

DELEGATED REPORT

Application No 10/03384/CAAD		Case Officer: Richard Stott
Details of location: Hartwells Of Bath Newbridge Road Newbridge Bath BA1 2PP	Proposal: This application is made under Section 17 of the Land Compensation Act 1961. The Local Planning Authority (LPA) has resolved to make Compulsory Purchase Orders (CPO) in respect of the Bath Transportation Package – Bus Rapid Transit Segregated Route. The Order relates to several domestic and residential sites. Part of the land involved is situated to the rear of the Hartwells Garage, Newbridge Road. This application seeks a Certificate of Appropriate Alternative Development for the potential future use of the site as residential development, relating to a 1.68ha plot of land situated between Newbridge Road and The Maltings Industrial Estate to the west of Bath City Centre. The site is currently occupied by the Hartwells Garage, fronting Newbridge Road, with Hanson Aggregates concrete batching plant and the servicing area for Hartwells to the rear set down in a former quarry.	
Relevant History – 09/00307/ERE03 - Expansion of existing Newbridge Park and Ride facility to provide 500 spaces construction of a central amenity building, the construction of a bus transit system along with associated landscape and engineering works – PERMITTED 9 th November 2009		
Relevant Legislation: The Land Compensation Act 1961 The Certificate procedure in Part III of the 1961 Act has only one purpose - to provide valuers and (ultimately) the Lands Tribunal with guidance on the development value, if any, of land that is being acquired by an authority with compulsory purchase powers. The application is decided against the background of a hypothetical ‘no scheme world’; this means that the decision maker (the LPA) must disregard the underlying reason for acquisition and may not be able to rely on the development plan and other planning policies to settle the matter. The Act also requires the LPA to certify the alternative developments for which planning permission would have been granted ‘in respect of the land in question, if it were not proposed to be acquired by the Council possessing compulsory purchase powers’.		

Consultation:

As this application is decided against the background of a hypothetical 'no scheme world', no third party consultation was held, the determination of the case is based on whether or not the proposed use of the site for residential is an appropriate alternative and is not made in respect of the illustrative scheme submitted with the application which is for indicative purposes only.

In respect of wider issues, given the location, size of the site and topographic constraints, the Highway Officer and Urban Designer were consulted for comments with regard to the suitability of the site against the proposed alternative option of residential development. In addition, Wessex Water was consulted as to the viability of the site in respect of a rising mains pipe which transects the site.

Highway Officer Comments

The proposed development prejudices the provision of the Bath Rapid Transit system which crosses the southern part of the site and which also provides for a segregated cycleway alongside that route. The development proposal is, therefore, contrary to Policy T11 of the adopted Bath and North East Somerset Local Plan, including minerals and waste policies. Furthermore, the BRT is part of a package of measures designed to manage the impact of traffic within the city and to cater for the increased demand for travel, such as that which will arise from the proposed development and other developments within the city.

However, I understand that the BRT is not a consideration in determining this application. Nonetheless, the Council does not have an alternative scheme to mitigate traffic that would rise from the development of this site and the development of other allocated sites in the city. It is therefore necessary as part of any submitted Transport Assessment, for the applicant to propose measures to mitigate the impact of this development that will arise from the resultant increased demand to travel on the city's highway network.

The proposed development must be served by an estate street of adoptable standard, including footways of 2.0 metres minimum width, This has not been detailed.

Concern is expressed regarding the location of, and access to, some of the bin stores. Walking distances appear excessive, particularly if bins are large and heavy, as could be expected in shared facilities. Further, the proposed access widths appear inadequate to enable bins to pass one another, thereby reducing the efficiency of such an operation. Waste Services should be consulted on the adequacy of these proposals.

The proposed underground car parking is fully covered by a roof which, itself, supports the proposed buildings and community and private amenity space. The ability to provide the underground car parking, and its workability, is therefore affected by the location of columns, etc intended to support the structures above. These have not been detailed and, therefore, given that the car parking spaces are detailed to minimum acceptable dimensions, I suspect that the level of attainable, workable parking will be less than that detailed on the submitted plan.

The applicant states that the proposed level of parking provision will encourage sustainable travel. The

development is, therefore, dependent upon attractive and convenient public transport provision, with adequate capacity and good reliability, in close proximity to the site together with a high standard of access to cycle ways. Whilst the BRT with its adjacent cycleway would have provided such facilities, this development proposal provides no alternative, thus increasing pressure on existing services without proposing any form of mitigation to cater for increased travel demand by alternative modes to the private car. Without mitigation measures, travel demand on Newbridge Road, adjacent to the site, will increase at a greater rate with the resultant increase in congestion and deterioration of air quality. This is not in the interest of the operation of the public highway or amenity. Furthermore, the applicant has failed to demonstrate that there is adequate capacity on existing public transport services, particularly during peak hours, to accommodate the increased demand that will arise from the proposed development and neither has a high standard of access to cycling routes been demonstrated.

In respect of the trip rates quoted, we are unable to check that the correct parameters have been used for the existing use as no GFA's have been provided for the existing showroom and workshop. However, as the site is still active, far more accurate figures could be obtained by surveying the existing vehicle movements.

Regarding the traffic generation figures quoted for the proposed residential development, these would appear robust.

The proposed cessation of the existing garage use on the site will result in the diversion of existing trips on the network as those movements are displaced to alternative garages. However, the proposed development will result in new trips on the network. Bearing this in mind, the proposed development will undoubtedly result in additional trips on the highway network. This difference between local impact and impact on the wider network must be borne in mind when examining developer contributions in line with the Council's adopted SPD on developer contributions and, in particular, the impact on the wider strategic network.

Whilst some form of residential, or mixed use development would be acceptable on the site, in highway terms, it must be capable of mitigating its own increase travel demand without impacting on the safe and efficient operation of the highway network. Further, the proposed development would appear to represent an overdevelopment of the site which, by prejudicing the provision of the BRT, does not afford a corresponding increase in the capacity to travel by sustainable means on the local network necessary to enable this and other development proposals to proceed.

Finally, the applicant has failed to provide a Transport Assessment in accordance with Policy T25 of the adopted Bath and north East Somerset Local Plan and, in accordance with Policy T26 of the Local Plan, has failed to demonstrate that the proposed level of parking provision takes adequate account of "the capacity of the local highway network and the need to control any increase in traffic levels".

Bearing in mind the above, the highway response is one of **OBJECTION** to the proposed development which fails to analyse its traffic impact fully, to propose measures to mitigate its own impact, on both the local and strategic highway network, or to demonstrate that the level of parking provision will not be prejudicial to the capacity of the highway network. Furthermore, the proposed development fails to make

adequate provision to provide for and encourage sustainable means of travel. The development is therefore contrary to Policies T9, T13, T24, T25 and T26 of the adopted Bath and North East Somerset Local Plan, including minerals and waste policies.

Note:

It is possible that a lower density housing scheme, or mixed use development, would be acceptable on the site, subject to accommodating or contributing towards improved accessibility to the city centre along the Newbridge/Upper Bristol Road (A4) transport corridor by alternative modes of travel, e.g. public transport and cycling in order to mitigate increased travel demand on Newbridge Road. However, the nature of such measures and their feasibility would need to be demonstrated.

Urban Design Officer Comments

1. The proposed town houses **building line** is further forward than adjacent dwellings and should be set further away from the pavement to fit with the transitional nature of the site. These buildings are also too high for their context with a ridge height that matches the dwellings opposite. The **heights** should follow the topography and descend down the valley from the dwellings opposite so it would therefore be more appropriate for the height of proposed buildings on the Newbridge Road frontage to match those opposite but be set at the lower level of the land i.e. approximately 8m from the ground floor threshold on the pavement to the ridge.
2. The Newbridge Road street **trees** on the plan, which appear to be existing trees that are to be retained, are too close to the proposed buildings. Existing trees that are to be retained and removed and proposed new trees need to be clearly demonstrated on a hard and soft landscaping plan. A tree survey may also be required. Tree cover is a critical element of the character of this area and proposals fail to consider this.
3. Dwellings on Osborne Road to the east and the cul-de-sac to the west will be **overlooked** and dwarfed by the **height, scale and massing** of proposed blocks to the south of the site. Views of the surrounding landscape and skyline have been blocked by the heights proposed. There has been no regard for the setting of the adjacent Conservation Area and of the World Heritage Site in this regard.
4. The proposals are incongruous in **scale** to their immediate surroundings and do not descend gradually into the valley bottom as buildings across the city do. This proposal goes against the prevailing character of this part of the city and this can clearly be seen from long distance view points such as Kelston View. Such views are essential for understanding the context and impact of proposals and have clearly not been considered in these proposals. For example, from this viewpoint, the existing height and design of the Hartwells building, which is more modest than that proposed, already has a significant negative impact. Proposals should seek to improve this. Also the surrounding residential neighbourhood has a **fine grain** and buildings have a **vertical emphasis**. This would be an appropriate approach to pursue in proposals for this site.
5. The proposed **layout** does not appear to conform to best practice guidance. For example,

private rear gardens face public building frontages, the public open space and access to it is remote and thus does not promote a feeling of safety, some cycle and bin/recycling storage appears remote from desire lines and parking and access dominate the public realm. Connectivity to public routes and green spaces around the site should be improved so the site does not remain as an isolated island of development but fully integrates instead.

6. The scheme does not appear to be designed to make the best of **environmental** conditions. For example, dwellings are single aspect restricting opportunities to incorporate natural light into main living areas such as kitchens and circulation stairs have been located on the south elevations missing the opportunity to utilise the solar gain from this aspect.
7. The **density** proposed for the site is incongruous with surrounding residential development and is not informed fully by design constraints. For example the proposed footprint and layout means most trees would be removed from the site thus negatively impacting on the character of the area. Similarly proposed heights that serve to raise the density on site would not be considered acceptable as they do not accord with the prevailing character of heights descending towards the valley bottom and mean proposed buildings have a poor relationship with neighbouring existing buildings. The appropriate density for this site is significantly lower than that proposed once these important factors are considered in the design development.

Wessex Water Comments

Foul Drainage

- Drawing 3016-000 shows 4 residential blocks positioned in the southern sector of the site. Please refer to the attached extract from our records. The proposed buildings are sited over twin public 700mm diameter pumping mains which cross the site. Building over these critical mains will not be permitted.
- Subject to engineering appraisal and application it may be possible to divert these mains. However, the cost of doing so will be significant.
- Legal notice confirms a 6 metre easement either side of these mains.
- Subject to application a foul drainage connection may be made to the public foul sewer in Newbridge Road.
- It may also be possible, subject to agreement with the owners, to connect via the private sewers in the Maltings Industrial Estate.

Surface Water Drainage

- There are no public surface water sewers available to serve the site.
- Alternative methods of drainage such as SUD Systems should be considered.
- On site separate systems of drainage must be provided by the developer.
- Surface water connections to the public foul system will not be permitted.

Water Supply

- The existing system will be adequate to serve the proposed site.

- Buildings with more than two storeys may require on-site pumped storage.

Officer Assessment:

Context

The Bath Transportation Package (BTP) is a £54 million scheme designed to tackle congestion in Bath and the surrounding area by improving public transport and enhancing pedestrian access. Part of the BTP includes creating a Bus Rapid Transit (BRT) route, including a 1.4km section of "off-street" dedicated bus route. Referred to as the "segregated route", this part of the BRT utilises the dismantled railway line running from Brassmill Lane in the west to Windsor Bridge Road in the east. Land to be allocated for the BRT was safeguarded in the Bath & North East Somerset Local Plan, 2007 under policy T.11.

Planning permission for the segregated route was granted on 9th November 2009 following several discussions at the Development Control Committee and is subject to conditions. As the BRT covers both Council owned land and land in private ownership, there is a need to compulsorily purchase several parcels of land in order to secure the designated route.

The Relevant Date

The Compulsory Purchase Order relating to the area of land, the subject of this application, was made on the 16th September 2009; the notice of making of this order was 24th September 2009; in addition a supplementary CPO made on 27th May 2010. For the purpose of this application the date of the making of the original CPO, 24th September 2009 is the date from which any appropriate alternative development can be considered. For the purpose of the Section 17 application, this is known as the "relevant date".

Section 17 Application

The applicant has applied for a Certificate of Appropriate Alternative Development (CAAD) under Section 17 of the Land Compensation Act 1961 stating that, were the land not to be compulsorily acquired, planning permission would have been granted. The applicant has submitted supporting material as well as an indicative proposal stating that the alternative appropriate use could be residential, no other alternative developments are put forward. This application was served on the 9th August 2010.

The reason for this application is to ascertain the potential value of the land through the proposed option of residential development were Bath & North East Somerset Council to have had no interest in the land. Whilst limited weight to specific development plan policies may be given (in accordance with the requirements of Section 17 of the Act) consideration is had towards the broader policies and principles that are deemed reasonably foreseeable, i.e. those common-sense principles that are likely to remain irrespective of the specific development plan.

Appendix P of Circular 06/2004 (Compulsory Purchase), sets out the relevant guidance for determining whether or not a certificate would be granted, stating (at paragraph 8) "*it is important as far as possible that the certificate system should be operated on broad and common-sense lines; it should be borne in*

mind that a certificate is not a planning permission but a statement to be used in ascertaining the fair market value of land".

The Circular continues: *"the Secretary of State would expect the local planning authority to exercise its planning judgement, on the basis of the absence of the scheme, taking into account those factors which would normally apply to consideration of planning applications eg. the character of the development in the surrounding area, any general policy of the development plan, and national planning policy along with other relevant considerations where the site raises more complex issues which it would be unreasonable to disregard".*

Whilst the guidance makes it clear that applicants seeking a S.17 certificate do not need to provide the same level of detail or information as necessary for a planning application, the onus is on the applicant to demonstrate why they hold the view that the alternative use or uses are acceptable. In relation to this application, an indicative scheme has been put forward, including details of site layout, building design and density, supported by a multi-disciplinary appraisal of the site which has considered all relevant factors that would be required to justify a development proposal. On the basis of this information, the applicant has attempted to demonstrate that high density residential development could be achieved on the site. Whilst this report, in line with the requirements of the Act, does not assess the proposals on the basis of the specific information put forward, it does treat this information as a means to assess the suitability of the site for residential development and, where necessary, to guide what the appropriate or acceptable level of development could be for the site.

The grounds for holding the opinion that the site would have been considered for residential development, as expressed by the applicant, are summarised as follows:

1. There is no development plan protection for the site in its current lawful use (Sui Generis).
2. The Local Plan seeks a managed reduction in industrial floorspace.
3. The AMR 2008/9 has confirmed that the Council is currently demonstrating a shortfall in meeting its housing requirement supply.
4. PPS3 confirms that where LPAs cannot demonstrate an up to date supply of deliverable land that applications for housing should be considered favourably.
5. Since at least 2000, the Council has supported the principle of residential use on the site through pre-application consultations and discussions.

Based on the presumption that the site could be appropriately developed for residential use, the applicant has, in consideration of broad local and national policies, suggested that a density of development at 118dph would be both appropriate and realistic. The indicative scheme and supporting information has helped form this view.

It is noted in the guidance that it is entirely acceptable for land owners affected by a CPO to include within a S.17 application boundary, any land which is outside the extent of the Order, provided such land is adjacent to the land to be acquired and also in the control of the applicant. Whilst the CPO only relates to the lower portion of the site,

The State of the Site and Surrounding land on the Relevant Date

The application site is currently occupied by Hartwells of Bath garage and Hanson Aggregates concrete batching plant, the site is situated in an old quarry and as such is formed of two parts. The lower portion of the site contains the workshop associated with vehicle servicing, repairs and MOT testing and also provides overspill parking associated with the garage; the west portion of the lower area contains the aforementioned concrete plant. The upper portion of the site, fronting Newbridge Road – outside the area to which the Order relates - is occupied by the Hartwell Citroen showroom, together, both parts of the site are integral to the commercial operations of the garage as a whole.

The whole site measures an area of 1.68ha, comprised of the aforementioned upper section at c.0.64ha, the lower section at c.0.74ha, and a c.0.3ha area of land to the east of Osborne Road, accessed under a single carriageway bridge. The site has a 150m frontage onto Newbridge Road, at the brow of a low rising slope and on the bend in the road; as such it is in a prominent position both on the approach to and exit from Bath. The site sits at an architectural transition point in this suburb of the city, to the east is a long uniform two storey Victorian terrace, set back from the highway edge behind small front gardens at a ridge height of 7.6m; to the west are c.1930's-50's semi-detached properties set on larger plots of land and benefiting from off street parking, these properties vary between 7.8m and 8m high. To the immediate north of the site, set c.2.5m above the road level are a mix of two storey properties in the form of a 7.8m high Victorian terrace, three early 20th Century detached dwellings and two 1930's arts and crafts style bungalows. The site itself forms part of a historic quarry and as a result of this former activity, approximately 50m back from the road, there is a sudden drop in ground level by about 7m; the result of this is that when viewed from the hills to the south, the garage becomes a very prominent feature.

Immediately to the south of lower part of the application site, incorporating the BRT route, is the Maltings Industrial Estate, a protected core employment area featuring 15x 8m high warehouses. To the east of the Maltings is a mix of 1930's small terraces and the Brassmill Lane Industrial Estate which fronts the River Avon. Immediately to the west of the Maltings are the back to back Victorian terraces of Osborne Road and Avondale Road running perpendicular to the slope, beyond these streets, parallel to the river is Locksbrook Road, another two storey Victorian terrace. In-filled between Locksbrook Road, Avondale Road and the BRT route are Avondale Court and Kaynton Mead, two late 20th Century infill developments. All of these dwellings have a ridge height between 7.6m and 7.8m.

The application site therefore coupled with the Maltings forms a strong break between the largely Victorian former workers terraces and the inter-war and post-war developments to the west, on the fringe of Bath city. The entire area is within the Bath World Heritage Site, and Osborne Road forms the western boundary of the Bath Conservation Area.

Looking at the site in its wider context, it is positioned within an area where the slope descends gently from Weston Village to the River Avon. Bath as a whole sits in a bowl surrounded by hills, with the centre situated on the flattest area in the widest part of this bowl; the application site sits in an area where the land is "squeezed" between the slopes with Newbridge to the north of the river and Twerton to the south. Looking at the site and its suburban surroundings in the context of this sloped topography, there is a

strong character of “terracing” on an east/west axis, the base of the valley, fronting the river, housing the taller industrial buildings which have a greater mass, whilst there is a generally consistent height in buildings (c.7.5m to 8m) ascending the slope. The result of this built form is that the western suburbs of Bath, to the north of the river remains relatively homogenous, interspersed with trees helping to blend the natural and built environments and connect the City to the countryside beyond. This strong urban/rural relationship, as well as the wide ranging and long views into and out of the site is one of the key universal values noted in the inscription of Bath as a World Heritage Site.

Noted within this predominantly east/west grain of development, which follows the contours of the land, are several north/south terraced building lines, on inspection of all these terraces, the properties are graduated up the slope, remaining a uniform height of between 7.5m and 8m but stepping up every two or three houses, the result of this is that there is a gentle flow upslope, meaning that when viewed from the prominent vantage points on the southern slopes of Bath, there are no dominating built features.

In terms of the surrounding densities of the area, these play an important part in understanding the site context, and therefore cannot be ignored in considering the development potential of this site. This part of Newbridge varies greatly both as a result of when the buildings were erected, and also in response to the topographic context. Studies into this area which were commissioned to help formulate the draft SHLAA assessment suggest that this suburban area averages between 30-70dph. From assessing the area itself, this figure is corroborated, having found that the 1930's-50's developments average 30-45dph, the Victorian terraces to the north average 45-50dph, those to the east average 50-60dph and the modern infill developments to the east average 40-45dph. The two principle anomalies to the general grain of development here are the terrace immediately to the east of the site fronting Newbridge Road, these represent 28dph and are unique in so much as they have incredibly long rear gardens; and the modern development at Horstmann Close, to the north of Newbridge Road which represent 75dph, however takes the form of “town houses” divided into a mix of flats and houses.

To summarise, the application site sits at a unique junction between a change in architectural styles in a visibly prominent location as a result of the natural topography. The sales element of the garage can be seen as an extension of the industrial units which dominate the valley bottom on the western fringe of Bath, intruding into a suburban residential area. Any application for this plot therefore faces the difficult challenge of blending into, and positively responding to the context of the surrounding area whilst trying to maximise its potential against such a sudden change in land levels. Existing surrounding densities set the backdrop to the site and are therefore important in helping to determine a suitable use for this site.

Principle of Development

Based on the context of the site, it is located in a suburban setting on one of the main arterial routes in Bath, well served by public transport and within walking distance of both Weston village and the Chelsea Road shops; the site is therefore considered to be sustainable insofar as offering an opportunity for redevelopment.

Whilst formal densities for developments were abandoned by the recent changes to PPS.3, the Bath and North East Somerset Local Plan remains in force until 2011 and as such is still of material consideration. Housing policies within the development plan encourage the need to consider brownfield sites and

identify targets in housing shortfall, residential use of this site would help to meet this, though whilst the development plan discusses densities of 50dph as being suitable on sites such as this, this can be taken as guidance only. Realistically, looking at the idea of “reasonably foreseeable” policies and principles, it is accepted that there is always going to be a need for residential development in response to a growing population, and in relation to the guidance within both PPS.1 and PPS.3, the most effective and efficient use of land is likely to underpin any future large scale development site.

With the above in mind, in relation to the underlying question as to whether, if the Council had no interest in the land, a residential use would be an appropriate alternative development, in respect of this site, based on its size, location, connectivity and access to services and facilities it is considered that residential reuse of the site could have been considered. It is accepted that the site could accommodate a reasonably high density of development however, the question as to just what is an appropriate density underpins the determination for issuing a positive certificate in respect of a residential use, in terms of the figures put forward by the applicant as to what they consider to be acceptable, the Council rejects the idea that a density of 118dph would ever be appropriate.

Underlying Issues

Accepting therefore that a positive certificate should be issued in respect of residential development, in accordance with the guidance for S.17 applications, conditions can be applied for the purpose of establishing certain baseline principles; in respect of this case, a condition specifying the maximum acceptable density is considered necessary.

The applicant, in trying to demonstrate the maximum potential for the land, through some consideration of the site topography has put forward a scheme which features a row of 3 storey town houses fronting the main road, with 4 blocks of flats to the rear on a north/south axis. The area of land to the east of Osborne Road, accessed under the bridge has been left blank and is shown on the indicative proposals as being “Landscaped public open space”. It must be stressed that in determining this certificate, the content of the proposal put forward is disregarded; however the concept has been used as evidence to refute the density of 118dph and help establish what would be an appropriate level of provision. Furthermore, in discussion and negotiation with the applicant in trying to find a resolution as to an acceptable density, they have also confirmed that 118dph would be too high, and have suggested that 95dph would be more realistic. This revised suggestion will be discussed.

Being realistic with this site, it does form a large and visible position from many key vantage points within the City. Vistas and long range views as stated are one of the fundamental justifications for Bath's inscription as a World Heritage Site, this factor therefore becomes critical as to how the site could be developed, and for the certificate process, plays an integral part in forming the decision as to what would be an appropriate density; ultimately, the Council would never accept any proposal that is likely to harm the universal values of Bath identified in the World Heritage Site inscription.

Having considered this site in its context, and in consultation with the Council's urban designer on the basis of the supporting information presented, there are several criticisms that help form the view that a density below 95dph would in fact be more suitable. Fundamentally the principle of large scale blocks of

flats in a location such as this would be very unlikely to ever receive support, in striving to reduce this type of built form would therefore inevitably push the appropriate density level down.

Assuming therefore that there is a rejection of the idea of such tall buildings on this site, this gives good grounds to the argument in favour of a much lower density as being acceptable. With reference to a contextual analysis of the surrounding area, including an assessment of existing densities, it is accepted that the surrounding densities vary greatly, and by modern practices, in the pursuance of an effective use of the land, this site does offer scope for something denser than its surroundings, nevertheless, the existing densities form the basis for the character of the area, and this cannot be ignored. Having looked carefully at the way the surrounding area works, the principle characteristic is one of terracing whereby the residential developments respond positively to the topography. Dwellings on an east west axis, be they terrace or otherwise, are set at proportionate levels so as to create a soft visual blend with the landscape, the majority are between 7.5 and 8m high, with the average drop in height down the slope being in the region of 2m from row to row, the result when viewed from afar is that ridge levels of properties at lower levels predominately sit below those on the higher levels. In respect of the terraces running up the slope (south to north axis), these again are between 7.5 and 8m, graduated every second or third house up the slope so as to avoid any stark rise in levels or building domination. Even the warehouses at the Maltings are only 8.1m high meaning that they too - whilst intrinsically large - fit with the character of this area of Bath. The problem is that the design approach put forward, striving for an uncharacteristically high density through inappropriate blocks of flats, as stated before in this report, is one that would never be supported by the Council.

In respect of the proposed townhouses fronting Newbridge Road, this principle is accepted by the Council as this form of development would flow from the existing grain of development, nevertheless, the proposals indicate three storey dwellings at 11m with a ridge height almost the same height as the properties on the opposite side of the road which sit on a higher level. It has been agreed with the applicant that such a style would have to be revised if it were to be considered acceptable, and in reality, the Council would only accept dwellings at a maximum of 8m in this location so as to respect the topographic change in level. A condition to this effect will accompany the certificate.

In relation to a revised height of any property fronting Newbridge Road, this again has a bearing on what would be considered appropriate at the lower levels of the site. Taking the point made by the applicant that the drop in level across the site would lend itself to a 4 storey building abutting the quarry cliff, this argument is considered reasonable especially if coupled with a further drop to three storeys as the site levels out towards the back of the Maltings estate. It is noted however that with the drop of 7m, any building on this lower site should be no higher than 14m so as to not harm the setting of the buildings fronting the road. To contextualise this (and again coming back to the notion of considering a scheme that would realistically stand a chance of gaining support – and thus forming an “appropriate” alternative development), a reduction in the height of the houses fronting Newbridge Road to no higher than 8m (i.e. 2 storey not 3), would create a positive relationship to the existing dwellings set on the slope on the opposite side of the road, retaining the aforementioned terracing effect to fit with the wider context. By doing this, any building, be it block or otherwise on the lower slope could only be 4 storeys high maximum. Using the section drawing provided with the application to help illustrate this point in reality, this would involve losing floors 2 and 3 of the proposed blocks. Cross section B-B in reality would

therefore show the town houses with a ridge height somewhere not far above the eaves level of the houses opposite. To continue this positive relationship moving south from the ground level of the back of the town houses, it would be the expectation that these would look out onto buildings that are slightly lower at roof level (assuming a flat roof is a suitable solution). Therefore, if it is maintained that the blocks of flats approach for the moment is acceptable, what is left is the basement, lower ground, ground, and 1st floors only; a basement car park and 3 domestic levels maximum, dropping to 2 domestic levels to the south of the blocks. Any higher than this and the blocks would dominate the town houses and break the aforementioned terracing, any lower and they would be dwarfed under the quarry cliff. This then creates the situation that by dropping the level of the rear (north) part of the blocks, in turn needs to drop the front (south) part of the block by a level, again to maintain a suitable balance and flow, however maintaining the height so that the blocks sit in line with or just above the warehouses at the Maltings. The conclusion of this is that by maintaining the view that blocks are appropriate, they would only potentially be considered in such a manner that would fit with the site and its wider setting, meaning in reality a substantial reduction in height would be required, break from this principle and it results in a form of development that would be incongruous to the context of the area, detrimental to the setting of the World Heritage Site and fails to preserve or enhance the adjacent character and appearance of the Bath Conservation Area.

Calculating this reduction against the submitted drawings, in looking at the reduction in unit numbers that the above amendment would result in, the omission of floors 2 and 3 across all blocks, and a reduction in 50% of floor space on level 1 on each block to accommodate the required step down, reduces block A by a total of 9 units, block B by 20 units, block C by 29 units and block D by 25 units, a total reduction of 83 units across the site based on the indicative floor plans.

Compensating for this reduction, it is the Council's opinion that the plot of land beyond the bridge could be more effectively used for development rather than as open space as is indicated by the applicant. The applicant has accepted this opinion suggesting that 16 units could be achieved here. Whilst this would need to be tested more rigorously, realistically, taking the design form of the immediately adjacent modern development on Avondale Court, to which this part of the application site best relates, the Council would seek something of a similar style and layout, though with a reduced number of buildings as a result of the narrowing site constraints to the east and steep slope to the north, arguably therefore 10 buildings could fit comfortably here with a mix of flats and houses. With this in mind, it is therefore accepted that 16 units in this location may be a feasible and would help to offset the loss of units.

Based on all of the above, which is a very crude calculation based on simple amendments to the site proposal submitted for guidance only, if the site were to be predominantly developed in four blocks of flats, with 16 additional units to the east and 20 houses fronting the main road, the reduction of 83 units over what was submitted with the application, leaves 96 units within the four blocks, totalling 132 units across the site, in other words a density of 78.5dph.

The calculations provided are based on the assumption that blocks are the preferred option, a style of development which remains questionable. Nevertheless, blocks is possibly the only way to maximise the land potential, and ultimately, the certificate process is aimed at establishing the fair market value of the site based on site potential and which is directly linked to a use being both alternative and appropriate.

What this assessment cannot factor in to this equation are the deeper rooted issues such as the proximity of Block A to the bridge and the overwhelming dominance it would have over Osborne Road and the Conservation Area, the requirement for retention of trees on site, the resultant decrease in parking requirement as a result of a lower density and thus how much unit availability space this could create, and the fact that single aspect block units on an east/west orientation is poor design and would not be supported through established principles and guidance (for example "By Design"). All of these factors would result in the need for a full reconfiguration and reappraisal of the lower part of the site and may well further drive down the realistic achievable density; however there is not the scope within a S.17 application to explore this.

It is with all these figures and factors in mind that the Council is of the firm opinion that a maximum density for development of this site should be conditioned at 80dph in the interest of controlling a type and level of development that would not harm the setting of the World Heritage Site or sit incongruously with the character of the wider area. It is also for the reasons expressed that the Council would reject the applicant's suggestion that a reduced density of 95dph over the originally suggested 118dph would be acceptable.

Conclusion

This application has been submitted with a view to establishing whether the suggested alternative use of the site for residential would be appropriate, a use that is unchallenged by the Council, nevertheless, it would be imprudent simply to say that "residential is acceptable" without fully exploring the reality of achieving this; ultimately it would be the density of the site that would drive the determination of the fair market value, which is for a land tribunal to establish, the purpose of the assessments set out herein are to help guide such a valuation.

This site offers the scope for redevelopment, were it not the subject of acquisition, however there are many complexities within and surrounding the site that cannot be overlooked and are fundamental to establishing an appropriate level, principally how to accommodate the highest potential, making the most efficient use of land, without harming the setting of Bath as a designated World Heritage Site or the immediate surrounding area.

For the reasons set out in this report it is therefore recommended that a positive certificate is issued in respect of residential reuse subject to the conditions that any development fronting Newbridge Road can be no higher than 8m and that the maximum density across the site should be no more than 80dph.

Other Matters

It is worth noting that with any scheme of this size, there would be a requirement to request developer contributions in respect of highway improvements, education, open space provision and community facilities. The Council has an adopted Planning Obligations SPD (July 2009) which sets certain triggers based on numbers of units and numbers of residents and the levels of contributions required. Ultimately, if a development of this size were given permission, it would be subject to considerable contributions. Whilst it is impossible to put a figure on this, as it would be dependant on specific figures related to a viable scheme, the Council considers this matter to be one of relevance in determining any value

assigned to the site.

Highway Officer Comments

It is worth briefly explaining the relevance of the highway officer's comments in respect of this application. Whilst the comments note that the underlying scheme of acquisition cannot be considered in the determination of this application, the valid point is raised that the Council does not have an alternative scheme to mitigate traffic flow in and out of the city – which the BRT would provide. A direct result of any development on this site would both increase traffic generation and place an even greater pressure on the transport network, as such, if any form of development were to be considered, suitable mitigation would be required. Additionally, whilst the applicant has assessed the current transport links and bus frequency to and from this area, there is no consideration given to the increase a scheme of the proposed size would have on the existing systems. The implication of discarding the BRT and allowing for a large scale development on this site would be that any proposal would be subject to large contributions towards improving the highway network which ultimately could prejudice the viability of such a large scale proposal; there would therefore be an expectation for any scheme to put forward alternative mitigating measures to compensate for the increase demand on the network.

The Highway officer has stated that the current (indicative) proposal fails to fully take into account the pressures that a high density scheme would have on parking, public transport and the highway and transport network, however concludes that a lower density housing scheme or mixed use development would be more acceptable as it would have less of an impact on the overall highway infrastructure.

It is with these observations in mind that the comments provided by the Highway officer reaffirm the Council's opinion that the proposed density originally put forward is excessive and would never be accepted on the grounds of the pressure it would have, ultimately the Conclusion stands that a lower density would be more suitable and appropriate for this site.

Other Options

The Council is of the opinion that if this site were not the subject of acquisition, a mixed use scheme would also have been considered an appropriate alternative development option. In respect of this, the expectation would be that residential units would be acceptable on the upper area of the site fronting the highway and also in the area of land to the east of the bridge, whilst commercial, light industrial or office could be accommodate on the lower slope, perhaps as an extension to the Maltings Industrial Estate however subject to the condition that commercial units in this location would be no higher than 10m so as not to dominate the existing warehouse units to the south.

Recommendation:

A POSITIVE CERTIFICATE IS ISSUED

Notes:

Planning permission would have been granted for residential development or for a mixed use scheme including commercial, light industrial or office development and for any development for which the land is to be acquired, but would not have been granted for any other development

Independently of the development plan, and disregarding the scheme of the acquiring authority, in consideration of the proposed option put forward by the applicants, and of any other option for alternative development, this land would be suitable for an appropriate alternative development.

Conditions:

1. The maximum density of development on this site shall be no greater than 80 dwellings per hectare.

Reason: in the interest of ensuring the development does not harm the character of the surrounding area or the setting of the Bath World Heritage Site.

2. The maximum height of dwellings fronting Newbridge Road shall be no higher than 8m above road level.

Reason: in the interest of preserving the relationship of the development to the surrounding properties.

3. The maximum height of buildings at the base of the quarry shall be no more than 14m from ground level across storeys.

Reason: to ensure development on the lower level does not harm the setting or amenity of the properties fronting the road, the character and appearance of the adjacent Conservation Area or the setting of the Bath World Heritage Site.