

# Response to Regulation 14 Consultation on NORTON ST PHILIP NEIGHBOURHOOD PLAN

03 October 2024

This response, to the Regulation 14 Consultation on the Norton St Philip Neighbourhood Plan, has been produced by Jo Witherden BSc(Hons) DipTP DipUD MRTPI of Dorset Planning Consultant Limited, on behalf of Simon Knox and Sasha Bhavan, the owners of The Garden House, Bell Hill, BA2 7LT.

Simon Knox and Sasha Bhavan have owned The Garden House since 2008. It was separated from The Malthouse at that time, having previously been part of a derelict lot (including The Malthouse, Bend Cottage and Rundells Barn) which had been compulsory purchased by Mendip District Council. Independent access and parking spaces for The Garden House has been provided since 2018, and the property registered as a separate residential property for postage purposes since 2020. The owners have used the house as their residence for over 10 years now, and consider Norton St Philip to be their home.

## KEY CONCERNS

The owners of The Garden House do not agree with Policy 7. They are very concerned that Policy 7 and the associated designation of the entire garden area of their property (as shown in NSP009 Land to rear of The Malthouse) will infringe on their ability to sensitively extend the cottage to better meet their needs, and utilize the garden area (for example through the erection of a modest outbuilding for storage of garden furniture etc.).

Whilst the principle of identifying important green spaces and ensuring that they are given an appropriate degree of protection in planning decisions is supported, the currently policy wording and application of this policy to the grounds of The Garden House is not supported by evidence nor reasonable, given the current policies that already provide a suitable degree of protection to the Conservation Area and setting of various heritage assets and requirement to support sustainable development.

There are five grounds for this objection, which are detailed further below.

## PROPOSED AMENDMENTS

In order to overcome this objection, it is suggested that NSP009 is removed from the list of proposed Important Green Spaces covered by Policy 7.

Should the designation of NSP009 be maintained, then the area covered by the policy should be reassessed and reduced based on a more thorough assessment of the sites' contribution to the setting of the various heritage assets, taking into account the need for a consistent approach with the other residential gardens backing onto Church Mead that were not deemed suitable for such protection.

It is also recommended that the wording of Policy 7 is amended to have regard to national planning policy. Suggested revised wording is included below:

**The Green Spaces listed below and shown in Figure 10, all make an important contribution to the Green Infrastructure and to the character of the historic village of Norton St. Philip. Development proposals within an Important Green Space should respect their reason for designation, as described in Appendix 2, and have regard to the relevant national planning policy and guidance and policies in the adopted Mendip Local Plan. Development that would positively enhance these spaces, such as to provide improved access and recreation, retain and enhance biodiversity, or enhance the character of the Conservation Area and its setting, will be supported.**

## DETAILED OBJECTION

### Background

The Norton St Philip Neighbourhood Plan (NSP NP), as originally examined in 2019, has been held up by a series of Judicial Reviews impacts on both the Neighbourhood Plan and the Local Plan for the area (the Mendip Local Plan Part 2), relating to the proposals for Local Green Spaces and site allocations.

In order to bring the NSP NP forward, the Parish Council considered what elements needed to be refreshed, and then proceeded with a further pre-submission (Regulation 14) consultation, the first of which took place in May/June 2023. That version of the NSP NP proposed 10 Local Green Spaces (LGS), including Church Mead, but did not identify the land associated with The Garden House, to the rear of the Malthouse, for designation.

Although the proposed LGSs were overwhelmingly supported by parish residents, there continued to be extremely strong objections from landowners. As a result, the Parish Council resolved to delete all LGSs from the draft NSP NP, and in their place adopt a different approach, which was to “identify important greenspace and describe the contribution it makes to the villages Green Infrastructure, character and appearance whilst requiring development proposals to take account of the designation and justify any conflict with the reason for the designation.”

This resulted in the new Policy 7 and associated designation of 16 Important Green Spaces, including NSP009, Land to rear of The Malthouse.

NSP009 is referenced as having been identified as site 3015 (on the basis of Development Policy DP1 and as a Private Garden) in the former Mendip District Council’s Greenspace Supplementary Planning Document (SPD), which was adopted in February 2023<sup>1</sup>. The purpose of the SPD is to provide guidance on the interpretation of policies in Local Plans Part 1 and 2 and ensure that existing greenspaces are protected and new provision is made to meet the needs of a growing population (as stated in paragraph 12.3 of that document). With relation to greenspaces where Policy DP1 would be relevant, the SPD states in paragraph 4.8 that:

*Policy DP1 indicates that any adverse effect on these spaces should balance the degree of impact against the wider benefits of any development proposal. Any balancing exercise should take into account the potential to retain the greenspace within any scheme and to avoid, mitigate and minimise any adverse impacts.*

The website also refers to an audit, which is not part of the SPD but remains available on the website<sup>2</sup>. It is in this document that the garden area (site 3015) is identified, and the audit page makes clear it “does not designate new areas to be covered by Local Plan policies as this can only take place as part of the preparation of a Local Plan”. The site area appears to have been amended following consultation on the SPD, to remove the area with planning permission (reference 2021/0248/FUL, which was land associated with the former Church Of Our Lady on Bell Hill), but retained the whole of The Garden House site (including the dwelling). The schedule identifies this site as a Stage 3 typology greenspace, which then relates to the description as Type 3.1 Local Greenspace (Open and Greenspaces which contribute to local green infrastructure – can be public or private spaces).

The only indication of the reason for this site to be included in the audit can be gleaned from the consultation report’s response<sup>3</sup> where the removal of the part of the proposed green space where there is planning permission is proposed. This states:

<sup>1</sup> <https://www.somerset.gov.uk/planning-buildings-and-land/supplementary-planning-documents/mendip-greenspace-spd/>

<sup>2</sup> <https://www.somerset.gov.uk/planning-buildings-and-land/greenspace-mapping-and-audit/>

<sup>3</sup> <https://www.somerset.gov.uk/planning-buildings-and-land/supplementary-planning-documents/mendip-greenspace-spd/>

*“The space adjacent to Church Mead should [sic] remain designated within typology 3.1 as it contributes to green infrastructure and is a feature in views from [sic] Church Mead, particularly from the southern edge”*

### Policy 7

The wording of Policy 7: Important Green Spaces, in which NSP009 Land to rear of The Malthouse is identified, includes the following policy ‘tests’:

*“The Green Spaces listed below, as described in Appendix 2 and shown in Figure 10, all make an important contribution to the Green Infrastructure and to the character of the historic village of Norton St. Philip and will be safeguarded and protected through this Plan.*

*Proposals for new development should have regard to and, where possible, seek to enhance the identified Important Green Spaces in the village, and take account of the relevant policies in this Plan and the adopted Mendip Local Plan, the guidance in Supplementary Planning Documents and Natural England’s guidance on Principles of Green Infrastructure.”*

Appendix 2 of the NSP NP includes a map of the site (which differs slightly from that in NORT3015 in that it does exclude the existing footprint of The Garden House). The following description is included:

*“It was originally the main part of the garden of the Malthouse. It plays an important role in [the (sic)] setting of the village conservation area. It shares a boundary with Church Mead, defined by a stone wall. The garden forms part of the iconic setting of Church Mead and the Grade 1 listed George Inn.”*

From this description, and also the audit by the former Mendip District Council, the main reason for the site’s designation appears to be its relation to a number of heritage assets (ie as part of the Conservation Area, and as part of the setting of George Inn and Church Mead (which is within the Conservation Area and described as an important green space)).

The NSP NP recognizes (paragraph 18.22) that the green spaces within the Conservation Area are afforded some level of protection through the Local Plan.

### Basis of objection

There are five grounds on which this objection is based:

- 1) The designation of NSP009 is unnecessary duplication of policies that would apply to this site in relation to the protection of heritage assets, contrary to NPPF paragraph 16(f).
- 2) The wording does not appear to have regard to the guidance in NPPF paragraph 208, which requires that “where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal”, but takes a much more stringent approach.
- 3) There is no evidence to indicate that the entire garden area contributes to the significance of the heritage assets and needs to be retained, nor that the garden area is of greater importance than the many other areas of private garden land backing onto Church Mead that would similarly contribute to its setting, contrary to NPPF paragraph 31. This lack of consistency in approach appears to place undue reliance on the original District Council audit that has no statutory status, and may undermine public confidence in the planning system<sup>4</sup>.
- 4) The wording of the policy would prevent modest sustainable development within the grounds of Garden Cottage, contrary to NPPF paragraph 16(a) – and it appears to apply a greater degree of protection than under Local Green Space policies (which would allow

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<sup>4</sup> Consistency in decision-making is a well established principle in planning, which has been supported in many decisions of the court. See, for example, Mann L.J.’s judgment in *North Wiltshire District Council v Secretary of State for the Environment and Clover* (1993) 65 P. & C.R. 137 (at p.145)

modest extensions or alterations to existing buildings and limited infilling in villages as these are not deemed inappropriate under Green Belt policy).

- 5) This overly restrictive approach will infringe of the occupant's ability to sensitively extend the cottage to better meet their needs and utilize the garden area, which is suggested to contravene Article 8 of the Human Rights Act which deals with the right to respect for private and family life.

### Discussion

Whilst the policy can highlight the role of the garden in the context of the Conservation Area and setting of Church Mead and the George Inn, as worded the policy appears to give greater protection than National Planning Policy in stating that the entirety of the garden will be safeguarded and protected. National Planning Policy (NPPF Section 15<sup>5</sup>) states that heritage assets should be conserved in a manner appropriate to their significance, but also recognizes that not all elements of a Conservation Area will necessarily contribute to its significance, and in determining planning applications, requires the local planning authorities take account of the desirability of new development making a positive contribution to local character and distinctiveness.

Reviewing the most recent Conservation Area appraisal<sup>6</sup>, dated 2007, the garden is not in itself identified as being of landscape value within the Conservation Area (Map showing Spatial Analysis on page 13). The recreation ground (Church Mead) is described as a large rectangular green space, which is an essential landscape and amenity element, with some stone boundary walls, and with significant views of the skyline of High Street (for which a photograph is included and reproduced here).



Part of the garden area and stone wall boundary to The Garden House can be seen in this view, as can the rear gardens of the properties along the High Street which have not been similarly designated. The fact that part of the garden is visible does not justify that the entire garden area should be so protected.

The following photograph shows the land from the south (a view that is mentioned in the NP NSP), but again there is no reason to consider that some degree of development could not be sensitively located – particularly given that The Garden House is not a prominent feature in the view.

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<sup>5</sup> <https://www.gov.uk/guidance/national-planning-policy-framework/16-conserving-and-enhancing-the-historic-environment>

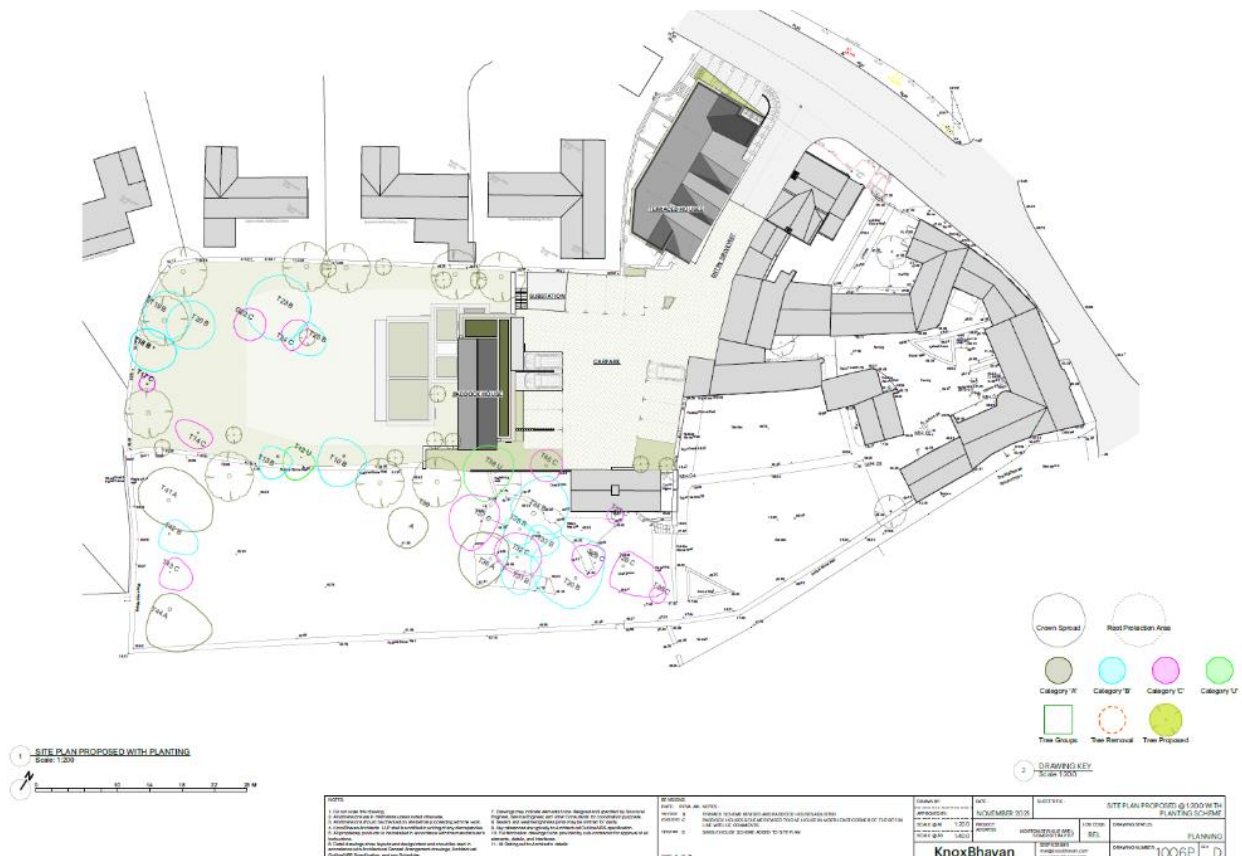
<sup>6</sup> <https://www.somerset.gov.uk/planning-buildings-and-land/heritage-and-landscape/conservation-areas/conservation-areas-maps-and-appraisals/>





It should also be noted that, should the owners decide (for example) to plant a leylandii hedge along their boundary, then this would materially impact on the extent to which the space made a positive contribution to the character of the Conservation Area and setting of Church Mead. Whilst this is not the owners' intent, it is important to recognize that such designations do not place any particular management obligations on the upkeep of the land, and that this is and will remain private garden land.

Similar issues in terms of heritage impacts were considered in relation to the application for the Paddock House, which was granted planning permission in October 2022. The accepted scheme allowed some development within the former paddock area which was deemed to contribute to the character and appearance of the conservation area, and to the setting of a number of listed buildings including the grade I listed St George Inn and the grade II\* listed Church of St Philip and St James. No part of the area that now forms the private garden land for this development is proposed for designation.



In conclusion, the currently policy wording and application of this policy wording to the entire curtilage of The Garden House is not supported by evidence nor reasonable given the current policies that already provide a suitable degree of protection to the Conservation Area and setting of various heritage assets and requirement to support sustainable development.

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