infrastructure of the area is already under strain when it comes to waste collection and parking, but also importantly the digital infrastructure struggles to meet the demands of the existing residents and traders. 40 more units would increase the strain.

Privacy/overbearing:

The proximity to homes and businesses on Colston St is too much and too overbearing. The rear of Colston is south east facing, and a development so high would block out much of the light especially to lower units. The design also includes much potential of over looking and loss of privacy for the residents.

Noise, odours, Pollution:

Sound bounces around this enclave like an amphitheatre. The noise during construction would be incredibly detrimental to residents and businesses alike. The building through which Colston Yard is accessed is inhabited by many businesses, and includes at least 5 therapists who require a calm, quiet setting in order to provide much needed mental health support. The noise from the construction would prevent the therapists from carrying out their therapeutic work.

Air pollution would be much increased through construction traffic of material deliveries and construction workers.

Neighbourhood consultation:

The applicant met with a small group of residents, including myself as Chair of CSAQ & ward councillor in June 21 to discuss plans. Due to the covid rules of the time, the group was limited to 6 people. At the meeting and following the meeting, many issues and objections were given in response to the application. Unfortunately none of this feedback was accepted by the applicant, and no action was taken to address the issues raised. Furthermore, local residents and businesses with access rights to the Yard but with postal addresses on Upper Maudlin Street have not been contacted or consulted. The many objections that have been submitted in response to the application are as a result of our own community engagement not due to any engagement or consultation from the applicant.

This raises many concerns about how respectful the construction period would be towards the surrounding neighbours. To date no further engagement has with the community has been undertaken, despite the removal of covid restrictions.

I have included below an image of the entrance to the site, to help envisage the restrictions of this development. The wide ranging impacts of this development to the many, many surrounding residents and businesses vastly outweigh any benefits to one business.

I request that this be rejected today by the committee, or at least deferred pending a site visit to enable the committee to view the complexities of the site and surrounding area.

Cllr Ani Stafford-Townsend

Chair of Christmas Steps Arts Quarter Residents and Traders Association

Chair of Development Committee B

Cllr Ani Stafford-Townsend (them/they)

Green Party Councillor for Central Ward, Bristol

Green Co-Shadow Cabinet Member for Culture, Communities, Equalities & Public Health

Committee Chair for Development Committee B



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STATEMENT NUMBER D17 - Comments for Planning Application 21/04208/F

Application Summary

Application Number: 21/04208/F

Address: 1A-C Colston Yard Bristol BS1 5BD

Proposal: Partial demolition, conversion of no. 1A Colston Yard from offices to a house in multiple occupation and conversion of nos. 1B-C to an apart-hotel (Use Class C1) with a business hub and associated new-build development containing serviced apartments.

Case Officer: Ben Royston

Customer Details

Name: Mr Christopher Binding

Address: 66 Colston Street Bristol

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: I strongly object to this development which is totally inappropriate for the site - its size, its proposed use and its impact on the community:

1. Its footprint and mass is too big. When last June STP Lettings and 105 West Architects held a consultation with local interested parties (including CSAQ and the Civic Society) to unveil their plans it seemed encouraging that local opinion was being sought. The unanimous concern voiced at the meeting was the scale of the proposal, the extent of the footprint and the mass / no. of storeys of the design. This application has been submitted with zero amendments in the light of local response, betraying a cynical approach by the developers more intent on profit margins than any benefit to the local community - despite their application letter claiming 'consultation has taken place with local stakeholder groups'. Maybe, but evidence suggests more like cynical tokenism with community concerns being completely ignored.

2. The detrimental impact on the local community will be profound should this development go ahead unaltered.

Congestion in and around Colston Yard, whether pedestrian or vehicular will be extreme. The proximity and impact of the building to the rear of the properties and gardens on Colston Street, especially with its southerly footprint extending as far as it does (as far as 70 Colston St), will be totally unreasonable - whether a visual intrusion, being overlooked by the development or disturbance by noise. The mass of the building's six storeys will overpower and infringe upon the privacy and peace of the existing and long-established residencies. This is unacceptable.

3. Despite the assurances of STP Lettings that this development will be aimed at high-end business users the reality of this developer's history suggests the ultimate end users will be students - in an area and neighbourhood already saturated with student hostels and apartment blocks. (This would be in contravention to BCC's own guidelines with regard to this particular neighbourhood.) This community needs residents who have some interest and investment in the locality. It is already a densely built neighbourhood (by the applicant's own admission) but with a community that is close-knit, involved and interested in acting as guardian to its unique local atmosphere - this needs to be nurtured and encouraged, not carelessly trodden on.

4. Access for the build is severely restricted. Any build procedure will have a massive negative impact on local businesses and residents let alone the day-to-day life on Colston Street, Johnny Ball Lane and Colston Avenue / Rupert Street for the 72-week duration of the build. According to Structural Solutions' own submission a 'down the hole' hammer and rotary drilled piles will all be necessary for the groundworks preparation. This with the inevitable congestion, heavy trucks transporting waste from, and supplies to, the site; cement lorries piping concrete into the groundworks; mechanical diggers and general site noise, this will all contribute to unacceptable levels of dust and air pollution and general disturbance for residents and businesses alike.

Therefore a far more detailed description of the build process needs to be submitted and scrutinised before any decision is entertained as to the acceptability and benefits of such an application.

5. The site is a valuable inner-city 'green' (or brown) site - an untamed haven for wildlife. In the past few years we have enjoyed a rich variety of birdlife (wren, sparrow, great tit, blue tit goldfinch, greenfinch, black cap, blackbird, robin, magpie, etc), a family of foxes and even a community of bats. To lose this 'lung' in this concentrated urban environment would be a huge loss at a time when every tree, shrub and green patch is a contributor to wildlife welfare - birds, butterflies and insect life, and a bio-diverse environment. Whatever the suggestions of 'living walls', bird boxes and planting, this manicured approach to wildlife habitat is no substitute for the real, natural thing.

Were the applicant to submit a more modest proposal, lose a storey and 50% of the footprint, I'm sure the community would look at it more sympathetically.

Application Summary

Application Number: 21/04208/F

Address: 1A-C Colston Yard Bristol BS1 5BD

Proposal: Partial demolition, conversion of no. 1A Colston Yard from offices to a house in multiple occupation and conversion of nos. 1B-C to an apart-hotel (Use Class C1) with a business hub and associated new-build development containing serviced apartments.

Case Officer: Ben Royston

Customer Details

Name: Mr Christopher Binding

Address: 66 Colston Street Bristol

Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment:Application 21/04208/F:

I object to the current proposal for all the reasons argued last year, October 2021.

The revised plans do not adequately address any of the issues - height of roofline, extent of footprint, intrusion and impact onto neighbouring properties (Colston Yard, Colston Street) both during the build and in the long-term following completion. I believe the Applicant has made only a very limited and token amendment to the plans and elevations with the loss of only two units. As suggested last year, should the footprint be halved and the elevation reduced substantially, then I am sure the application would be given a more sympathetic response.

1. The negative impact on the local community will be profound should this development go ahead without further alterations. Congestion in and around Colston Yard, pedestrian and vehicular, will be extreme. The proximity and impact of the building to the rear of the properties and gardens on Colston Street, especially with its southerly footprint extending as far as it does, is totally unreasonable - whether a visual intrusion, the very close proximity to neighbouring properties or disturbance by noise. The mass of the building's storeys will overpower and infringe upon the privacy and peace of the existing and long-established resident's homes. This seems both unreasonable and unacceptable.

2. Despite the assurances of STP Lettings that this development will be aimed at high-end business users the reality of this developer's history suggests the ultimate end users will be students - in an area and neighbourhood already saturated with student hostels and apartment

blocks. (This would be in contravention to BCC's own guidelines with regard to this particular neighbourhood.) This community needs residents who have some interest and investment in the locality. It is already a densely built neighbourhood (by the applicant's own admission) but with a community that is close-knit, involved and interested in acting as guardian to its unique local atmosphere - this needs to be nurtured rather than carelessly ignored.

3. Access for the build is severely restricted. Any build procedure will have a massive negative impact on local businesses and residents let alone the day-to-day life on Colston Street, Johnny Ball Lane and Colston Avenue / Rupert Street for the 72-week duration of the build. According to Structural Solutions' own submission a 'down the hole' hammer and rotary drilled piles will all be necessary for the groundworks preparation. This with the inevitable congestion, heavy trucks transporting waste from, and supplies to, the site; cement lorries piping concrete into the groundworks; mechanical diggers and general site noise, this will all contribute to unacceptable levels of pollution and general disturbance for residents and businesses alike.

Therefore a far more detailed description of the build process needs to be submitted and scrutinised before any decision is entertained as to the acceptability and benefits of such an application.

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February 2022