

## **NOTIFICATION OF DECISION**

Application Type: **Outline Application**

Address to which the proposal relates:

Application No: **20/00491/OUT**

**Field On Corner With Ferndale Road Deadmill Lane Lower Swainswick Bath**

Description of Proposal:

**Erection of 18 dwellings.**

Application submitted by: **Mr Millen**

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The above development is **REFUSED** in accordance with the application, plans and drawings submitted by you for the reason(s) set out below:

1 The development does not meet the necessary criterion for this proposal to be considered as a rural exception site, or any other exceptions to inappropriate development in the Green Belt as listed within paragraph 145 of the National Planning Policy Framework. The development is therefore considered to be inappropriate development in the Green Belt and there are not considered to be any very special circumstances to outweigh this harm. The development is therefore contrary to the Development Plan including Bath and North East Somerset Core Strategy Policy CP9 and Placemaking Plan Policy RA4 and the advice within the National Planning Policy Framework.

2 It has not been demonstrated that the proposed development could be delivered whilst ensuring that the local landscape character, features, distinctiveness and views are not harmed. Based on the information provided, due to the erosion of the important open green space and the proposed layout, the development is considered to result in unacceptable harm to the local landscape, the Area of Outstanding Beauty and the setting of the World Heritage Site. Any harm to the Outstanding Universal Values of the World Heritage Site is considered to be less than substantial harm but this harm is not outweighed by public benefits. The proposal is therefore contrary to the Development Plan, in particular policies B4 and CP6 of the Bath and North East Somerset Core Strategy and policies NE2, NE2A and HE1 of the Bath and North East Somerset Placemaking Plan.

3 Due to the proposed siting and layout, the development is considered to have a detrimental impact upon the adjacent Conservation Area and the non designated heritage asset 'Dead Mill'. This harm, which is considered to be less than substantial, has not been justified and there are no public benefits that are considered to outweigh this harm. The development is therefore considered to be contrary to the Development Plan, in particular policy CP6 of the Bath and North East Somerset Core Strategy and policies D1, D2, D3, D4, and HE1 of the Bath and North East Somerset Placemaking Plan.

4 Insufficient information has been submitted to allow for any arboricultural implications of the proposed layout to be fully understood. The proposal does not therefore have due regards to trees, particularly those of wildlife, landscape and amenity value. The development therefore fails to comply with the requirements of Bath and North East Somerset Placemaking Plan policy NE6.

5 Insufficient information has been submitted to understand any ecological implications, including the impact upon protected species. At the stage, it can not be confirmed that the proposals are ecologically acceptable. The development is therefore considered to be contrary to Bath and North East Somerset Core Strategy Policies CP6 and CP7 and Placemaking Plan policies NE3, NE5 and D5.

6 The scheme would not benefit from suitable vehicular access, including appropriate junction visibility and safe and convenient access to and within the site for pedestrians, cyclists and those with mobility impairments. It is considered that the development would prejudice highway safety. The development is therefore considered to be contrary to the Development Plan, in particular policies ST1, ST7, D1, D3, of the Bath and North East Somerset Placemaking Plan.

7 Insufficient information has been submitted in relation to surface water drainage. It needs to be demonstrated that the development will not increase flood risk downstream and that any exceedance is adequately managed on site. The development is therefore considered to be contrary to policy CP5 of the Core Strategy.

8 The application has failed to secure the required planning obligations, including an agreed policy compliant affordable housing scheme, targeted training and recruitment obligations, and financial contributions to fire hydrants. The proposal is therefore contrary to policies CP9 and CP13 of the Bath and North East Somerset Core Strategy and the Planning Obligations Supplementary Planning Document 2015.

#### **FOOTNOTE:**

20 Feb 2020 DMLB002 3 SITE LAYOUT PLAN  
20 Feb 2020 DMLB005 HIGHWAY PLAN  
20 Feb 2020 DMLB006 JUNCTION IMPROVEMENT PLAN  
20 Feb 2020 DMLB007 PROPOSED DEVELOPMENT JUNCTION PLAN  
20 Feb 2020 DMLB008 PROPOSED ESTATE ROAD SECTIONS  
11 Feb 2020 DMLB001 BLOCK PLAN  
06 Feb 2020 SUDS PLAN  
06 Feb 2020 LOCATION PLAN

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. The Local Planning Authority acknowledges the approach outlined in paragraphs 39-43 in favour of front loading and operates a pre-application advice service. Notwithstanding active encouragement for pre-application dialogue the applicant did not seek to enter into correspondence with the Local Planning Authority. The proposal was considered unacceptable for the reasons given and the applicant was advised that the application was to be recommended for refusal. Despite this the applicant chose not to withdraw the application, and having regard to the need to avoid unnecessary delay the Local Planning Authority moved forward and issued its decision.

#### **Community Infrastructure Levy**

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. Whilst the above application has been refused by the Local Planning Authority please note that CIL applies to all relevant planning permissions granted on or after this date. Thus any successful appeal against this

decision may become subject to CIL. Full details are available on the Council's website [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil)

Date of Decision: 9th April 2020

**Simon de Beer**

**Head of Planning**

## **APPEALS TO THE SECRETARY OF STATE**

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice. If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within:  
28 days of the date of service of the enforcement notice, or within 6 months of the date of this notice, whichever period expires earlier.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>.  
If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.
- If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planninginspectorate.gov.uk) at least 10 days before submitting the appeal. [Further details are on GOV.UK](#)
- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

## **PURCHASE NOTICES**

- If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part V1 of the Town and Country Planning Act 1990.

## **COMPENSATION**

- In certain circumstances compensation may be claimed from the local planning authority if permission or consent is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.
- These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Buildings and Conservation Areas) Act 1990.