

# Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **29th June 2022**

AGENDA  
ITEM  
NUMBER

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RESPONSIBLE OFFICER: Simon de Beer – Head of Planning

TITLE: **APPLICATIONS FOR PLANNING PERMISSION**

WARDS: ALL

BACKGROUND PAPERS:

## AN OPEN PUBLIC ITEM

### BACKGROUND PAPERS

List of background papers relating to this report of the Head of Planning about applications/proposals for Planning Permission etc. The papers are available for inspection online at <http://planning.bathnes.gov.uk/PublicAccess/>.

- [1] Application forms, letters or other consultation documents, certificates, notices, correspondence and all drawings submitted by and/or on behalf of applicants, Government Departments, agencies or Bath and North East Somerset Council in connection with each application/proposal referred to in this Report.
- [2] Department work sheets relating to each application/proposal as above.
- [3] Responses on the application/proposals as above and any subsequent relevant correspondence from:
  - (i) Sections and officers of the Council, including:
    - Building Control
    - Environmental Services
    - Transport Development
    - Planning Policy, Environment and Projects, Urban Design (Sustainability)
  - (ii) The Environment Agency
  - (iii) Wessex Water
  - (iv) Bristol Water
  - (v) Health and Safety Executive
  - (vi) British Gas
  - (vii) Historic Buildings and Monuments Commission for England (English Heritage)
  - (viii) The Garden History Society
  - (ix) Royal Fine Arts Commission
  - (x) Department of Environment, Food and Rural Affairs
  - (xi) Nature Conservancy Council
  - (xii) Natural England
  - (xiii) National and local amenity societies
  - (xiv) Other interested organisations
  - (xv) Neighbours, residents and other interested persons
  - (xvi) Any other document or correspondence specifically identified with an application/proposal
- [4] The relevant provisions of Acts of Parliament, Statutory Instruments or Government Circulars, or documents produced by the Council or another statutory body such as the Bath and North East Somerset Local Plan (including waste and minerals policies) adopted October 2007

#### The following notes are for information only:-

- [1] "Background Papers" are defined in the Local Government (Access to Information) Act 1985 do not include those disclosing "Exempt" or "Confidential Information" within the meaning of that Act. There may be, therefore, other papers relevant to an application which will be relied on in preparing the report to the Committee or a related report, but which legally are not required to be open to public inspection.

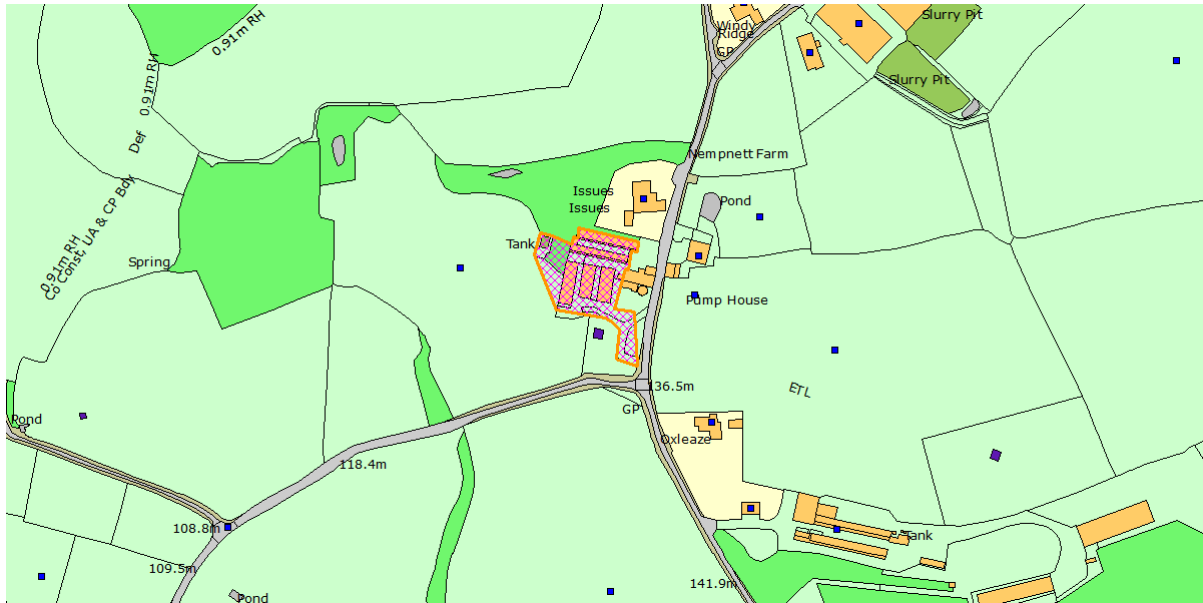
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting the requirements of the above Act, other letters and documents of the above kinds received after the preparation of this report and reported to and taken into account by the Committee will also be available for inspection.
- [4] Copies of documents/plans etc. can be supplied for a reasonable fee if the copyright on the particular item is not thereby infringed or if the copyright is owned by Bath and North East Somerset Council or any other local authority.

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01	21/05190/FUL 1 July 2022	PG & GM Ford Nempnett Farm, Greenhouse Lane, Nempnett Thrubwell, Bristol, Bath And North East Somerset Erection of 2no. subterranean eco glamping pods with associated works following the demolition of 5no. intensive pig rearing buildings.	Chew Valley	Christopher Masters	REFUSE
02	21/02973/OUT 8 August 2022	Waddeton Park Ltd Parcel 3589, Silver Street, Midsomer Norton, Bath And North East Somerset, Outline planning permission for formation of access road, footpath and cycle links, open space, landscaping and associated works (All matters except access reserved).	Midsomer Norton Redfield	Isabel Daone	Delegate to PERMIT
03	21/04881/FUL 15 April 2022	Renewable Connections Developments Ltd. Parcel 6536, Top Lane, Farmborough, Bath, Bath And North East Somerset The construction, installation, operation and subsequent decommissioning of a renewable energy scheme comprising ground mounted photovoltaic solar arrays together with substation compound, cable trench, inverters, transformer station, internal access track, landscaping, biodiversity measures, permissive footpath, security fencing, security measures, access improvements and ancillary infrastructure on the agricultural fields to the south of A368 and west of A39. At the end of decommissioning, the temporary permissive footpath would be removed.	Bathavon South	Isabel Daone	PERMIT

04	21/04890/FUL 5 July 2022	Cradick Land Below Inglescombe Farm, Haycombe Lane, Englishcombe, Bath, Bath And North East Somerset Retrospective application for replacement barn	Bathavon South	Isabel Daone	REFUSE
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06	22/00672/FUL 1 July 2022	Mr Mike Baxter 13 Brookside Close, Paulton, Bristol, Bath And North East Somerset, BS39 7NN Erection of 1no four bed dwelling.	Paulton	Danielle Milsom	PERMIT
07	22/00443/FUL 18 April 2022	Mr and Mrs Walters Pond House , Rosemary Lane, Freshford, Bath, Bath And North East Somerset Partial demolition of ancillary outbuilding and conversion of remaining building into granny annex. Erection of extensions following demolition of the south-west end of the existing dwelling.	Bathavon South	Angus Harris	REFUSE
08	22/00624/FUL 8 April 2022	Andrew Webster 136 The Hollow, Southdown, Bath, Bath And North East Somerset, BA2 1NF Loft conversion with side and rear dormers (Resubmission)	Southdown	Angus Harris	REFUSE

**Item No:** 01  
**Application No:** 21/05190/FUL  
**Site Location:** Nempnett Farm Greenhouse Lane Nempnett Thrubwell Bristol Bath And North East Somerset



**Ward:** Chew Valley      **Parish:** Nempnett Thrubwell      **LB Grade:** N/A  
**Ward Members:** Councillor Vic Pritchard      Councillor Karen Warrington  
**Application Type:** Full Application  
**Proposal:** Erection of 2no. subterranean eco glamping pods with associated works following the demolition of 5no. intensive pig rearing buildings.  
**Constraints:** Bristol Airport Safeguarding, Agric Land Class 3b,4,5, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, LLFA - Flood Risk Management, Policy NE1 Green Infrastructure Network, Policy NE5 Ecological Networks, Policy NE5 Strategic Nature Areas, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,  
**Applicant:** PG & GM Ford  
**Expiry Date:** 1st July 2022  
**Case Officer:** Christopher Masters  
To view the case click on the link [here](#).

## REPORT

### Site Description and Proposal:

The application relates to garden land associated with a detached dwelling located off Nempnett Street which is within the parish of Nempnett Thrubwell, but situated outside of a defined housing development boundary. The site is located within the Green Belt.

The application seeks for the erection of 2no. subterranean eco glamping pods with associated works following the demolition of 5no. intensive pig rearing buildings.

## **Relevant Planning History:**

- o 04/00330/FUL - PERMIT - 5 July 2004 - Formation of all-weather riding arena.
- o 08/03354/FUL - PERMIT - 13 November 2008 - Provision of roof over manure storage area on agricultural holding.
- o 10/01060/FUL - PERMIT - 10 May 2010 - Erection of agricultural above ground slurry store
- o 12/00452/FUL - REFUSE - 19 April 2012 - Installation of photovoltaic solar panels
- o 12/00039/RF - ALLOW - 30 October 2012 - Installation of photovoltaic solar panels
- o 15/04704/ADCOU - APPROVE - 9 December 2015 - Prior approval request for change of use from Agricultural Barn to Dwelling (C3) and associated operational development.
- o 19/03661/FUL - PERMIT - 7 October 2019 - Erection of roof over existing farmyard manure store.
- o 20/01263/ADCOU - APPROVE - 4 June 2020 - Prior approval request for change of use from Agricultural Building to 1no. Dwelling (C3) and for associated operational development.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **Consultation Responses:**

Arboriculture - There is no Arboricultural objection to the scheme subject to appropriate conditions being attached to any permission granted.

Cllr. Pritchard - Should the above application be considered a refusal I would request it be referred to the Development Control

Committee for further consideration on the grounds there is insufficient policy covering subterranean glamping pods to warrant a refusal and the removal of the intensive pig rearing buildings will offer a positive benefit to the green belt.

Officer Note: The comment from Cllr. Pritchard was received after the period within which Councillors may call in applications to Committee. The application is being referred to the Chair on the basis of the comments provided by Nempnett Thrubwell Parish Council.

Drainage and Flooding - No Objection.

Ecology - The submitted information is acceptable. There is no objection on Ecological grounds subject to appropriate conditions being attached to any permission granted.

Highways - HDC officers are satisfied that the proposal provides a suitable level of off-street car parking, along with on-plot turning facilities for vehicles. The proposal will also provide secure bicycle parking, which will encourage sustainable travel methods in accordance with Policy ST1 of the Bath and North East Somerset Placemaking Plan. No Highway Objection is raised subject to appropriate conditions being attached to any permission granted.

Nempnett Thrubwell Parish Council - The application was discussed at a recent meeting of Nempnett Thrubwell Parish Council when it was decided that the Council SUPPORTED

to the application and wished to comment that the proposal greatly improves the amenity and visuals of the area.

### **Representations Received:**

Two supporting comments have been received with the following noted:

- o Great use of old space. A way of bringing much needed revenue to the area. Pubs, farm shops and employment can all benefit from these plans.
- o I think this is a rather good green venture which will be unobtrusive. It is a wonderful alternative to the present intensive pig farming on this site.

### **POLICIES/LEGISLATION**

On 13th July the Council adopted the B&NES Placemaking Plan. It now becomes part of the statutory Development Plan for the district, against which planning applications are determined. The statutory Development Plan for B&NES now comprises:

- o Core Strategy (July 2014)
- o Placemaking Plan (July 2017)
- o B&NES Local Plan (2007) - only saved Policy GDS.1 relating to 4 part implemented sites
- o Joint Waste Core Strategy
- o Made Neighbourhood Plans

#### **Core Strategy:**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

- CP2: Sustainable Construction
- CP5: Flood Risk Management
- CP6: Environmental Quality
- CP7: Green Infrastructure
- CP8: Green Belt
- DW1: District-wide Spatial Strategy

#### **Placemaking Plan:**

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

- D1: General urban design principles
- D2: Local character and distinctiveness
- D3: Urban Fabric
- D4: Streets and Spaces
- D5: Building design
- D6: Amenity
- D8: Lighting

GB1: Visual Amenities of the Green Belt  
NE1: Development and Green Infrastructure  
NE2: Conserving and Enhancing the Landscape and Landscape Character  
NE3: Sites species and habitats  
NE5: Ecological Networks  
NE6: Trees and Woodland Conservation  
RE2: Agricultural Development  
RE3: Farm Diversification  
RE5: Agricultural Land  
ST1: Promoting Sustainable Travel  
ST7: Transport access and development management  
SU1: Sustainable Drainage

The National Planning Policy Framework (NPPF) was published in July 2021 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

## LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

### OFFICER ASSESSMENT

The main issues to consider are:

- o Principle of Development
- o Farm Diversification
- o Green Belt
- o Character and Appearance - Impact on the visual amenities of the Green Belt
- o Residential Amenity
- o Highways
- o Ecology
- o Trees
- o Low Carbon and Sustainable Credentials

### Principle of Development

The application site relates to an area of land in connection with Nempnett Farm located to the off Greenhouse Lane. The site is located within the Green Belt.

The application seeks for the erection of 2no. subterranean eco glamping pods with associated works following the demolition of 5no. intensive pig rearing buildings.

The site at present is agricultural land associated with Nempnett Farm.

Policy RE7 of the Placemaking Plan considers new build visitor accommodation as well as change of use of a dwelling to visitor accommodation. Given the proposal involves the diversification of an existing farm enterprise it is considered that the proposal can however be dealt with more appropriately through policy RE3 which sets out that: Proposals for farm diversification involving the use of agricultural land or buildings will be permitted providing:

i they are consistent with Policy RE5 (protection of high-grade agricultural land)

The site does not consist of high-grade agricultural land. The proposal therefore meets this criterion.

ii they complement the agricultural function of the holding

As noted, the land as existing is agricultural. The proposal will seek the change of use of land to accommodate 2no. subterranean eco glamping pods.

The preamble for policy RE3 notes the following:

'Farm diversification schemes can cover a range of new uses including businesses such as food processing and packing, farm shops, renewable energy, equestrian facilities, sporting facilities, nature trails, craft workshops, holiday accommodation and information technology. Diversification schemes should help to support rather than replace farming activities on the rest of the farm.'

The use of the site would be seen to fall under the criterion for holiday accommodation which is broadly supported by Policy RE3 as being an acceptable form of diversification, provided that it doesn't compromise agricultural function of the holding.

iii they do not compromise the agricultural function of the holding or lead to the fragmentation or severance of a farm holding

The parcel of land is agricultural in nature as existing. The proposed development is situated on land indicated as the original farmstead which has been used for pig rearing utilising the existing buildings which are to be demolished as part of this proposal. The agent notes these buildings are unsuitable and unsustainable on this site moving forward which is why their demolition and diversification of the site to eco-glamping is proposed. This use is intended to complement the already established farmhouse B&B. The traditional Granary building will continue to remain in agricultural use and be used for dry and secure storage of miscellaneous agricultural paraphernalia.

The agent notes farming activities are primarily situated to a second farmstead situated 250m away to the north east. Dairy farming ceased at Nempnett Farm in the 1980s, but current farming enterprises on the second farmstead includes;

1. A beef herd with sucklers which is a year round activity,
2. Pasture reared chicken which is year round. The birds are reared and processed on the farm, and
3. Pasture reared turkeys for the Christmas market. The birds are brought in as one day olds in June and reared them through to December when they are processed.



As highlighted above the proposed use of the land for 2no. subterranean eco glamping pods with associated works following the demolition of 5no. intensive pig rearing buildings is considered to meet the diversification schemes set out within the preamble of policy RE3. Given the suggested uses the proposal would not result in the fragmentation or severance of a parcel of land within a wider agricultural holding. This is due to the primary agriculture activities occurring on land to the north-east of the site. The proposal is therefore considered to comply with the above criterion.

iv the activity will not lead to an unacceptable impact on the viability of nearby town or village centres

The site is set at a distance from a town or village centre. Given the proposed use and site location the proposal will not lead to an unacceptable impact on the viability of nearby town or village centres. The proposal therefore meets this criterion.

v in the case of a farm shop, the operation would not prejudice the availability of accessible convenience shopping to the local community

The proposal does not consist of a farm shop. The proposal will therefore meet the above criterion.

vi they do not compromise key ecological function or key habitat integrity

Given the nature of the proposal and the exterior lighting proposed the Bath and North East Somerset Ecology Team has been consulted. Following the submission of additional information officers are satisfied that subject to accordance with the measures proposed in the submitted Preliminary Ecological Appraisal received 1st March 2022 and the provision of an appropriate lighting scheme, the proposal will not compromise key ecological function or key habitat integrity.

vii existing buildings are re-used in accordance with Policy RE6

Where existing buildings cannot be re-used in accordance with Policy RE6, new buildings will be permitted only where they are required for uses directly related to the use of or products from the associated land holding, are small in scale, well designed and grouped with existing buildings.

The proposal does not involve the re-use of an existing building. It is understood that the proposed pods are intended to complement the already established farmhouse B&B. Additionally they are small in scale, well designed and sited in a location formerly occupied by the pig rearing buildings.

Given the existing nature of the site the proposed use of the land and the diversification uses outlined the proposal is overall considered compliant with policy RE3.

## **Green Belt**

Due to the sites' location Policy CP8 of the Core Strategy is of relevance. This policy seeks to protect the Green Belt from inappropriate development in accordance with national policy set out in the National Planning Policy Framework (NPPF).

Section 13 of the NPPF is therefore also relevant. At Paragraph 147 it establishes that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

Having considered the scheme it is noted that the development does not fall within any of the exemptions set out within Paragraphs 149 or 150. It therefore constitutes inappropriate development which is by definition harmful to the Green Belt.

Paragraph 148 sets out that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The harm caused by the development, even although it is largely subterranean, must be afforded substantial weight.

In this instance the agent has argued that Very Special Circumstances exist which justify the development.

Their argument is principally that whilst the development constitutes the erection of new buildings on land which does not class as Previously Developed as per the NPPF definition (due to it being Agricultural), the removal of the existing agricultural buildings would benefit the visual amenity and openness of the site, the benefit of which would be of such a degree that it would outweigh the substantial harm which must, by definition, be attributed to the proposed scheme.

The agent has provided an appeal decision from 2017 in support of their application. The appeal pre-dates the current version of the NPPF and is from a different authority. Whilst there are similarities between the current case and those of the appeal, Officers have attributed the appeal decision limited weight in light of the High Court judgement in *Europa Oil and Gas Limited v SSCLG* 2013.

The High Court case clarifies that that the impact of a development on openness is not necessarily related to its size but also its purpose. The judgement confirms that considerations of appropriateness, preservation of openness and conflict with Green Belt purposes are not exclusively dependent on the size of the building or structures but include their purpose.

Having considered the scheme and given regard to the above case, Officers do not share the Agents' view. This is because agricultural buildings are held at Paragraph 149 of the NPPF, by virtue of their purpose, not to be inappropriate within the greenbelt and as such are not harmful, irrespective of scale or visual appearance.

It follows that at present, whilst the agricultural buildings are of considerable size, their agricultural function is compatible with the purposes of the Green Belt and as such they do not prejudice the permanently open nature of the Green Belt.

Erection of non-agricultural buildings on this site would however constitute encroachment of the green belt and harm its spatial openness.

### Other Considerations

Whilst some weight can be attributed to the visual improvement of the site in terms of its appearance within the landscape, Officers do not consider this enhancement to outweigh the harm which would be caused by the inappropriate nature of the proposed development within the green belt.

It is noted that in the case of the appeal the Inspector attributed weight to the economic benefits the scheme would provide for the rural area. An economic argument has not been made in this instance and there is nothing to demonstrate that the economic benefits of such a scheme would be greater than those of the existing agricultural enterprise which would be lost as a result of the proposal. This matter attracts limited weight accordingly.

Whilst it has been raised that the current method of farming is not environmentally friendly and provides low animal welfare with the pigs housed indoors, it is noted that animal welfare matters are ordinarily not regarded as a material planning consideration by planning authorities. The rationale for this approach is that animal welfare matters fall to be addressed by animal welfare laws once a facility is operational. Minimal weight is attributed to this matter accordingly.

Overall, it is found that the other considerations in this case do not clearly outweigh the harm that has been identified. Consequently, the very special circumstances necessary to justify the development do not exist. As such, the proposal is considered unacceptable in principle and is contrary to policy CP8 of the Bath and North East Somerset Core Strategy, and Section 13 of the NPPF.

In addition to the principle of the proposal the following factors have also been considered:

### **Character and Appearance- Impact on the visual amenities of the Green Belt**

The proposal seeks for the erection of 2no. subterranean eco glamping pods with associated works following the demolition of 5no. intensive pig rearing buildings.

The submitted information indicates the buildings to be demolished measure 2887m<sup>3</sup> and a floor area of 1001m<sup>2</sup> these buildings are modern agricultural buildings which are open to view from the west of the site. The proposal seeks to provide a limited materials palette including earth, local natural stone and timber framed fenestrations. This is with the intention of allowing the proposal to sensitively merge into the wider landscape.

As noted, the site is situated within the Green Belt. Policy GB1 of the Placemaking Plan requires for development within or conspicuous from the Green Belt should not prejudice but seek to enhance the visual amenities of the Green Belt by reason of its siting, design or materials used for its construction. The site as existing presents a substantial amount of

agriculture buildings widely open to views within the landscape. The proposed development would remove this built form with the replacement of a smaller built form set within the site via landscaping. The proposed development would enhance the visual amenities of the Green Belt by reason of the proposals scale, siting, design and materials.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policies CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4, D5 and GB1 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

### **Residential Amenity**

The site is set away from neighbouring residential properties, and given the space available within the site and the works proposed to remove redundant buildings, and the proposed use it is not expected that residential amenity harm will occur.

The proposed pods are proposed for holiday let purposes. Given their scale, siting and design they would not be suitable for other uses. If the scheme were to be considered acceptable a condition could be attached requiring that the units must be occupied for short term holiday purposes only.

Given the location, design, scale, massing, and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017).

### **Highways**

Given the nature of the proposal The Bath and North East Somerset Highways Development Control Team (HDC) have been consulted. Within the response received it is noted that HDC officers are satisfied that the proposal provides a suitable level of off-street car parking, along with on-plot turning facilities for vehicles. The proposal will also provide secure bicycle parking, which will encourage sustainable travel methods in accordance with Policy ST1 of the Bath and North East Somerset Placemaking Plan.

Given the assessment made above the means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policies ST1 and ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 9 of the NPPF.

### **Ecology**

Given the nature of the proposal a preliminary Ecology Appraisal (PEA) has been submitted, the Bath and North East Somerset Ecology Team have also been consulted. The submitted information states that there is no evidence of nesting birds or roosting bats within the buildings which are considered to offer negligible bat roosting potential. The four mature trees (two beech and two oak) do offer between low and moderate bat roosting potential.

A pond is located within 50m of the site and the vegetated bank provides suitable terrestrial habitat for great crested newt. The pond assessed as offering low suitability for great crested newts. The (vegetated) bank and tall ruderal vegetation also provide optimal habitat for reptiles (the bank may also offer hibernation opportunities), as such a Great Crested Newt and Reptile Mitigation Plan has been devised.

The submitted Great Crested Newt and Reptile Mitigation Plan is supported and shall be secured via condition. Whilst an eDNA survey has not been completed, it is acknowledged that the measures to protect reptiles would also protect great crested newt should they be present. Therefore, in this instance the proposed strategy is considered acceptable.

The creation of two reptile hibernacula is also supported. This measure along with the planting proposed in the PEA report, demonstrate that the development can achieve net gain for both habitats and species alike.

A component (Compton Martin Ochre Mines SSSI) of the North Somerset and Mendips Bat Special Area of Conservation (SAC) is located 4.8km from the site. There are also field records for greater horseshoes located 225m from the site, which will form part of the SAC population. The SAC is designated for internationally important populations of horseshoe bats which hibernate in the mines and maternity roosts are also present. In this instance sufficient information has been provided to satisfy officers that if the application were to be permitted, the site will be subject to less light spill from internal sources than when the pig rearing buildings were in use. Given the distance from the SAC and types of habitat that will be impacted, it is unlikely horseshoe bats would be effected by the proposals subject to an appropriate lighting strategy. A sensitive lighting strategy could be secured via condition if the scheme were to be permitted.

Appropriate measures to protect badgers are proposed. Accordance with these details could also be secured by condition if the scheme were to be permitted.

Whilst the site lies within 5km of Chew Valley Lake Special Protection Area (SPA), given the types of habitat that will be impacted by the development no indirect impacts on the SPA are anticipated.

Given the above it is considered that subject to attaching appropriate conditions the scheme would be compliant with policies CP6 and CP7 of the Bath and North East Somerset Core Strategy, policies NE1, NE3 and D8 of the Bath and North East Somerset Placemaking Plan and Section 15 of the NPPF.

## **Trees**

Given the nature of the proposal the Bath and North East Somerset Arboriculture Team have been consulted. Following the submission of the Tree Survey received 1st March 2022, officers are satisfied that in this instance the protection of the trees could be dealt with appropriately by a pre-commencement condition requiring the submission of an arboriculturally method statement with tree protection plan.

## **Low Carbon and Sustainable Credentials**

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. Several policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully considered in the recommendation made.

## **Conclusion**

The provision of subterranean eco glamping pods in this Green Belt location constitutes inappropriate development and substantial weight must be given to the identified harm accordingly.

Having considered the scheme in its entirety it is found that the other considerations in this case do not clearly outweigh the harm that has been identified. Consequently, the very special circumstances necessary to justify the development do not exist.

The proposed development is therefore contrary to Policy CP8 of the Bath and North East Somerset Placemaking Plan and Part 13 of the NPPF. The proposal is unacceptable in principle and it is therefore recommended that the application be REFUSED.

## **RECOMMENDATION**

REFUSE

## **REASON(S) FOR REFUSAL**

1 The proposed development constitutes inappropriate development within the Green Belt which must be afforded substantial weight. The purported Very Special Circumstances put forward are not considered to clearly outweigh the harm arising from the proposal. Therefore, the proposed development is contrary to Policy CP8 of the Bath and North East Somerset Council Core Strategy (2014) and Part 13 of the National Planning Policy Framework (2021).

## **PLANS LIST:**

1 This decision relates to the following plans:

All received 22nd November 2022

1269-21-001 rev A - Site Location Plan and Existing Block Plan

1269-21-002 EXISTING FLOOR PLAN

1269-21-003 EXISTING ELEVATIONS

1269-21-101 rev A - Proposed Block Plan and Bicycle/ Refuse Store

1269-21-102 - Proposed Subterranean Eco Holiday Accommodation

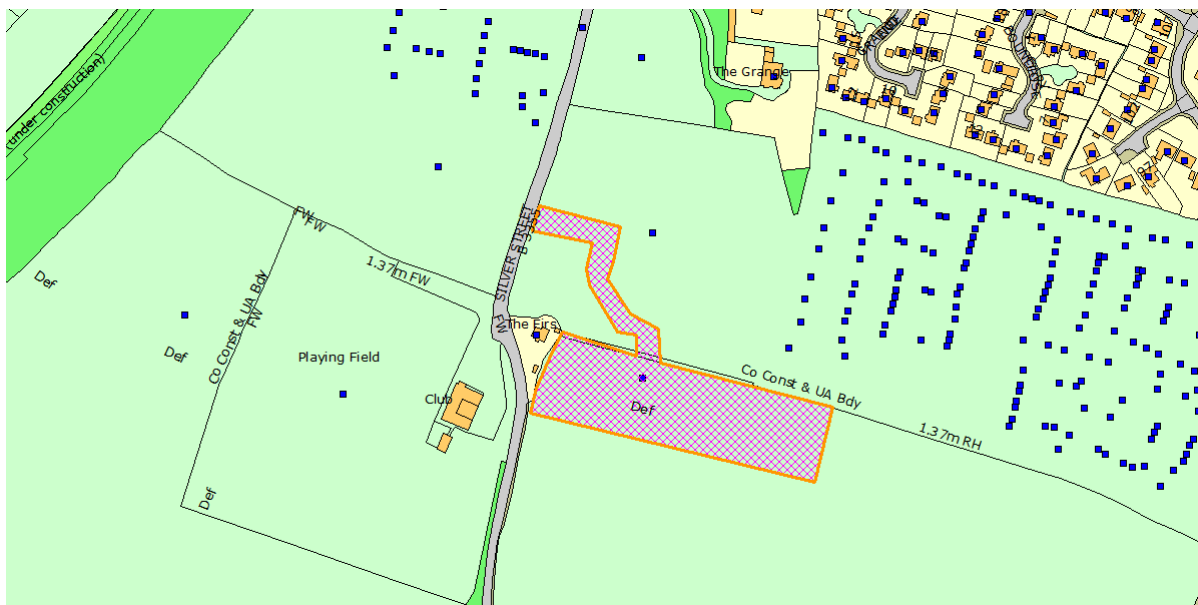
## **2 Community Infrastructure Levy**

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)

3 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons 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. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

**Item No:** 02  
**Application No:** 21/02973/OUT  
**Site Location:** Parcel 3589 Silver Street Midsomer Norton Bath And North East Somerset



**Ward:** Midsomer Norton Redfield      **Parish:** Midsomer Norton      **LB Grade:** N/A  
**Ward Members:** Councillor Chris Watt      Councillor Paul Myers  
**Application Type:** Outline Application  
**Proposal:** Outline planning permission for formation of access road, footpath and cycle links, open space, landscaping and associated works (All matters except access reserved).  
**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Contaminated Land, Policy CP9 Affordable Housing Zones, Greenfield site, SSSI - Impact Risk Zones,  
**Applicant:** Waddeton Park Ltd  
**Expiry Date:** 8th August 2022  
**Case Officer:** Isabel Daone  
To view the case click on the link [here](#).

## REPORT

In accordance with the Council's Scheme of Delegation, the application was referred to the Chair and Vice Chair of the Planning Committee. Both decided that the application should be debated and decided by the Council's Planning Committee. Their comments are as follows:

Vice Chair:

"I have looked at this carefully noting comments from third party & statutory consultees including both Ward Cllrs planning committee request.

This application applies to access only linked to a site in a neighbouring authority it is controversial.



The case Officer has worked with the developer to address concerns raised & provide further information; amendments have been made as the application has progressed & there are clear planning obligations included in the report. However, I think it should be debated by the planning committee, so all concerns are heard in a public forum."

Chair:

"I have reviewed this application and note the comments from both ward councillors [sic] and other statutory consultees.

Due to the complex and controversial nature of the proposal I believe it should be debated in the public forum of the planning committee"

Details of location and proposal and Relevant History:

The application seeks outline planning consent for the formation of an access road, footpaths, cycle links, open space, landscaping and associated works at land at Silver Street in Midsomer Norton. All matters are reserved except for access.

The application site to be considered as part of the application is a 0.61 hectare parcel of land which lies within the B&NES boundary. In parallel to this application, an application has been submitted to Mendip District Council for outline planning permission for the erection of up to 270 dwellings, the formation of vehicular accesses, open space, landscaping, and associated works on 11.73 hectares of land. This is located immediately adjacent to the B&NES application site.

Relevant Planning History:

16/01899/OUT

APP - 11 July 2016

Development of 0.37 ha of public open space

2021/1480/OTS

Outline planning permission for the erection of up to 270 dwellings, formation of vehicular accesses, open space, landscaping and associated works with all matters reserved except for access

PENDING CONSIDERATION BY MENDIP DISTRICT COUNCIL

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses:

COUNILLOR PAUL MYERS (12th July 2021):

"I am writing to formally request the calling in to committee of the above application. Whilst I appreciate that this application is for little more than an access road, it is a controversial application on the basis that it is in fact part of the much larger and significant proposed White Post housing development in Mendip abutting our border. My own and public concern in general is that this larger housing development will have a significant adverse impact on Midsomer Norton's infrastructure whilst adding no commensurate planning gain contribution to tackle it. This larger

development, if approved by Mendip, would mean all these new home owners would largely access Midsomer Norton's Schools, roads, doctors' surgeries, green space etc. In my view Mendip I'd they were to pursue the development At the White Post should handover significant planning gain to provide for investment in Midsomer Norton projects such as the town Park And other infrastructure projects and banes should ensure that such moneys are specified/ring fenced for Midsomer Norton in any agreement. It is essential that the public generally and ward councillors have the opportunity to speak at full committee about these concerns as a basis for a strong case being put to Mendip."

COUNCILLOR CHRIS WATT (12th July 2021):

"I would like to echo the words of my colleague Cllr Paul Myers and encourage you to ensure that this application comes to the planning committee. It has long been unacceptable that such significant developments can be simply tacked onto our town by a neighbouring planning authority without the requisite investment in enabling infrastructure. This is made worse by the democratic deficit relegating the views of our residents in importance by Mendip planners. This is an opportunity to see a democratic expression of those views through our resident's primary authority and hopefully for them to taken fully into account"

MIDSOMER NORTON TOWN COUNCIL (14th July 2021):

Comment - access between the two estates is OK but the general consensus is the new estate should have its own access road with improved roads at the top of Silver Street (B3355) at the same standards of the B&NES side.

PLANNING POLICY:

5th November 2021 - Objection. When the access is taken in isolation then no objection would be raised subject to highway approval. However, the access is being proposed in conjunction with a development of 270 homes within Mendip Local Authority. Planning Policy have objected to the development as the construction of additional housing will worsen the imbalance between jobs and homes and would result in cumulative impacts on key infrastructure.

DRAINAGE AND FLOODING (27th July 2021):

No objection.

ECOLOGY:

19th August 2021 - More information required

26th May 2022 - No objection subject to conditions

ARBORICULTURE:

20th August 2021 - The combined emergency access and path beside the tree identified as T21 should be moved to the south to avoid the root protection area. A detailed arboricultural method statement will be required should be conditioned.

14th October 2021 - The amendments to the illustrative masterplan indicate that the combined emergency access and path beside the tree identified as T21 (Pine) has been moved to avoid the root protection area. A detailed arboricultural method statement will be required and should be conditioned. As trees are proposed for removal in the interest of development, they trigger an obligation for replacement under planning policy (Planning Obligations Supplementary Planning Document). The loss of 2a and 4 equates to 5 replacements which can be readily accommodated along the administrative border with Mendip District Council. No objection subject to conditions.

#### HIGHWAYS:

15th July 2021 - Scope for revision

20th April 2022 - Scope for revision

28th May 2022 - No objection subject to conditions

#### PARKS AND GREENSPACES:

10th May 2022 - A S106 Greenspace contribution is requested to meet the unmet requirement for recreational greenspace generated from an increased population due to this development. £488,255 towards the provision, improvement and maintenance of off-site public open greenspace within Midsomer Norton and Westfield. No objection subject to this.

#### Representations Received:

24 comments of objection have been received by the Local Planning Authority. All comments have been read and assessed by the case officer. Given the volume of comments received, they have not been provided verbatim here but have been summarised.

- Drainage concerns
- Greenfield site
- Traffic increase
- Insufficient services/infrastructure
- Create more pollution
- Loss of hedgerow
- Impact upon ecology
- Greenfield site
- Lack of green space proposed within the site
- Overdevelopment of the site
- Insufficient landscaping
- Proposal lies within Mendip but will impact B&NES residents
- Increased pollution levels

#### **POLICIES/LEGISLATION**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan

and will be given full weight in the determination of planning applications. The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
  - Policy GDS.1 Site allocations and development requirements (policy framework)
  - Policy GDS.1/K2: South West Keynsham (site)
  - Policy GDS.1/NR2: Radstock Railway Land (site)
  - Policy GDS.1/V3: Paulton Printing Factory (site)
  - Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)
- o Made Neighbourhood Plans

#### Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP5: Flood Risk Management

CP6: Environmental Quality

DW1: District Wide Spatial Strategy

SV1: Somer Valley Spatial Strategy

SD1: Presumption in favour of sustainable development

#### Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles

D2: Local character and distinctiveness

D3: Urban fabric

D5: Building design

D6: Amenity

LCR6a: Local green spaces

NE3: Sites, species, and habitats

NE5: Ecological networks

NE6: Trees and woodland conservation

ST7: Transport requirements for managing development

#### National Policy:

The National Planning Policy Framework (NPPF) was published in February 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

## LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

### OFFICER ASSESSMENT

The main issues to consider are:

- Principle of development
- Character and appearance
- Residential amenity
- Highway safety
- Green space and parks

### PRINCIPLE OF DEVELOPMENT:

The application site relates to a 0.61 hectare parcel of land located within the Bath and North East Somerset Boundary. An access is proposed, along with cycle links, footpaths and other associated works. The site will form an access to a development within the Mendip Local Authority boundary, which borders Midsomer Norton to the south. This site is allocated in the Mendip Local Plan (Part II) for a minimum of 250 dwellings (allocation reference MN1). An outline application has been submitted to Mendip District Council for the erection of up to 270 dwellings and associated infrastructure (2021/1480/OTS)

The B&NES planning policy team has commented on the application which is currently being considered by Mendip District Council. B&NES planning officers understand that this application is being recommended for approval by the Mendip case officer and will be debated at the July committee within the district.

B&NES were consulted on 2021/1480/OTS and objected to the scheme on the following basis:

The B&NES Core Strategy (adopted in July 2014) sets out the spatial elements of the Council's vision and objectives and translates them into a plan. The Core Strategy is complemented by the

Placemaking Plan (adopted in July 2017) which allocates specific sites for development and

outlines a district-wide suite of Development Management policies.

On 19th June 2020 the West of England Combined Authority (WECA) announced its intention to

develop an SDS (Spatial Development Strategy) for the WECA area covering South Gloucestershire, Bath and North East Somerset and Bristol City, with full collaboration from those

authorities. This will be a strategic level plan establishing the housing requirement for the WECA

area and the individual authorities and setting the spatial strategy. Each council is also developing

its own Local Plan, that will need to be consistent with this work. In addition, B&NES Council is preparing a partial update to its adopted Core Strategy and Placemaking Plan (together comprising the Local Plan) that is currently proposed to address housing land supply issues in the shorter term.

The adopted Core Strategy Policy DW1 sets out overall housing targets and spatial distribution of housing development and Policy SV1 sets out the spatial strategy for the Somer Valley. It enables around 2,470 new homes to be built at Midsomer Norton, Radstock, Westfield, Paulton and Peasedown St John within the Housing Development Boundary. The Housing Development Boundary was revised through the Placemaking Plan. Policy SV1 also prioritises development on brownfield sites focusing on Midsomer Norton and Radstock Centres and the redevelopment of vacant and underused industrial land and factories. New greenfield housing development outside the Housing Development Boundary is contrary to the spatial strategy in this area.

The site sits within Mendip District Council adjoining the boundary with Bath and North East Somerset and will form an extension of the permitted Silver Street development. The permitted Silver Street development has so far delivered a new primary school and highway works. Work has commenced on the delivery of around 90 dwellings.

One of the key strategic issues the B&NES Core Strategy and Placemaking Plan seeks to address is an imbalance between jobs and homes resulting from recent incremental housing development, a decline in the manufacturing sector in this area and a high degree of out-commuting. The Core Strategy/Placemaking Plan therefore seeks to facilitate more employment, including allocating the Somer Valley Enterprise Zone, and only facilitates some additional housing primarily reflecting already committed sites (either permitted or allocated in the previous Local Plan).

Permitting the proposed development adjacent to the B&NES boundary would therefore be contrary to the adopted B&NES Development Plan, worsening the imbalance between jobs and homes and resulting in unsustainable levels of out-commuting for work. Furthermore, the proposed

development would add cumulative impacts on key infrastructure within Westfield and Midsomer Norton.

Notwithstanding the above, B&NES note and accept that the site has been allocated for housing with the Mendip Local Plan Part II. B&NES have an application solely for an access within their boundary. The access will serve an allocated housing site which would be contrary to B&NES policies. However, the application for housing is within the Mendip Local Authority boundary and is being assessed against their policies. B&NES officers therefore accept that the site is allocated for housing and that housing development will likely come forward on this site within the Mendip Plan period. Therefore, whilst B&NES continue to object to the location of the proposed housing site within Mendip, it is not considered that it would be reasonable to object to an access to an allocated housing site in principle. Additionally, officers note that a vehicular access from Silver Street in the same location was permitted as part of 20/02303/OUT to serve housing within B&NES land. As such, the principle of development in this location is accepted, subject to the material considerations discussed below.

#### CHARACTER AND APPEARANCE:

This is an outline planning application and therefore, the appearance of the development is a reserved matter. However, an indicative layout has been provided at this stage.

Policy D1, D2, D3 and D4 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the locality. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout.

Policy D3 is of particular relevance as this seeks that development proposals will contribute positively to the urban fabric and be designed for ease of walking and cycling, providing high quality routes. Additionally, developments should be permeable and offer a choice of routes through the site, connecting it with existing route networks. The proposed development will provide a car, cycle and pedestrian link to an allocated housing site. This will allow the allocated housing site to be linked with the wider urban area and provide permeability through the site. Without this access, the development would be segregated from the wider community, accessible only from the A367 within Mendip. Officers consider that the proposed access is within the spirit of policy D3 in this regard and can be viewed positively in this respect.

There are areas of green space proposed within the B&NES land and it is not considered that the proposal is likely to cause a significant detrimental impact to the character and appearance of its context.

#### RESIDENTIAL AMENITY:

Policy D6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

The proposed access has already been accepted in some capacity as part of application 20/02303/OUT. The proposal will result in additional vehicular trips and footfall moving through the development site approved under 20/02303/OUT and this has the potential to impact upon future occupiers. However, any additional movements will be transient and are not considered to be of a nature which would cause significant noise and disturbance that would justify a refusal reason on this basis. Should the dwellings approved under 20/02303/OUT have been built out and are occupied at the time of the construction of the access, there would be the potential for noise and disturbance during this phase. However, a construction management plan condition is recommended by the case officer which would mitigate these potential impacts.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

#### HIGHWAYS SAFETY AND PARKING:

Policy ST7 states that development will only be permitted provided, amongst other things, the development avoids an increase in on street parking in the vicinity of the site which would detract from highway safety and/ or residential amenity.

Access is the only matter to be determined at outline application stage. The Council's Highways Officer has assessed the scheme. Many of the comments given by the Highways Officer relate to the impact of the wider scheme, including the housing element within Mendip. The case officer has had regard to these comments, and they have formed part of the planning assessment.

A vehicular access to the site is proposed to the east via a new T-junction with the A367 Fosseway. This access is not a connection to the B&NES adopted highway and falls within the Mendip Local Authority area; B&NES officers will therefore not comment on this aspect of the scheme, given that it does not fall within the scheme which has been submitted to B&NES Council. Access to the north-west of the site is via a connection to a vehicular access which has previously been granted consent under 18/02095/OUT and adapted as part of application 20/02303/OUT. This access, via Silver Street, is a connection to the B&NES adopted highway.

Revised information has been received in relation to the Silver Street access which demonstrates how vehicle, pedestrian and cycle movements will be managed between the current application site and the site to the north, including lane markings and crossing facilities. Highways Officers are satisfied that a sufficient level of detail has been provided and that it is acceptable from a highway safety perspective. The provision of a carriageway through the Mendip site from Fosseway, linking to Silver Street in B&NES will benefit the operation of local junctions by distributing traffic and providing route choice.

The B&NES Highways Officers have commented on a number of aspects which relate to the site allocation within Mendip, as opposed to the access within the B&NES site. Given that these matters are not directly relevant to the access application, the assessment of



such matters will not be repeated within this report. However, full comments are available to view on the public website.

Of relevance are proposed mitigation measures. It is clear that an additional 270 dwellinghouses located adjacent to the B&NES boundary is likely to cause pressure on the surrounding road network, notwithstanding the acceptance of the capacity analysis (noted in the Highway Officer's comments). Within the Mendip Plan Local Plan allocation for the housing site (MN1), provision is made in the policy for infrastructure contributions within B&NES, as it is recognised that any scheme in this location will impact upon B&NES infrastructure.

The proposal will facilitate walking and cycling connections from the Mendip development site to the existing B&NES developments (and those to be constructed) to the north. The existing footpath along the frontage of the site on Fosseyway is proposed to be improved to provide for a 3m wide shared foot/cycleway from the site access junction to tie into the existing shared foot/cycleway along Beauchamp Avenue. In addition, 3m shared foot/cycleway will connect the site to the recently constructed shared foot/cycleway on to Silver Street to the north west. The site's off site and on site walking strategy will connect the new housing to surrounding new and permitted developments and public highways, such that accessibility on foot, cycle and bus will be improved for the wider area; the proposed access application within B&NES contributes to this. Additionally, the proposed development within B&NES will provide safe pedestrian and cycle routes to the new Norton Hill Primary School and the existing Norton Hill secondary school.

B&NES officers have concerns that the proposed housing development, allocated within Mendip, will increase the imbalance between housing and jobs in the area. Whilst it is recognised that this application is for assessment in Mendip and that, given it is allocated, housing will come forward on this site, officers consider it important that B&NES residents do not become disadvantaged due to the extra pressures on infrastructure which will likely be caused by the Mendip proposals. The applicant has therefore agreed to a contribution of £392,300.77 towards a cycleway within the proposed Somer Valley Enterprise Zone. This contribution will facilitate a sustainable transport link to employment land in the area. The cost of the cycleway is estimated at this time, and the cost is to be split between the three allocated Mendip sites which border Midsomer Norton. MN2 is for up to 190 dwellings (there is a live application for this site) and MN3 is allocated for 60 dwellings (there is not yet an application for this site). As such, the contribution for MN1 is proportionate for the number of dwellings proposed. Officers consider that this contribution is acceptable and that it will help to offset the potential harm caused by allocation MN1 in terms of homes to employment land imbalance.

Additionally, the applicant has also agreed to a contrition of £10,000 towards the improvement of local bus network infrastructure. This includes:

- a new pole and flag to Norton Hill School stop (westbound)
- a new shelter, bus markers and raised kerb to be moved to where the bus stop is currently situated at Norton Hill School stop (eastbound)
- the installation of infrastructure for travel in both directions on Fosseyfield Road

Officers consider that these contributions will improve the public transport infrastructure in the locality. Highways Officers have requested conditions to secure a construction management plan, travel plan and resident's welcome pack. The case officer considers

that a construction management plan is reasonable and necessary to ensure that construction of the access does not cause harm to highway safety. However, it is not considered that B&NES Council can reasonably condition a travel plan and resident's welcome pack for houses which will not be within B&NES land. The B&NES application is for the access land only.

#### ECOLOGY:

Following an initial round of consultation with Ecology, additional information was submitted to provide further details of survey and assessment of the affected hedge within the B&NES part of the wider site. The report addresses concerns raised by the Council's Ecologist and the findings/conclusions of the report are accepted.

Measures will need to be in place to avoid harm to wildlife during the construction of this part of the site. Additionally, measures to protect retained habitats and details of proposal to provide new, extended and enhanced habitats with improved ecological value will also be required. This can be secured by condition. The reserved matters application will be expected to detail these matters within the submission. It is considered that the conditions recommended will be compatible with the wider Mendip site.

#### ARBORICULTURE:

As with ecology, an initial round of consultation with Arboriculture raised concerns in regard to the layout and impact to trees. It is important to note that layout is a reserved matter and at this stage, the masterplan is purely illustrative. However, the illustrative layout has been amended to indicate that the combined emergency access and path beside the tree identified as T21 (Pine) will be moved to avoid the root protection area. A detailed Arboricultural Method Statement will be required and should be secured by condition. The loss of two trees equates to 5 replacements which could readily be accommodated within the Mendip Local Authority Boundary.

#### PARKS AND GREEN SPACE:

The B&NES Parks Team have reviewed the planning application. The proposed access within the B&NES site would not trigger the requirement for any on or off site parks/green space contributions. However, policy MN1 of the Mendip Local Plan Part II allows for contributions to infrastructure within B&NES, to offset the impacts of the scheme which have the potential to occur within the B&NES community.

The Mendip application is for 270 dwellings and although at this time the scale of the dwellings is not known, it can be estimated that these will be occupied by 621 residents. The Green Space Strategy 2015 has assessed the existing supply of Parks and Recreation Ground in the Midsomer Norton area to be in deficit of -10.64ha and Westfield in deficit of 5.72ha. Based on the figure of 621 future occupiers, 20,369m<sup>2</sup> of green space is required for the Mendip development. The figures below show the typology of green space, followed by Ha per 1000 population, m<sup>2</sup> per person and demand generated for each typology:

Allotments - 0.3, 3, 1863

Amenity Green Space - 0.3, 3, 1863

Parks and Recreation Grounds - 1.3, 13, 8073  
Play Space (Children) - 0.05, 0.5, 311  
Play Space (Youth) - 0.03, 0.3, 186  
Natural Green Space - 1.3, 13, 8073

Having reviewed the submission, it is stated that 3.76ha of open space comprising formal, informal and play space will be provided. The majority of the on-site greenspace is illustrated as a landscape buffer on the perimeter of the site and "attenuation". The play area and land directly adjacent totals 1296m<sup>2</sup>. In total, 36,304m<sup>2</sup> of green space is proposed on site.

B&NES officers consider that allotment space needs to be provided within the Mendip land, although it is accepted that B&NES have no control over the delivery of such infrastructure. There are no allotment projects which could be contributed toward in B&NES.

There remains 6777m<sup>2</sup> of unmet requirement for Parks and Recreation Ground (the play area provision has been deducted from the P&R total). 84% of this need is unmet. There are greenspace improvement projects within Westfield and Midsomer Norton available for funding which would be suitable for accommodating the additional demand generated from the Mendip MN1 development.

The Parks and Recreation contribution is £936 per person. For the 621 estimated residents this equates to £581,256. A deduction of 16% can be made due to the provision of onsite play and therefore the overall capital cost of providing green space for 621 occupants off-site is £488,255. The applicant has agreed to pay this contribution.

The contribution is considered to meet the three tests of Regulation 122 of the CIL Regulations 2010 (as amended) and the NPPF as follows:

- Necessary to make the development acceptable in planning terms

The proposed development for an access is directly related the Mendip application for the MN1 allocated site. The access forms part of the wider site and is segregated into a different application only because it falls within a different Local Authority boundary. Without the Mendip allocation, the access would be unnecessary and would lead to an open field - the two are intrinsically linked and one cannot be assessed without some consideration of the other. Without the above contribution, the overall development (MN1) would cause significant pressure on greenspace infrastructure within B&NES which needs to be mitigated in accordance with the Green Space Strategy. Additionally, policy LCR6 clearly states that new developments will be required to make provision for contributions towards greenspace to mitigate impact. Policy MN1 of the Mendip Local Plan allows for necessary infrastructure contributions to be sought within B&NES. The access will link the MN1 site to the wider B&NES community.

- Directly related to the development

The calculations are directly related to the estimated residential occupancy of MN1. Policy MN1 of the Mendip Local Plan Part II allows for contributions towards infrastructure within B&NES. Again, as the access is directly related to the wider proposals within Mendip it is considered that the contribution is directly related to the development.

- Fairly and reasonably related in scale and kind to the development

The contributions are considered fairly and reasonably related in scale and kind. The proposed access will help to facilitate a development which will increase pressure on greenspace in an area where there is a deficit.

#### PLANNING OBLIGATIONS:

As above, the developer has agreed to the following contributions:

1. A financial contribution of £10,000 towards improving local bus infrastructure
2. 2. A financial contribution of £392,300.77 towards the Somer Valley Enterprise Zone Cycleway
3. A financial contribution of £488,255 towards Green Space and Parks Infrastructure

In addition to the above, the developer has agreed to a contribution of £21, 285 towards Targeted Training and Recruitment. As stated above, the access application directly relates to the creation of a large housing site which will add additional pressures on employment in the area. This contribution will seek to help address this by creating apprenticeships and work placements in relation to the scheme.

#### OTHER MATTERS:

A number of residents have raised that the scheme will increase pollution. Officers consider that the creation of the access itself, which features walking and cycle routes, is unlikely to cause an increase in pollution to a point which would form a planning reason for refusal.

#### PUBLIC SECTOR EQUALITY DUTY:

The Public Sector Equality Duty requires public authorities to have regard to section 149 of the Equality Act 2010. The comments from third-parties have been fully assessed as part of the planning application. It is considered that the proposal would not cause undue harm to any third party and that the planning obligations to be secured and planning conditions recommended mitigate the potential impacts of the development. The council has complied with its public sector equality duty in this case.

#### LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

#### CONCLUSION:

It is therefore considered that the proposal complies with the relevant planning policies as outlined above and the proposal is recommended for approval.

The proposed legal agreement will be drafted in such a way that secures the payment of the agreed financial contributions upon the commencement of either this development, or the concurrent Mendip development site. The agreement will be drafted in discussions with Mendip District Council to ensure a consistent approach.

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

0 A). Authorise the Head of Legal and Democratic Services to complete a Legal Agreement to secure:

1. A financial contribution of £10,000 towards improving local bus infrastructure
2. A financial contribution of £392,300.77 towards the Somer Valley Enterprise Zone Cycleway
3. A financial contribution of £21, 285 towards Targeted Training and Recruitment
4. A financial contribution of £488,255 towards Green Space and Parks Infrastructure

B.) Subject to the prior completion of the above agreement, authorise the Head of Planning to PERMIT subject to the following conditions:

### **1 Outline Time Limit (Compliance)**

The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: As required by Section 92 of the Town and Country Planning Act (as amended), and to avoid the accumulation of unimplemented planning permissions.

### **2 Construction Management Plan (Pre-commencement)**

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and shall include details of deliveries (including storage arrangements and timings), contractor parking, traffic management, working hours, site opening times, wheel wash facilities and site compound arrangements. The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with policies ST7 and D6 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

### **3 Wildlife Protection and Enhancement (Pre-commencement)**

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme, produced by a suitably experienced professional ecologist, have been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) Method statement for pre-construction and construction phases to provide full details of all necessary protection and mitigation measures, including, where applicable, proposed pre-commencement checks and update surveys, for the avoidance of harm to bats, reptiles, nesting birds and other wildlife, and for the protection of retained habitats; and proposed reporting of findings of update checks to the LPA prior to commencement of works where applicable;
- (ii) Detailed proposals for wildlife mitigation and compensation measures, including measures to avoid measurable net loss of biodiversity and achieve measurable biodiversity net gain either within the development boundary or on balance across the wider development site; new planting and habitat creation; provision of bat and bird boxes, and provision of routes for safe passage of wildlife;
- (iii) Retained and proposed ecological features; habitat boundaries; species compositions; specifications; and proposed numbers and positions to be shown on all relevant plans and drawings as applicable;

All works within the scheme shall be carried out in accordance with the approved details and completed in accordance with specified timescales and prior to the occupation of the development, and retained and maintained thereafter for the purposes of wildlife conservation.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with policy NE3 of the Bath and North East Somerset Local Plan. The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife that would be otherwise harmed during site preparation and construction phases.

#### **4 Arboricultural Method Statement and Tree Protection Plan (Pre-commencement)**

No development shall take place until a detailed arboricultural method statement and tree protection plan following the recommendations contained within BS 5837:2012 identifying measures to protect the trees to be retained, has been submitted to and approved in writing by the Local Planning Authority. The statement shall include proposed tree protection measures during site preparation (including demolition, clearance and level changes), during construction and landscaping operations. The statement should also include the control of potentially harmful operations such as the position of service runs and soakaways, storage, handling and mixing of materials on site, burning, location of site office and movement of people and machinery.

Reason: To ensure that no excavation, tipping, burning, storing of materials or any other activity takes place which would adversely affect the trees to be retained in accordance with policy NE6 of the Placemaking Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore, these details need to be agreed before work commences.

#### **5 Ecological Compliance Statement (Pre-occupation)**

No occupation of the development hereby approved shall commence until a report produced by a suitably experienced professional ecologist (based on post-construction on-

site inspection by the ecologist) confirming and demonstrating, using photographs, adherence to and completion of the Wildlife Protection and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the Wildlife Protection and Enhancement Scheme, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3, NE5 and D5e of the Bath and North East Somerset Local Plan.

#### **6 Arboricultural Compliance (Bespoke Trigger)**

No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement. A signed compliance statement shall be provided by the appointed Arboriculturalist to the local planning authority within 28 days of completion and prior to the first occupation.

Reason: To ensure that the approved method statement is complied with for the duration of the development to protect the trees to be retained in accordance with policy NE6 of the Placemaking Plan.

#### **7 External Lighting (Bespoke Trigger - requires approval of details prior to installation of new lighting)**

No new external lighting shall be installed without full details of proposed lighting design being first submitted to and approved in writing by the Local Planning Authority; details to include proposed lamp models and manufacturer's specifications, proposed lamp positions, numbers and heights with details also to be shown on a plan; details of predicted lux levels and light spill onto ecologically sensitive features on both vertical and horizontal planes; and details of all measures to limit use of lights when not required and to prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land; and to avoid harm to bat activity and other wildlife. The lighting shall be installed maintained and operated thereafter in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with policies NE3 and D8 of the Bath and North East Somerset Local Plan.

#### **8 Outline Time Limit (Compliance)**

The development hereby approved shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved whichever is the latest.

Reason: As required by Section 92 of the Town and Country Planning Act (as amended), and to avoid the accumulation of unimplemented planning permissions.

#### **PLANS LIST:**

1 This decision relates to the following plans:

17 Feb 2022 190920 L 01 01 B LOCATION PLAN - CONSOLIDATED  
17 Feb 2022 190920 L 01 03 B LOCATION PLAN - B&NES  
17 Feb 2022 190920 L 02 02 K ILLUSTRATIVE LAYOUT

20 Jan 2022 190920 L 01 02 A LOCATION PLAN - MENDIP

17 Feb 2022 47493/5501/SK08 Rev D SILVER STREET ACCESS WITH PROPOSED PED/CYCLE IMPROVEMENTS

17 Feb 2022 47493/5501/SK05 Rev E NORTHERN PEDESTRIAN-CYCLE ACCESS CONCEPT DESIGN

17 Feb 2022 47493/5501/SK04 Rev E PROPOSED SITE ACCESS

## **2 Permit/Consent Decision Making Statement**

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

## **3 Condition Categories**

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

**Compliance** - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

**Pre-commencement** - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

**Pre-occupation** - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

**Bespoke Trigger** - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

## **4 Community Infrastructure Levy - General Note for all Development**

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. CIL may apply to new developments granted by way of planning permission as well as by general consent (permitted development) and may apply to change of use permissions and certain extensions. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council **before any development commences**.



**Do not commence development** until you been notified in writing by the Council that you have complied with CIL; failure to comply with the regulations can result in surcharges, interest and additional payments being added and will result in the forfeiture of any instalment payment periods and other reliefs which may have been granted.

### **Community Infrastructure Levy - Exemptions and Reliefs Claims**

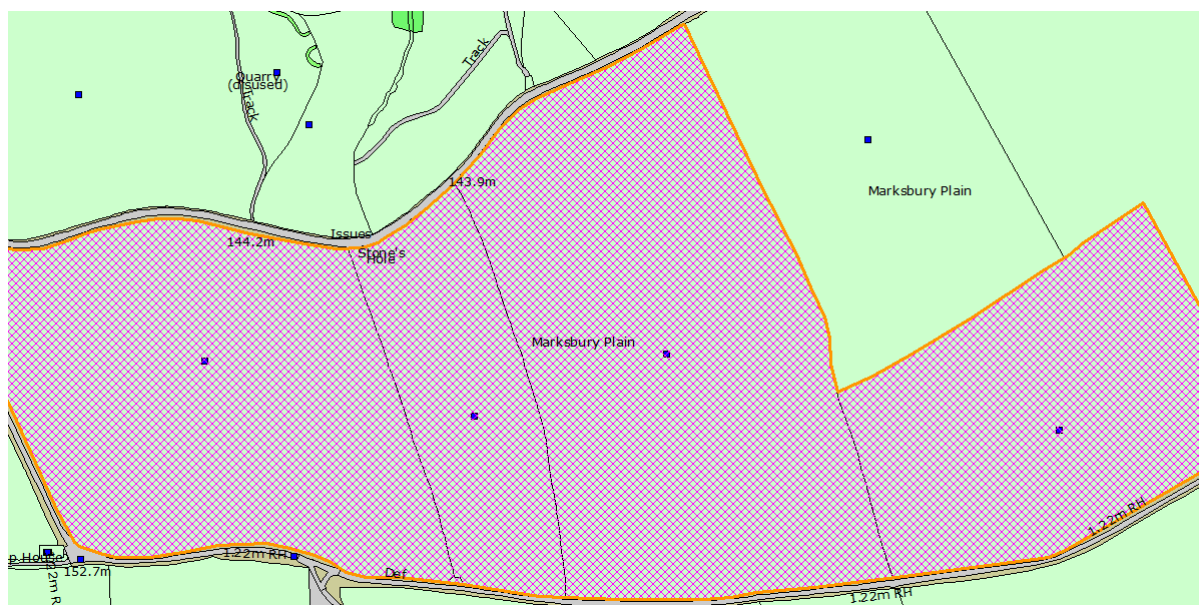
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply for any relief and have it approved in writing by the Council then notify the Council of the intended start date **before** you start work on site. Once development has commenced you will be unable to claim any reliefs retrospectively and CIL will become payable in full along with any surcharges and mandatory interest charges. If you commence development after making an exemption or relief claim but before the claim is approved, the claim will be forfeited and cannot be reinstated.

Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil). If you have any queries about CIL please email [cil@BATHNES.GOV.UK](mailto:cil@BATHNES.GOV.UK)

### **5 Responding to Climate Change (Informative):**

The council is committed to responding to climate change. You are advised to consider sustainable construction when undertaking the approved development and consider using measures aimed at minimising carbon emissions and impacts on climate change.

**Item No:** 03  
**Application No:** 21/04881/FUL  
**Site Location:** Parcel 6536 Top Lane Farmborough Bath Bath And North East Somerset



**Ward:** Bathavon South      **Parish:** Marksbury      **LB Grade:** N/A

**Ward Members:** Councillor Neil Butters      Councillor Matt McCabe

**Application Type:** Full Application

**Proposal:** The construction, installation, operation and subsequent decommissioning of a renewable energy scheme comprising ground mounted photovoltaic solar arrays together with substation compound, cable trench, inverters, transformer station, internal access track, landscaping, biodiversity measures, permissive footpath, security fencing, security measures, access improvements and ancillary infrastructure on the agricultural fields to the south of A368 and west of A39. At the end of decommissioning, the temporary permissive footpath would be removed.

**Constraints:** Clutton Airfield, Agric Land Class 1,2,3a, Coal - Referral Area, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, Hazards & Pipelines, LLFA - Flood Risk Management, Policy NE5 Ecological Networks, All Public Rights of Way Records, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodrome,

**Applicant:** Renewable Connections Developments Ltd.

**Expiry Date:** 15th April 2022

**Case Officer:** Isabel Daone

To view the case click on the link [here](#).

## REPORT

The application site extends to c. 24 hectares and is located on agricultural land known as Marksbury Plain, to the southwest of the village of Marksbury. The application site falls within undesignated countryside between the settlements of Marksbury and Farmborough.

Its northern boundary is marked by the A368, which connects Marksbury to the northeast with the A37 to the west. The southern boundary abuts a local minor road, which joins the A39 to the east. The site is washed over by the Bath and Bristol Green Belt.

Planning permission is sought for the construction, installation, operation and subsequent decommissioning of a renewable energy scheme comprising ground mounted photovoltaic solar arrays together with a substation compound, cable trench, inverters, transformer station, internal access track, landscaping, biodiversity measures, permissive footpath, security fencing, security measures, access improvements and ancillary infrastructure on the agricultural fields to the south of A368 and west of A39. At the end of decommissioning, the temporary permissive footpath would be removed.

Concurrently with this application, a planning application has been submitted for the cabling route 21/05642/FUL which will serve the solar array. This application has been submitted separately from the array as the area of land covered by the cabling route is different to the solar array site.

### **Planning History:**

01/00240/FUL

PERMIT - 26 April 2001

Change of use of agricultural building to caravan storage

02/01293/VAR

PERMIT - 8 July 2002

Removal of condition 05 of planning permission 01/00240 to allow storage of caravans all year round.

03/00185/FUL

PERMIT - 11 March 2003

Two loose boxes and haybarns at the paddock

05/00460/REN

PERMIT - 15 April 2005

Continued use of agricultural building as caravan storage

05/02343/REM

PERMIT - 20 October 2005

Continued removal of condition 05 of planning permission 01/00240/VAR to allow storage of caravans all year round

08/00959/REN

RF - 7 May 2008

Renewal of limited period planning permission 03/00185/FUL for two loose boxes and hay barn

08/02504/FUL

PERMIT - 15 September 2008

Two loose boxes and hay barn (Resubmission)

10/03330/REM

PERMIT - 16 September 2010

Removal of condition 1 of application 05/00460/REN to remove the time limit (Continued use of agricultural building as caravan storage)

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

### **FARMBOROUGH PARISH COUNCIL:**

14th February 2022: Support. At the meeting of the Farmborough Parish Council held on 08 February 2022 the Council voted to SUPPORT this application with the following comments:

- o Highway access is limited to the roads outlined in the Design and Access Statement, i.e. A368 to the A39 at Marksbury, then along the A4 from Corston through Saltford to the Keynsham Bypass, and onto the A4174 (ring road) to join with the M4 and beyond.
- o Vehicle movement is managed to the expected number per day (6 two-way trips) over the six-month construction phase.
- o Construction traffic and delivery vehicles should be limited to outside the peak hours on Monday to Friday (1000-1600) and on Saturdays between 0800-1330 to avoid additional congestion.
- o Footpaths are managed and maintained to always allow access, both during construction and throughout the operational life of the site.
- o Habitat and species diversity is maintained and improved through appropriate land and habitat management both during construction and throughout the operational life of the site.
- o Construction timing should be sensitive to nesting bird species.
- o Visibility and openness of Green Belt is maintained by effective natural screening that minimises the visual impact of the panels on the surrounding area as much as possible throughout the operational life of the site.
- o The tree species and height of both hedgerow and tree specimens are maintained as proposed.
- o The land remains 'green agricultural land' for the duration of the site's operational life and beyond, as well as retaining its Green Belt designation, or equivalent, at the time of decommissioning.

### **MARKSBURY PARISH COUNCIL:**

24th February 2022: Since the extended deadline granted by BANES to Marksbury Parish Council to comment on this application we have received a mixed responses from our Parishioners.

We note that Farmborough Parish Council support this application with conditions and there has been a request from Councillor Matt McCabe that the application be referred to the planning committee for a decision. Given the size and scale of the proposed development and because it was only advertised under Farmborough on the BANES Planning Portal and not Marksbury we think a referral to the to the planning committee best represents the democratic process.

#### ARBORICULTURE:

24th February 2022: No objection subject to conditions.

#### ARCHAEOLOGY:

16th Feb: No objection

#### DRAINAGE AND FLOODING:

11th February 2022: Scope for revision. The drainage strategy is largely acceptable, but there is currently insufficient information supplied for the proposed drainage of the site.

5th May 2022: No objection. The inclusion of a swale along the northern boundary and the profile of the highway access to fall away from the carriageway has addressed previous concerns.

#### ECOLOGY:

14th April 2022: No objection subject to conditions

#### ENVIRONMENTAL PROTECTION:

14th Feb: No objection subject to conditions.

#### HIGHWAYS:

2nd March 2022: No objection subject to conditions

#### LANDSCAPE:

14th April 2022: Scope for revision. The site is located within the Green Belt, and there is a requirement under Policy GB1 not to prejudice but to seek to enhance the visual amenities of the Green Belt. The current proposals have not demonstrated that this requirement would be met, but with some refinement should be capable of doing so.

The effects on landscape character are capable of being satisfactorily mitigated, subject to some clarifications and revisions to the suggested landscape mitigation measures, but the assessment of the effects on visual amenity is currently incomplete and requires review.

25th May 2022: No objection subject to conditions.

#### PLANNING POLICY:

23rd February 2022: No objection subject to conditions

30th March 2022: No objection subject to conditions

#### PUBLIC RIGHTS OF WAY:

15th February 2022: Scope for revision

23rd May 2022: No objection subject to conditions

COUNILLOR MATT MCCABE:

Regarding the solar farm at Marksbury: Given the size and scale of this development, could it please be considered at Committee whether you're minded to approve or not.

## **REPRESENTATIONS RECEIVED:**

CPRE:

Summary of comments received 22nd February 2022:

- CPRE acknowledges that renewable energy is vital in addressing climate change and that National Policy Statements EN1 and EN3 emphasise that solar energy is destined to play an increasing role in generating the power we need.
- However, in its Position Statement on solar energy (February 2022), CPRE makes clear its opposition to large scale solar farms on greenfield sites.
- The current proposal is not just green field, it is Green Belt, which is surely the least desirable location for a large solar farm.
- Development in the Green Belt is prohibited by the NPPF (other than in a few prescribed cases) unless there are 'very exceptional circumstances'
- The need for renewable energy does not constitute a 'very exceptional circumstance' which would automatically override individual and cumulative impacts on protected landscapes and farmland, especially when alternative approaches are available.
- CPRE maintains that the site covers a very large area, is very visible from various roads and viewpoints, compromises the enjoyment of public rights of way, and concludes that the Applicant has underestimated the visual and character impact of the development and exaggerated the effect of the mitigations proposed.
- These concerns were clearly expressed by the LPA in dismissing a previous far less extensive Application (12/04345/FUL) on an adjacent site
- Case officer dismissed the application as it was considered to be inappropriate development in the Green Belt
- CPRE entirely supports BANE's view that development on the scale proposed is entirely inappropriate within a Green Belt setting, noting that a solar farm proposal on this site was eventually permitted with an area of 5 hectares, rather than the 24 hectares currently sought.

9 letters of objection have been received. All comments have been assessed in full as part of the application and the main points summarised as follows:

- Development too large
- Detrimental to the Green Belt
- Encroach upon the countryside and harm openness
- Harm to the rural character
- Loss of green land
- Impact to wildlife (particularly birds)
- Impact to landscape
- Visible from heritage assets
- Issues of reflected sunlight
- Insufficient screening
- Loss of good quality agricultural land
- No advertised to Marksbury villagers

- Can B&NES be encouraged to produce a masterplan for the location of solar energy in the region?

- Not the best use of the land

3 comments have been received. All comments have been assessed in full as part of the application and the main points summarised as follows:

- How long will the panels be in place before they are decommissioned?

- What is the carbon footprint for the manufacture, installation and decommissioning of the panels?

- No mention of a local "dividend" for the community

- Lack of democracy - not advertised in Marksbury (no notice on Parish noticeboards)

- Buildings need to be carefully sited so as not to be visible from nearby properties

- Want reassurance that there will be no sound related issues involved in the projection

- Highways concerns

- No neighbour consults received

6 letters of support have been received. All comments have been assessed in full as part of the application and the main points summarised as follows:

- Need new clean sources of renewable energy

- Ease our current dependence on polluting power generation

- Good to have sustainable energy

- Although there may be some disruptions by laying the main electric cables, the future benefits outweigh the initial inconvenience

## **POLICIES/LEGISLATION**

The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)

- o Bath & North East Somerset Placemaking Plan (July 2017)

- o West of England Joint Waste Core Strategy (2011)

- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:

- Policy GDS.1 Site allocations and development requirements (policy framework)

- Policy GDS.1/K2: South West Keynsham (site)

- Policy GDS.1/NR2: Radstock Railway Land (site)

- Policy GDS.1/V3: Paulton Printing Factory (site)

- Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)

- o Made Neighbourhood Plans

## **Core Strategy:**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP3: Renewable Energy

CP5: Flood Risk Management

CP6: Environmental Quality

CP8: Green Belt

DW1: District Wide Spatial Strategy

SD1: Presumption in favour of sustainable development

### **Placemaking Plan:**

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D2: Local character and distinctiveness

D.6: Amenity

GB1: Visual amenities of the Green Belt

NE2: Conserving and Enhancing the landscape and landscape character

NE2A: Landscape setting of settlements

NE3: Sites, species and habitats

NE5: Ecological networks

NE6: Trees and woodland conservation

RE5: Agricultural land

ST7: Transport requirements for managing development

### **National Policy:**

The National Planning Policy Framework (NPPF) was published in February 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

### **LOW CARBON AND SUSTAINABLE CREDENTIALS**

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

### **OFFICER ASSESSMENT**

The development proposal can be split into four key components, these are:

- o Ground Mounted Solar PV Arrays
- o Ecological and Biodiversity Management Areas
- o Substation Compound and Cable Route
- o Temporary Construction Compound

The main issues to consider are:

- Principle of development of renewable energy
- Principle of development in the Green Belt
- Agricultural Land
- Landscape
- Heritage
- Residential Amenity
- Highways Matters
- Drainage and Flooding



- Arboriculture
- Ecology
- Any other matters

## PRINCIPLE OF DEVELOPMENT:

### *Renewable Energy*

The solar PV modules would convert solar irradiance into Direct Current (DC) electricity. The proposed PV panels will be bifacial such that they will collect light both on the front and the rear sides of the panel as it captures sunlight reflected from the grass surface under the solar framework.

Policy CP3 of the Core Strategy has regard to renewable energy. It seeks to achieve an increase in the level of renewable energy generation within the district and sets out the renewable electricity and heat generation targets to be achieved by 2029. These are as follows:

Electricity - 110 Megawatt Electricity (MWe)  
Heat - 165 Megawatt Thermal (MWth)

Progress towards the target of 110MWe has been set out in the recently published Local Plan Partial Update Consultation Document which states that "there is currently a renewable energy installed capacity of 21.7MWe within the district". As such, the Council is currently 88.3MWe behind its target of 110MWe.

According to the Renewable Energy Delivery Assessment submitted with the application the proposal site will have the approximate capacity for producing 15MWe of renewable energy. This amount of energy generation would contribute to the Council's 2029 energy targets by a further 18%. The proposed solar array would generate clean, renewable energy for the equivalent of around 4,700 homes per year. The anticipated CO2 displacement is 7,600 tonnes per annum.

The proposal is for renewable energy development in the form of Ground-mounted solar arrays which will contribute significantly towards the Council's renewable energy targets. As such, the proposal is considered to comply with policy CP3 in so far as it relates to the principle of renewable energy development, subject to the other materials planning considerations discussed below. The principle of this particular location/site for renewable energy development will be dealt with elsewhere within this report.

### *Green Belt*

The application site lies within the Green Belt. The NPPF identifies the 5 purposes of Green Belt Land which are:

- 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.

The most important attributes of Green Belt are their openness and permanence. Policy CP8 of the Bath and North East Somerset Core Strategy largely mirrors national policy and highlights that, within B&NES, the Green Belt plays a vital role in maintaining the setting of the World Heritage Site and surrounding villages. The NPPF states that when considering any planning application, Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very Special Circumstances' (VSC) will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

Appropriate development:

Both National and Local policy establishes a presumption against inappropriate development in the Green Belt which is, by definition, harmful to it. Development within the Green Belt is considered to be inappropriate unless it falls within one of the categories of exception set out in Paragraphs 149 and 150 of the NPPF. The proposed solar array and associated development does not fall within any of these categories of exception and is therefore considered inappropriate development in the first instance.

National and local policy establishes a presumption against inappropriate development in the green belt which, by definition, is harmful to the green belt. Development within the Green Belt is considered inappropriate unless it falls within one of the categories of exception set out in paragraphs of the NPPF. The proposed solar park does not fall within any of these categories of exception and is therefore considered inappropriate development in the first instance.

Paragraph 151 of the NPPF goes on to say that when located in the Green Belt, elements of many renewable projects will comprise inappropriate development. In such cases, developers will need to demonstrate Very Special Circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources. Very special circumstances are assessed in the Planning Balance section of this report below.

Openness:

As aforementioned, the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. One of the essential characteristics of Green Belts is their openness and the impact to openness must also be assessed. The impact upon openness of as a result of the proposal is based on a visual and spatial assessment.

The PV modules will be mounted on south facing galvanised steel and anodised aluminium metal racks. The racks will be laid out in multiple parallel rows running east to west across the various field enclosures. The framework and arrays would be static. The distance between the arrays would respond to topography but would typically be around 3.2m. Land between and beneath the panels would be used for biodiversity

enhancements and seasonal sheep grazing. The top north edges of the panels would be up to 3m above ground level and the lower edges of the panels would be approximately 0.7m metres above ground level. The indicative slope of the solar PV modules from horizontal would be around 15 degrees. The arrays would be set within a 2.0m high security fence.

Based on the viewpoint assessment and site visits, the proposed development would be well contained, taking advantage of the topographical variations in the local landscape, existing and mitigation vegetative screening such as mature hedgerows, tree belts and woodlands, and roadside vegetation across the landscape, however the proposal would be visible in some views, particularly immediately near the development.

Following a 40-year generation period, the proposed development would then be decommissioned.

Although measures have clearly been taken to minimise the impact upon the openness of the Green Belt, including the distance between the arrays and heights of the panels, the proposal would introduce built form to what is currently an open field. The solar array will be visible from certain viewpoints, although it is noted that this is minimised the proposed mitigation (including boundary treatments and screening). Additionally, following the decommissioning of the array, the field can be reverted back to open, agricultural land. As such, it is considered that there will be harm to the openness of the Green Belt. However, officers consider for the reasons above that the level of harm to openness, by way of the mitigation proposed, will be relatively low.

Purposes:

As discussed above, the Green Belt serves 5 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.

The proposed development will not result in unrestricted sprawl of built-up areas, as the site is bounded by the existing highway network, other infrastructure, and mature vegetation. It is located some distance from any urban or built-up areas. The proposed development would not result in the coalescence of the nearby villages of Marksbury, and Farmborough given the distances between the development site and existing built form. The development is not considered to result in an encroachment of the countryside due to the "temporary" nature of the site (40 years) and the reversibility of the site back to agricultural land. With regards to the setting and special character of historic towns, there are no Conservation Areas or features of designated historic significance within the Site or its immediate vicinity and there is no inter-visibility between the Site and any such feature within the wider landscape. Whilst not directly contributing to urban regeneration it is not considered that the proposal would neither hinder nor discourage urban regeneration in the settlements of BANES.

### Construction Compound:

The proposals will result in the erection of a temporary compound during the construction phases to store materials and for ancillary welfare facilities. Officers consider that, if retained for the life of the development, this would harm the openness of the Green Belt and therefore a condition securing its removal is recommended.

### Green Belt Conclusion:

The proposed development is considered to result in inappropriate development in the Green Belt and is, by definition, harmful to it. It is also considered that it will impact upon the openness of the Green Belt. As assessment of any VSC is therefore required and these will be assessed within the Planning Balance Section of this report.

### *Agricultural Land*

Policy RE5 of the Placemaking Plans has regard to Agricultural land and states:

1. Development which would result in the loss of the best and most versatile agricultural land particularly Grade 1 and 2 will not be permitted unless significant sustainability benefits are demonstrated to outweigh any loss.
2. Where it can be demonstrated that there is an overriding need for a proposal which will result in the loss of agricultural land, development should be steered towards the use of lower quality agricultural land in preference to higher quality agricultural land.

Additionally, policy SCR3 says that proposals for ground mounted solar arrays should be focussed on non-agricultural or land of lower agricultural quality. Recent guidance from Government has stressed the need to develop solar farms on brownfield and degraded land over greenfield sites. Agricultural land is classified from Grade 1 to 4 with grades 1, 2, 3a being considered the best and most versatile agricultural land.

The proposal is situated on land with a grading of 3; the data available to the Council does not distinguish whether this is 3a or 3b land. The application submission states that land is subgrade 3b and, as such, the site is not protected by policy RE5. In any case BANES is an overwhelming rural authority with relatively little brownfield or industrial land which could accommodate such a large solar array. The largest settlement in the district is Bath which is a World Heritage Site. Therefore, it seems unlikely that the ambitious energy generation targets set by the Council can be achieved within this district without field based renewable energy applications (on greenfield agricultural land) such as this coming forward. In any event, the proposal does not involve the "irreversible loss" of agricultural land and is a temporary development, given that it will be decommissioned at the end of its lifetime. At this time, the land could revert back to agricultural use.

Taking these considerations into account, the urgent national need for renewable energy development and relative lack of current production in the district, the temporary loss of the grade 3 field arising from the development is considered to be acceptable.

## LANDSCAPE:

The site is located within the Green Belt and is not within a designated AONB. Policy GB1 states that development within or conspicuous from the Green Belt should not prejudice but should seek to enhance the visual amenity of the it by reason of its siting, design or the materials used for its construction.

Policy NE2 infers that development will only be permitted where it conserves or enhances local landscape character, landscape features, local distinctiveness and important views; that development should seek to avoid or adequately mitigate any adverse impact on landscape; and that proposals with the potential to impact on the landscape character of an area should be accompanied by a Landscape and Visual Assessment undertaken by a qualified practitioner to inform the design and location of any new development.

The design and appearance of the proposed solar panels is clearly presented and readily understood. The design and appearance of the associated infrastructure is less clear. The Landscape Visual Impact Assessment (LVIA) suggests that the surface materials would be dark and visually recessive; cabins are likely to be painted dark green. This can be secured by condition, which is considered reasonable. Further information was requested and submitted to demonstrate that reasonable steps have been taken to minimise the visual impact of the ancillary structures and subject to a paint colour sample being secured by condition, the Council's Landscape Officer has no objection in this regard.

It is considered that the LVIA underestimates the visual impacts of the proposals on the landscape to some degree. 2m high fencing and 3m high CCTV cameras are not commonplace in the countryside, however officers do accept that their provision is necessary. The greatest level of adverse effects will be on the two Public Right of Ways (PRoW) which cross the site, but this is to be expected and given the location of the development is unavoidable. Officers also note concerns from residents regarding views from wider viewpoints, beyond the boundaries of the site. The applicant has agreed to enhanced mitigation, such as allowing some of the existing and proposed hedgerows to grow wider to maximise screening and ecological benefits. Refused landscape proposals and a detailed landscape management plan can be secured by condition. The adverse visual effects are capable of being reduced to an acceptable level once the new planting has become established and a suitable landscape management regime is operational.

As such, the proposals is not considered to prejudice the visual amenity of the Green Belt and conserves the landscape character, subject to the mitigation measures above being secured by condition.

## HERITAGE AND ARCHAEOLOGY:

Policy HE1 requires development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to enhance or better reveal its significance and setting.

South West Heritage Trust (SWHT) have been consulted on the scheme. Based on the results of the submitted Desk-based assessment it appears that there is little potential for archaeology on this site as such there are limited or no archaeological implications to this proposal and SWHT therefore have raised no objections on archaeological grounds.

The site is not within, nor close to any designated heritage assets. The nearest listed building is approximately 690m away. As such, the proposal is not considered to impact upon heritage assets and is compliant with policy HE1.

#### RESIDENTIAL AMENITY:

Policy D6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

The application site is not located close to residential properties. The closest properties are around 200-250m from the southern boundary of the site. Concerns have been raised in regard to noise and glare from the development.

The Council's Environmental Protection Team have no objection to the proposals but have requested that a noise assessment is secured by condition and that the development is implemented in accordance with this. This is to ensure that the development, when operational, will not cause excessive amounts of noise for the closest residents. Additionally, a Construction Management Plan can be secured by condition to control hours of site operation during the construction phases.

In regard to glare, officers consider that the low lying position of the panels within the Marksbury Plain will reduce the potential impacts from reflection from the panels. The panels are a significant distance from residential properties, and it is not considered that the potential glare would cause significant harm to the residential amenity of the neighbouring occupiers.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

#### HIGHWAYS SAFETY AND PARKING:

Policy ST7 has regard to Transport requirements for managing development. It states that development will be permitted providing the following provisions are met:

- a. highway safety is not prejudiced;
- b. safe and convenient access to and within the site for pedestrians, cyclists and those with a mobility impairment is provided or enhanced;
- c. suitable vehicular access;
- d. no introduction of traffic of excessive volume, size or weight onto an unsuitable road system or into an environmentally sensitive area;
- e. no traffic mitigation measures are required that would harm the historic or natural environment;
- f. provision made for any improvements to the transport system required to render the development proposal acceptable;
- g. secure and accessible cycle storage facilities.

## i/ Trip Impact / Highway and Transport Capacity

### Construction phase

Table 4.1 of the Construction Traffic Management Plan shows the anticipated HGV vehicle movements during the construction phase. Around three HGV deliveries per day (or up to six two-way movements per day) are expected, however as this is an average there will be days when there are more or less than this figure. It has been suggested by Farmborough Parish Council that vehicle movement is managed to the expected number per day (6 two-way trips) over the six-month construction phase, and it is recommended that the planning officer explore this with applicant. Officers consider that whilst this could be controlled by condition, this would not pass the six tests of conditions outlined in the NPPF. One such test is that a condition must be "reasonable". Such a condition would heavily restrict construction and officers understand that this process is fluid, and that there may be days when more or less movements are required. As such, this condition will not be attached to the decision notice.

In addition to the HGV movements, there will also be a number of construction movements associated with smaller vehicles such as the collection of skips for waste management, the transport of construction workers and sub-contractors. The applicant has offered to limit construction traffic to outside the peak hours on Monday to Friday (1000-1600) and on Saturdays between 0800-1900. Given that the applicant estimates that up to 50 construction workers are forecast to be on site, avoiding peak hours would help mitigate the traffic impact. We also note that Farmborough Parish Council supports this measure, and it is considered reasonable and necessary to attach a condition securing these measures to the decision notice.

### Operational phase

Once operational, the Construction Traffic Management Plan says the site will generate around one visit to the site per week.

### Access / Layout / Highway Safety / Highway furniture / Lighting / Structures

Vehicular access to the site is proposed via a new priority junction with the A368 as shown on Figure 2.2 of the Construction Traffic Management Plan. The junction will be six metres wide access road with six metre radii on the western side and 10 metre radii on the eastern side. The visibility splays shown in Figure 2.2 are provided at 2.4 x 160 metres to the nearside kerb in both directions in accordance with the Design Manual for Roads and Bridges (DMRB) guidance for a 50mph signed speed limit. The visibility splays can be provided within land under the control of the local highway authority and/or the applicant. A planning condition will need to be applied requiring that all hedges, fences or other structures are maintained at less than 900mm above the carriageway level within the visibility splay.

The plans do not currently provide an adequate level of detail on the construction of the access, and this should be secured by condition prior to commencement to allow Highways to initiate the appropriate agreements/licences.

The designated route for all traffic associated with the construction phase is via the A368 and A39 to the north of the site, the Keynsham Bypass / Bath Road and the A4174 which

provides access to the wider strategic road network, including the M4. Compliance with this can be secured via the construction management plan condition.

A pre-commencement walk-over condition survey on the local highway network is proposed to be carried out to assess the baseline condition of the adopted highway before construction activities commence. A post construction survey will also be conducted to identify any new damage to the highway. This should be secured by planning condition.

#### Parking

A temporary car parking area (including spaces for minibuses) is proposed on the site within a contractor's compound, adjacent to the site access. Parking is proposed to be contained within the site and no parking will occur on the local highway network. A maximum of up to 50 construction workers are forecast to be on site during peak times during the construction period. A proposed construction site layout is required to show the proposed compound, parking area, turning, wheel wash etc. and this is secured by condition.

#### Emergency Vehicle Access

The proposed access onto the A368 will allow for emergency vehicles to access turn and exit the site.

#### Construction Management

While most of the proposals in the Construction Traffic Management Plan are acceptable, officers

require further details of the proposed phasing of the development showing at what stage the proposed access and construction compound will be built and subsequently decommissioned. This should include proposed street works, traffic management required to construct the proposed access and any temporary access arrangements. The layout of the temporary construction compound should be shown with will need to be of suitable size for an articulated vehicle to enter and turn in a forward gear. The compound is also proposed to include areas for the storage of plant and equipment. The compound and turning areas will need to be proposed to be of suitable construction to enable it to be used in all-weather / ground conditions to avoid these operations being transferred onto the highway. This can be secured by condition.

Once a contractor has been appointed the developer is likely to know more about the likely timescale and phasing which would allow more detailed information about HGV movements and may be able to commit number of vehicles rather than an average figure. Again, this can be stated within the conditioned Construction Management Plan.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 4 of the NPPF.

#### PUBLIC RIGHT OF WAY:

A revised plan was submitted on 13th May which shows the route of the proposed permissive footpath. It does not appear to affect the public rights of way on site and there is no objection to the proposals from the PRoW team, subject to an appropriate informative being attached to the decision notice.



## DRAINAGE AND FLOODING:

Policy CP5 of the Core Strategy has regard to Flood Risk Management. It states that all development will be expected to incorporate sustainable drainage systems to reduce surface water run-off and minimise its contribution to flood risks elsewhere. All development should be informed by the information and recommendations of the B&NES Strategic Flood Risk Assessments and Flood Risk Management Strategy.

As originally submitted, the proposed drainage strategy was considered largely acceptable but there was insufficient information supplied for the proposed drainage of the site. As such, additional information was submitted including an updated Flood Risk Assessment. A wale along the northern boundary and the profile of the highway access to fall away from the carriageway has addressed the previously raised concerns regarding the proposed drainage. There is no objection to the proposed from the Lead Local Flood Authority.

As such, the proposed development is considered to comply with policy CP5 of the Core strategy in regard to flooding and drainage matters, as well as the NPPF.

## ARBORICULTURE:

Policy NE6 has regard to trees and woodland conservation. It states development will only be permitted if it is demonstrated that adverse impact on trees is unavoidable to allow for development, and that compensatory measures will be made in accordance with guidance in the Planning Obligations SPD.

Scattered trees exist along several hedgerows which are implicated by the proposal. An Arboricultural Impact Assessment has been submitted as part of the application which identifies that no trees are to be removed to enable the development. However, sections of the hedgerow would require removal. Precautionary measures are possible to protect the existing retained green infrastructure which form the field boundaries. The Landscape Strategy indicates that additional tree planting is proposed which would assist in reinforcing the green infrastructure and linkages beyond the site. An Arboricultural Method Statement with Tree Protection Plan should be conditioned for the construction and decommissioning phases.

Overall, the proposal is considered to comply with policy NE6 of the Placemaking Plan regarding trees.

## ECOLOGY:

Policy NE3 has regards to Sites, Species and Habitats, it states that development that would adversely affect protected species and habitats will not be permitted unless in certain exceptional circumstances. In all cases the policy seeks that any harm to nature conservation is minimised, and mitigation and compensation is provided otherwise.

A number of third-parties have raised concerns regarding the impact upon wildlife and biodiversity.

### *Birds*

A breeding bird survey was carried out during May 2021. Findings included records of skylark over the site which is considered likely to form part of their breeding ground; proposals are included for provision of an area of suitable habitat outside of the solar panels. A winter bird survey was not carried out; comments from the public have been received that include reports of the site having been in use for several decades by overwintering golden plover and lapwing with numbers quoted of 12 to 2500 Golden Plover and 30 to 500 Lapwing. This should be looked into further, to establish numbers and location / extent of area currently / still used by overwintering birds in more detail, and details of any additional mitigation requirements. Mitigation proposals and proposed long-term monitoring will be required. These matters can be secured by condition.

### *Fencing*

Whether the boundary is fenced with deer fencing or an alternative form of security fencing, the site should remain permeable to wildlife. Consideration to avoiding animals (including deer) becoming trapped within the site is needed. If deer are to be excluded from the site, this should not also apply to other wildlife - the site should remain permeable to all wildlife as far as possible and access provided in particular for badger, hedgehog and other small mammals, and reptiles. If fencing would exclude these species then suitable wildlife access holes / gates must be provided at regular intervals along every fenced boundary. These details can be secured by condition.

### *Lighting*

Proposed bulkhead lighting is not accepted - these lamps often introduce glare and do not minimise light spill. They should be replaced with downward-directional lights that are shielded. They should be designed to provide optimum light containment and minimise light spill onto adjacent vegetation. Details of these and of lighting controls and hours of use can be secured by condition.

Subject to the recommended conditions to secure mitigation and long term management, there is no objection to the proposal on ecological grounds.

### **OTHER MATERIAL CONSIDERATIONS:**

As above, policy CP3 sets generation targets to achieve 110 Mega Watt electricity and 165 Mega Watt heat by 2029. There is currently a renewable energy installed capacity of 21.7 Mega Watt electricity within the district. As such, the Council is currently 88.3MWE behind its target of 110MWE - this is a significant shortfall. A significant increase in the development of renewable energy is needed to achieve the policy targets and this can and should be given weight in the determination of planning applications.

Furthermore, BaNES declared a climate change emergency in March 2019 and pledged to be carbon neutral by 2030. As part of the pledge, 'increase in local renewable energy generation' was one of the three priority areas. As such, there is a need for renewable energy generation within the district. Although the plan sets "targets", as opposed to requirements, clearly the intention of the plan is to achieve the relevant targets.

The NPPF states at paragraph 152 that the planning system should support the transition to a low carbon future in a changing climate. The NPPF is clear that the planning system should ensure that places are shaped in ways which 'contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure'.

Additionally, the Climate Change Act 2008 was amended in June 2019 to set out a pathway to achieve a reduction in carbon emissions of at least 100% by 2050 compared to 1990 levels. This statutory target was amended from the previous target which sought an 80% reduction in the same time period. It is important to note that the Core Strategy and Placemaking Plan were adopted in the context of the previous target.

Whilst policy CP3 has set out that the development is acceptable in principle, in so far as it presents a renewable energy scheme which will address the district's energy needs, policy SCR3 sets out more detail regarding ground mounted solar arrays. It lists a number of factors and states that proposals should achieve as many as possible. Some of these factors have already been considered, but officers consider that for completeness an assessment of the proposal against each should be given below as this policy supplements policy CP3.

*A. Proposals are focused on non-agricultural land or land of a lower quality*

This has been reviewed in detail within the report and the proposal is considered to achieve this factor.

*B. Proposals are sensitive to nationally and locally protected landscapes and nature conservation areas and take opportunities to enhance the ecological value of the land.*

The report has discussed that the proposals comply with the relevant landscape and ecological policies and this factor can be said to have been achieved.

*C. Proposals seek to minimise visual impact where possible and maintain appropriate screening throughout the lifetime of the project*

The proposals include vegetation screening, and a landscaping condition will secure this in more detail. Relevant management plans can also be secured by condition and this factor is achieved.

*D. Engagement at pre-application stage with the community takes place*

The applicant has stated that in addition to the formal pre-application process with the Local Planning Authority, they have engaged with statutory consultees and stakeholders (including Parish Councils and Ward Councillors). They also state that they have circulated an information leaflet to business and residential addresses within the surrounding area and have created an online consultation website. Online virtual events were also held with the local community.

*E. Proposals are supportive of land diversification and continued agricultural use, biodiversity measures and supporting the provision of multi-functional Green Infrastructure e.g. permissive paths and wildlife corridors*

The proposals include maintaining the PRow during operational phases and provisions for biodiversity and wildlife and this factor is considered to be met.

*F. Proposals are used as an educational opportunity where appropriate*

No details of educational opportunities have been put forward. Officers would encourage the applicant to engage with local educational institutions in the future.

*G. Land is returned to its former use at the end of a project*

This can be secured by condition.

The proposal can be said to achieve most of the factors as outlined by policy SCR3 and is therefore considered to be compliant with it.

#### OTHER MATTERS:

The B&NES Climate Policy Officer has not objected to the proposals but has requested that the proposed development should provide an option to communities (local to the scheme) to own 5% of the development site. Policy CP3 states that proposals will be assessed against their contribution to significant community benefits. Officers consider that the community is likely to benefit from renewable energy generation but accept that there is no direct contribution to the local community in regard to ownership of the scheme. Policy CP3 is being updated within the Local Plan Partial Update and will seek that for a commercial led scheme with a capacity of more than 5MWe will provide an option to communities for 5% development ownership. However, this policy is not adopted and cannot be given weight at this time. As such, officers consider that the lack of an offer for community ownership to be disappointing, but that the development is not refusable on this basis.

#### PLANNING BENEFITS:

It is necessary to consider the planning benefits arising from the scheme. The submission considers the following as benefits of the scheme, amongst others which are listed in the Planning Statement:

- Significant contribution to both National and Local renewable energy generation targets
- The scheme would contribute towards energy security via the reliable supply of decentralised energy
- Contribute towards the low carbon economy
- Provide socio economic benefits, such as job creation
- No large scale renewable energy scheme has been permitted since the Council declared a climate emergency

#### PLANNING BALANCE:

As indicated in the report above, the proposal represents inappropriate development in the Green Belt. Local Planning Authorities should ensure, when assessing planning

applications, that substantial weight is given to any harm to the Green Belt. Paragraph 148 of the NPPF states that "Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations."

The harms identified by the proposal are as follows:

- Harm to the Green Belt by reason of being considered, by definition, inappropriate development in the Green Belt. As such, the proposals fail to comply with Part 13 of the NPPF and policy CP8 of the Bath and North East Somerset Core Strategy
- Harm to the openness of the Green Belt, particularly in terms of a spatial assessment. Again, the proposals fail to comply with Part 13 of the NPPF and policy CP8 of the Bath and North East Somerset Core Strategy

There are several matters which weigh in favour of the application which must be considered in this balance. These are listed in the benefits section above, to reiterate these are:

- Contribution to renewable energy targets - significant weight
- Revisability of the development - moderate weight
- Job creation and contribution towards a low carbon economy - minor weight

It is considered that the proposal represents a significant contribution to national and in particular local renewable energy generation targets, within a context where B&NES has an acute shortfall which is unlikely to be met by the end of the plan period (2029) without large-scale renewable energy projects being supported. The contribution towards these energy targets should be given significant weight in any planning consideration, as the NPPF is strongly supportive of renewable and low carbon developments. The Council's own policies and declaration of a Climate Emergency are also generally supportive of such developments. The development provides a contribution towards a low carbon economy, which has been recognised by the Government as necessary through their climate declaration on 1st May 2019. This can be given moderate weight in the planning balance. Additionally, the "temporary" nature of the development as outlined in the report means that the harm to the Green Belt will not be permanent, and the land can revert to open fields after a period of 40 years. This can also be attributed moderate weight and is an important consideration in regard to the harm to the Green Belt. Further to a contribution to a low carbon economy, whereby jobs within a low carbon industry will be created, jobs will also be created at the construction phase. This can be attributed minor weight in the balance, in favour of the development.

In this instance, it is considered that the benefits of the scheme amount to Very Special Circumstances which outweigh the cumulative harm to the Green Belt as identified above, even when giving substantial weight to this consideration. As such, as VSC exist which outweigh the cumulative harm, the proposal can be said to be compliant with both local and national Green Belt policies.

#### PUBLIC SECTOR EQUALITY DUTY:

The Public Sector Equality Duty requires public authorities to have regard to section 149 of the Equality Act 2010.

The impact upon residents has been fully assessed. Conditions, recommended as part of the permission, are considered to ensure that the impact to the amenity of nearby occupiers is minimised. The Council has complied with its Public Sector Equality Duty during the assessment of this planning application.

## CONCLUSION:

It is therefore considered that the proposal complies with the relevant planning policies as outlined above and the proposal is recommended for approval.

## RECOMMENDATION

### PERMIT

## CONDITIONS

### 1 Standard Time Limit (Compliance)

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permission.

### 2 Arboricultural Method Statement and Tree Protection Plan (Pre-commencement)

No construction or decommissioning shall take place until an arboricultural method statement with tree protection plan following the recommendations contained within BS 5837:2012 identifying measures to protect the trees to be retained, has been submitted to and approved in writing by the Local Planning Authority. The statement shall include proposed tree protection measures during site preparation, during construction, landscaping operations and decommissioning phases. The statement should also include the control of potentially harmful operations such as the storage, handling and mixing of materials on site, burning, location of site office and movement of people and machinery.

Reason: To ensure that no excavation, tipping, burning, storing of materials or any other activity takes place which would adversely affect the trees to be retained in accordance with policy NE6 of the Placemaking Plan. This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore, these details need to be agreed before work commences.

### 3 Construction Environmental Management Plan for Ecology (Pre-commencement)

No development shall take place (including ground works or vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Biodiversity shall be in accordance with the approved Ecological Impact Assessment dated Sept 2021 by Clarkson and Woods, and shall also include the following:

- a) Risk assessment of potentially damaging activities
- b) Boundaries of mapped exclusion zones for the protection of ecologically sensitive species or retained habitats and features, with boundaries shown to scale on a plan, and details and specifications for proposed fencing, barriers, and warning signs, as applicable

- c) The role and responsibilities on site of an Ecological Clerk of Works (ECoW) or similarly competent person, and proposed pre-commencement checks and survey, including proposed reporting of findings to the Local Planning Authority Ecologist
- d) The times and frequency of visits during construction when a professional ecologist needs to be present on site to oversee works
- e) Responsible persons and lines of communication
- f) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements), to include the location, timing and methodologies of specified works to avoid harm to wildlife and sensitive features, and to include measures for pollution control and covering runoff, dust, litter, chemical spillages, materials storage, vehicle movements, noise and lighting impacts

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the Local Planning Authority.

Reason: to avoid harm to existing and retained habitats and species during site preparation and construction works. The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of wildlife that would be otherwise harmed during site preparation and construction phases.

#### **4 Construction Traffic Management Plan (Pre-commencement)**

No development shall commence until a revised Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority. In addition to the material already submitted it shall include:

- o a phasing plan defining distinct areas of the construction site and the order in which these will be delivered
- o any proposed street works, traffic management required to construct the proposed access and any temporary access arrangements
- o details of the layout of the temporary construction compound, with areas for parking, turning and storage of plant and equipment

The development shall thereafter be undertaken in accordance with the approved details.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because any initial construction or demolition works could have a detrimental impact upon highways safety and/or residential amenity.

#### **5 Highway Condition Survey (Pre-commencement)**

No development nor deliveries to the site shall take place (including investigation work, groundwork/site preparation/clearance, or siting of site compound/welfare facilities) until a survey of the condition of the adopted highway has been submitted to and approved in writing by the Local Planning Authority. The extent of the area to be surveyed shall be agreed by the Local Planning Authority prior to the survey being undertaken.

The survey must consist of:

- o a plan to a scale of 1:1000 showing the location of all defects identified; and
- o a written and photographic record of all defects with corresponding location references accompanied by a description of the extent of the assessed area and a record of the date, time and weather conditions at the time of the survey

Reason: To ensure that any damage to the adopted highway sustained throughout the development process can be identified and subsequently remedied at the expense of the developer.

#### **6 Highway works - General Arrangement Plan (Pre-commencement)**

No development shall take place until general arrangement plan(s) to a scale of 1:200 showing the PROPOSED SITE ACCESS ARRANGEMENTS number P20-1363 Figure 2.2 to the adopted highway has been submitted to and approved in writing by the Local Planning Authority, where applicable indicating proposals for:

- o Existing levels of the finished highway tying into building threshold levels
- o Alterations to waiting restrictions or other Traffic Regulation Orders to enable the works labelled on the plan (if required as part of the proposals)
- o Signing, street furniture, street trees and pits
- o Structures on or adjacent to the highway
- o Extent of any stopping up, diversion or dedication of new highway (including all public rights of way shown on the definitive map and statement) labelled on the plan (if required as part of the proposals)

The works shall be carried out in accordance with the approved details, prior to the first use of the site and to the satisfaction of the Local Planning Authority.

Reason: In the interests of public safety and to ensure that all road works associated with the proposed development are: planned; approved in good time (including any statutory processes); undertaken to a standard approved by the Local Planning Authority and are completed before occupation.

#### **7 Noise impact assessment (Pre-commencement)**

No development shall commence until a noise impact assessment will be required to assess the potential impact of noise to existing nearby residents. The noise impact assessment should be implemented as approved.

Reason: To protect the residential amenity of nearby occupiers in accordance with policy D6. This condition is a precedent because it requires confirmation the development will not harm the residential amenity of nearby residents and any measures to mitigate impacts need to be implemented during construction.

#### **8 Point of connection (Pre-commencement)**

No development shall commence until details of the means of connecting the development to the electricity grid have been submitted to and approved in writing by the local planning authority. The development shall be connected to the electricity grid in accordance with the approved details.

Reason: To ensure the proposals deliver the estimated energy generation in accordance with the Very Special Circumstances justification.

#### **9 Landscape Design Proposals (Bespoke Trigger)**

Prior to the first exportation of electricity from the development to the electricity grid full details of both hard and soft landscape proposals and programme of implementation shall be submitted to and approved by the Local Planning Authority. These details shall include, as appropriate:



1. Proposed finished levels or contours
2. Means of enclosure (including details of wildlife access points in fencing)
3. Other vehicle and pedestrian access and circulation areas
4. Hard surfacing materials
5. Minor artefacts and structures (e.g. storage units, signs, lighting)
6. Proposed and existing functional services above and below ground (e.g. drainage, power, communication cables, pipelines, etc, indicating lines, manholes, supports etc)

Soft landscape details shall include:

1. Planting plans
2. Written specifications (including cultivation and other operations associated with plant and grass establishment)
3. Schedules of plants, noting species, planting sizes and proposed numbers / densities
4. Details of proposed wildlife features including bird and bat boxes and new habitat planting.

The development shall proceed in accordance with the details approved.

Reason: To ensure the provision of amenity and a satisfactory quality of environment afforded by appropriate landscape design, in accordance with policies D1, D2, D4, NE3 and NE2 of the Bath and North East Somerset Placemaking Plan.

#### **10 Landscape and Ecological Management Plan (LEMP) (Bespoke Trigger)**

Prior to the first exportation of electricity from the development to the electricity grid full details of a Landscape and Ecological Management Plan shall be submitted to and approved in writing by the Local Planning Authority. These details shall be in accordance with recommendations of the approved Ecological Impact Assessment dated Sept 2021 by Clarkson and Woods and shall also include (but not be limited to):

- (i) A plan showing the boundary/ies of all land covered by the LEMP, and boundaries of habitats, management units / compartments, and locations of features and any other details as applicable
- (ii) A list of long-term wildlife conservation and landscape aims and objectives, to include: habitat specific; species-specific; and issue-specific objectives (as applicable) to include provision of suitable habitats and conditions for breeding skylark; and provision of habitats and suitable conditions for other bird species as applicable including over-wintering birds
- (iii) Proposed measures to provide access for movement of wildlife across and around the site to include wildlife access points at frequent intervals in all fencing
- (iv) Proposed management prescriptions and operations; locations, timing, frequency, duration; methods equipment and personnel as required to meet the stated aims and objectives; to include proposed hedgerow maintenance regimes with minimum maintained hedgerow heights and widths stated
- (v) A list of activities and operations that shall not take place and shall not be permitted within the EMP Plan area (for example use of herbicides, waste disposal, inappropriate maintenance methods, storage of materials)
- (vi) Proposed long term monitoring and reporting scheme for the duration of the development, to include ongoing review and remediation strategy
- (vii) Proposals for habitat retention and long term provision beyond the life of the scheme

(viii) Proposed costs, legal responsibility, and funding sources

All required measures shall be incorporated into and compatible with the wider scheme and shown to scale on all relevant plans and drawings including landscape design and planting plans. All works within the scheme shall be carried out, and the land managed, maintained and utilised thereafter only in accordance with the approved details, unless otherwise approved in writing by the Local Planning Authority.

Reason: in the interests of avoiding net loss and proving net gain of biodiversity, and to secure long term visual amenity.

#### **11 Ecological Compliance Statement (Bespoke Trigger)**

Prior to the first exportation of electricity from the development to the electricity grid a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by the ecologist) confirming and demonstrating, using photographs, adherence to and completion of all ecological measures as detailed in the approved CEMP and the approved Ecological Impact Assessment dated Sept 2021 by Clarkson and Woods, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the approved CEMP and all ecological mitigation and enhancement measures, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3, NE5 and D5e of the Bath and North East Somerset Local Plan.

#### **12 Post Construction Survey (Bespoke Trigger)**

Within 6 weeks of the first exportation of electricity from the development to the electricity grid, a post construction survey shall be undertaken and submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that any damage to the adopted highway sustained throughout the development process can be identified and subsequently remedied at the expense of the developer.

#### **13 Highway Repair Works (Bespoke Trigger)**

Any damage to the adopted highway, caused by the construction vehicles associated with the development, as identified from the pre and post construction condition surveys shall be made good to the satisfaction of the local planning authority within 12 weeks of the first exportation of electricity from the development to the electricity grid.

Reason: To ensure that any damage to the adopted highway sustained throughout the development process can be identified and subsequently remedied at the expense of the developer.

#### **14 Public Right of Way (Bespoke Trigger)**

No development shall take place over the route of any public right of way prior to the confirmation of a Town & Country Planning Act 1990 path diversion/stopping up order, if required to facilitate the development.

Reason: In the interests of public safety.

### **15 Paint Samples (Bespoke Trigger)**

No structure shall be erected on site until a schedule of paint colours to be used has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure an appropriate visual appearance to the minimise the impact of the proposals on the landscape in accordance with policy D1, D2, GB1 and NE2.

### **16 Turning Space (Pre-occupation)**

No occupation of the development shall commence until the turning space shown on drawing PROPOSED SITE ACCESS ARRANGEMENTS number P20-1363 Figure 2.2 has been completed in accordance with the approved details. The turning space shall be kept clear of obstruction and available for use as a turning space at all times.

Reason: To ensure that vehicles can enter and leave the site in a forward gear in the interests of highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

### **17 External Lighting (Bespoke Trigger)**

No new external lighting shall be installed without full details of proposed lighting design being first submitted to and approved in writing by the Local Planning Authority; details to include proposed lamp models and manufacturer's specifications, proposed lamp positions, numbers and heights with details also to be shown on a plan; and details of all measures to limit use of lights when not required and to prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land; and to avoid harm to bat activity and other wildlife. The lighting shall be installed maintained and operated thereafter in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with policies NE3 and D8 of the Bath and North East Somerset Local Plan.

### **18 Hours of construction traffic (Compliance)**

Any HGV construction traffic required to implement this planning permission shall be limited to outside the peak hours on Monday to Friday (1000-1600) and on Saturdays between 0800- 1900.

Reason: To ensure that safe operation of the highway and minimise traffic congestion in accordance with Policy ST1 & ST7 of the Bath and North East Somerset Placemaking Plan.

### **19 Arboricultural Compliance (Bespoke Trigger)**

No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement. A signed compliance statement shall be provided by the appointed Arboriculturalist to the local planning authority within 28 days of completion of each phase (construction and decommissioning).

Reason: To ensure that the approved method statement is complied with to protect the trees to be retained in accordance with policy NE6 of the Placemaking Plan.

### **20 De-commissioning Strategy (Bespoke Trigger)**

No less than six months before the 40th anniversary of the first export date, a decommissioning and site restoration scheme shall be submitted to and approved in writing by the Local Planning Authority. The decommissioning strategy shall include details of how plant and equipment's within the site will be removed, including any boundary treatments such as fences, and including the timescale for such works. The strategy shall include copies of pre-decommissioning ecological surveys, and which will inform any mitigation requirements. The site shall be decommissioned and restored in accordance with the details so approved.

The site will revert to Greenfield Land following decommissioning and will not be identified as previously development land.

Reason: To protect the landscape character and openness of the Green Belt in accordance with policies CP8, GB1 and NE2 of the Bath and North East Somerset Core Strategy and Placemaking Plan and to ensure sufficient ecological mitigation in accordance with policy NE3

## **21 Plans List (Compliance)**

The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

Reason: To define the terms and extent of the permission.

### **PLANS LIST:**

1 21 Dec 2021	P20-1363_05 B	Landscape Strategy
14 Jan 2022	Mp-01 03	Marksbury Solar Farm Master Plan
14 Jan 2022	PI-01 10	Indicative Layout Plan
14 Jan 2022	Sd-01 01	Dno Substation Elevation And Dimension
14 Jan 2022	Sd-02 01	Customer Substation Elevations And Dimension
14 Jan 2022	Sd-03 01	Security Fence And Cctv Standard Details
14 Jan 2022	Sd-04 01	Access Gate Elevation
14 Jan 2022	Sd-05 01	Access Track Cross Section
14 Jan 2022	Sd-06 01	Inverter Elevations And Dimensions Layout
14 Jan 2022	Sd-07 01	Dno Track Cross Section Standard Detail
14 Jan 2022	Sd-08 01	Dno Substation Floor Plan
14 Jan 2022	Sd-09 01	Customer Substation Floor Plan
14 Jan 2022	Sd-10 01	Fixed Panel Cross Section Detail
14 Jan 2022	Sd-11 01	Indicative Cctv Post - Standard Drawings
14 Jan 2022	Sd-14 01	Inverter Floor Plan
14 Jan 2022	Sp-03 01	PV Site Location Plan

## **2 Permit/Consent Decision Making Statement**

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

## **3 Condition Categories**

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

#### **4 Community Infrastructure Levy - General Note for all Development**

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. CIL may apply to new developments granted by way of planning permission as well as by general consent (permitted development) and may apply to change of use permissions and certain extensions. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council **before any development commences**.

**Do not commence development** until you have been notified in writing by the Council that you have complied with CIL; failure to comply with the regulations can result in surcharges, interest and additional payments being added and will result in the forfeiture of any instalment payment periods and other reliefs which may have been granted.

#### **Community Infrastructure Levy - Exemptions and Reliefs Claims**

The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply for any relief and have it approved in writing by the Council then notify the Council of the intended start date **before** you start work on site. Once development has commenced you will be unable to claim any reliefs retrospectively and CIL will become payable in full along with any surcharges and mandatory interest

charges. If you commence development after making an exemption or relief claim but before the claim is approved, the claim will be forfeited and cannot be reinstated.

Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil). If you have any queries about CIL please email [cil@BATHNES.GOV.UK](mailto:cil@BATHNES.GOV.UK)

## **5 Public Right of Way Informative**

1. It is essential that the Applicant arranges a Pre-construction site visit with Sheila Petherbridge (PROW Inspector - Tel 01225 394943) prior to any works taking place to discuss the intended fencing and hedging, removal of gating (if necessary), construction phase arrangements and the possible effects to the public rights of way.

2. If the construction and maintenance access route is intended to be permanent, there must be clear demarcation on the ground where it crosses the public footpaths and vehicles must make way for pedestrians at all times.

3. Both public footpaths currently have gates at both ends where they meet the highway. If gating is no longer needed, the PROW Team can arrange for the gates to be removed and reused at other sites. There must be no new gating installed at any point along either of the footpaths.

4. The PROW Team is not in favour of enclosing footpaths with fencing but recognises that the solar panels must be secured. It is noted that the perimeter fencing will be deer fencing, approximately 2 metres in height (Landscape and Visual Impact Assessment, Point 2.22). There must be no barbed wire adjacent to the footpaths. The Proposal shows new native hedging on the eastern side of BA15/25. A minimum of at least 3 metres width must be retained between the expected maximum width of the hedging / fencing to accommodate the footpaths.

This is to negate the impact of enclosure on the users of the footpath.

5. The PROW Team will not be responsible for the maintenance of the proposed fencing on either side of the two footpaths, or the maintenance of the proposed hedges. The hedges must be

maintained on a regular basis to ensure that the public footpath does not become obstructed.

6. There must be no effect to the surface, gradient, line or width of the footpath during or after

construction. Any damage to the footpath during the construction phase must be repaired to the

satisfaction of the PROW Inspector at Bath and North East Somerset Council.

7. A temporary path closure may be required to facilitate development. Full details of the process

involved can be found on the Council's website at:

<https://www.bathnes.gov.uk/services/streets-and-highway-maintenance/public-rightsway/public-path-orders/temporary-path>

## **6 Responding to Climate Change (Informative):**

The council is committed to responding to climate change. You are advised to consider sustainable construction when undertaking the approved development and consider using measures aimed at minimising carbon emissions and impacts on climate change.

**Item No:** 04  
**Application No:** 21/04890/FUL  
**Site Location:** Land Below Inglescombe Farm Haycombe Lane Englishcombe Bath  
Bath And North East Somerset



**Ward:** Bathavon South      **Parish:** Englishcombe      **LB Grade:** N/A  
**Ward Members:** Councillor Neil Butters      Councillor Matt McCabe  
**Application Type:** Full Application  
**Proposal:** Retrospective application for replacement barn  
**Constraints:** Agric Land Class 1,2,3a, Policy B4 WHS - Indicative Extent, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2A Landscapes and the green set, Policy NE5 Ecological Networks, Neighbourhood Plan, All Public Rights of Way Records, SSSI - Impact Risk Zones, Tree Preservation Order,  
**Applicant:** Cradick  
**Expiry Date:** 5th July 2022  
**Case Officer:** Isabel Daone  
To view the case click on the link [here](#).

## REPORT

### REASON FOR COMMITTEE:

The application was referred to the Chair and Vice Chair of the Planning Committee following receipt of the minutes of the Englishcombe Parish Council Meeting which states members consider that the application is compliant with planning policy. The case officer recommendation is contrary to the comments of the Parish Council and therefore a committee referral is triggered. There was also a committee call in request for this application. However, this was submitted outside of a call in period and explicit planning reasons were not given. Following discussions with officers and Planning Managers, it was confirmed that this councillor call in request did not trigger a committee referral.



The Chair of the Planning Committee decided that the application should be debated in the public forum and decided by the Planning Committee. The Vice Chair considered that the application could be delegated, but the final decisions rests with the Chair. Their comments are as follows:

Chair: "I have reviewed this application and note the comments, both for and against, from the parish council, local ward Councillor and other interested parties. The officer has clearly explained the ways in which this proposal is deemed to be against current policies, but given the conflicting advice and opinions on some of the criterion, I believe it would be best for this to be debated in the public forum of the planning committee"

Vice Chair: "I have looked at this application & all associated information carefully from the applicants, third party & statutory consultees.

There seems to be confusion in some comments linked to what is actually being applied for rather than what could happen in the building.

We have to determine the application as applied for & this has been assessed against relevant planning policies including consideration to the very special circumstances given relating to impact on the Green Belt.

Although there may be a way forward this application as it stands, which is a replacement barn for agricultural use, is not policy compliant as the report explains therefore, I recommend the application be delegated to Officers for decision."

Details of location and proposal and Relevant History:

#### APPLICATION TYPE:

The applicant has submitted a retrospective planning application for the erection of an agricultural building and has paid the application fee for this type of application. It has come to light during the consultation process that the land may be being used for purposes beyond an agricultural use including the holding of workshops and events as well as offering "help and camp overs". Officers can only assess the application on the basis of the building as an agricultural building and cannot assess the application in terms of its acceptability as any another potential use.

#### SITE CONTEXT AND HISTORY:

The application site is located to the south of Inglescombe Farm, which is access from Haycombe Lane. It is within the Green Belt. The proposal relates to a building which has been constructed without planning permission, this application is retrospective. The building is located within an agricultural field and is considered by the applicant to constitute an agricultural building.

A building previously existed in some capacity on this land for around 100 years, according to the submission. Aerial photography from 1950 supports that a building occupied the land in a similar location at this time. When the site was purchased by the applicant, the barn was in a state of disrepair and indeed the eastern end of the barn had been destroyed by fire and absent from site for many years. It was noted from the enforcement investigation prior to submission of this application that the building was in a

derelict state in the 1970s and the fire occurred in the early 1980s therefore the majority of the former building occupying this land has been largely absent for c.30-40 years.

The building which was constructed after the new owners purchased the land to replace the fire damaged structure is considered to go beyond what can reasonably be considered "repairs" or "replacement" and is deemed to be a new building in its own right.

Relevant Planning History:

No relevant planning history.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Summary of Consultation/Representations:

Consultation Responses:

COUNCILLOR MATT MCCABE:

The barn/workshop once housed the furnace and pumps for the glasshouses of Wares Nurseries, and has been carefully restored on its original footprint, under the guidance of officers. Having fallen into disrepair, including fire damage, the current owners have sought to bring this important local feature back to life. They have kept the Parish Council informed throughout, and I would like to think that if there was some issue arising that you had concerns over, that the applicants would agree to make any changes you require.

Given the care and expertise so far deployed by the applicant and the support of the parish council, I would like any reasons for refusal to be considered by the planning committee.

ENGLISHCOMBE PARISH COUNCIL:

Su Hart & Ruth Munns advised the works carried out involved replacing existing timber framework with bespoke oak frame by local carpenter to a very high standard, with Barn footprint remaining the same. Roof material replaced with material approved by B&NES Planning. Members were satisfied that these works and current activities at the Barn were entirely in keeping with current NPPF and B&NES Core Strategy & Place Making Plan 2011 - 2029 Policies RE1, RE2 & RE3.

MINISTRY OF DEFENCE:

The application site occupies the statutory safeguarding zone surrounding RAF Colerne in particular, the bird strike safeguarding zone surrounding the aerodrome and is approx. - 12.1km from the centre of the airfield. The MOD has no safeguarding objections to this proposal.

HIGHWAYS:

No comment.

## ECOLOGY:

25th February 2022 - No ecological information has been submitted with the application and therefore, the full impact of the scheme cannot be assessed at this stage. A sensitive lighting design is required, and net biodiversity gain should be achieved.

10th May 2022 - No objection subject to conditions.

## PUBLIC RIGHTS OF WAY TEAM:

No objection subject to conditions.

## Representations Received:

14 letters of support have been received as well as three letters raising general comments and concerns about the development. Two formal letters of objection have been received, one with 4 local residents referencing their comments within it.

The support comments are summarised as follows:

- The site is not unsightly and has not caused disturbance.
- Improvements to derelict land
- The barn is necessary for storage and shelter.
- Sensitive restoration of the barn.
- Community benefit as it offers a place for people to volunteer
- Good to see the land being cleared and planted
- Land returned to productive use
- The improvements to the land support ecology and biodiversity

The general comments raise the following issues:

- How is waste water disposed of?
- Proximity to the brook and concern over the dispersal of human waste
- What sanitation provisions are there?
- The land has been reclaimed by nature, has an environmental survey been conducted?
- How is the adjacent DEFRA priority habitat protected?
- Increase in commercial vehicles and visitors to the site - access to the site is poor.
- Query over whether the barn as built is actually a replacement of the same dimensions

The objections are summarised as follows -

- Concerns about the unauthorised development have been ignored by the Parish Council, and B&NES Council
- Small scale project which does not justify a building of this nature or size
- Non-agricultural style of building
- Why are the windows double glazed?
- Why are the internal walls clad with sound proof insulations?
- Why have significant engineering works been allowed to continue?
- Why the real issue of increased traffic has not been taken seriously

- Why the increased noise, disturbance and traffic due to parties and festivals has not been taken seriously (I attach a poster of the festival)
- Sanitation concerns
- Traffic concerns
- non-agricultural vehicles accessing the site
- Ecological concerns
- Damage to other people's property by the landowner
- Conflict of interest/bias - concerns raised that the Parish Council have supported the application but have also provided the drawings for the application.

## **POLICIES/LEGISLATION**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
  - Policy GDS.1 Site allocations and development requirements (policy framework)
  - Policy GDS.1/K2: South West Keynsham (site)
  - Policy GDS.1/NR2: Radstock Railway Land (site)
  - Policy GDS.1/V3: Paulton Printing Factory (site)
  - Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)
- o Made Neighbourhood Plans

### **Core Strategy:**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP2: Sustainable Construction  
 CP5: Flood Risk Management  
 CP6: Environmental Quality  
 CP8: Green Belt  
 DW1: District Wide Spatial Strategy  
 SD1: Presumption in favour of sustainable development

### **Placemaking Plan:**

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles  
 D2: Local character and distinctiveness  
 D3: Urban fabric

D5: Building design  
D6: Amenity  
GB1: Visual amenities of the Green Belt  
GB2: Development in Green Belt villages  
NE2: Conserving and Enhancing the landscape and landscape character  
NE2A: Landscape setting of settlements  
NE3: Sites, species and habitats  
NE5: Ecological networks  
NE6: Trees and woodland conservation  
RE2: Agricultural development  
ST7: Transport requirements for managing development

#### National Policy:

The National Planning Policy Framework (NPPF) was published in February 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

#### Neighbourhood Plans:

The Englishcombe Neighbourhood Plan (2016)

#### LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

#### **OFFICER ASSESSMENT**

##### PRINCIPLE OF DEVELOPMENT:

The principal matter to establish is whether the proposal is appropriate development in the Green Belt. The NPPF, paragraph 149, states that Local Planning Authorities should consider the construction of new buildings in the Green Belt as inappropriate. It then goes on to list a number of exceptions.

The applicant has put forward the case that the application should be considered a replacement building in the Green Belt. The application must therefore be assessed against exception (d) of paragraph 149 which clearly states "the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces".

The first matter to ascertain is whether the replacement building is materially larger than the building it is replacing. Officers do not have elevation drawings of the former barn which has been demolished and, as such, are reliant on photographs and aerial imagery of the site. A number of statutory declarations have been submitted to state that the barn is the same size as the building it replaced.

In 2013, photographs were submitted to the Council which show the barn as it stood at that time. Around a third of the building had collapsed and been destroyed by fire and this area of the building was largely overgrown. The building was subject to fire sometime in the 1980s and has been derelict since. This evidence, along with aerial imagery demonstrates that the building had been in a poor state of repair for a significant period of time. The aerial imagery suggests that the replacement structure was built on a similar footprint to the building pre-fire, as opposed to the building as existed on the land after the fire.

The passage of time since a building stood on its original footprint (pre-fire) is significant. Whilst it is accepted that a building of a similar footprint to that which has been built likely stood on the land historically, it has been absent from the site for so long that the building which has recently been erected cannot be considered repair or replacement for the purposes of planning policy. This position is supported by similar cases elsewhere in the district, including in relation to refused applications which were dismissed on appeal. A recent appeal decision (APP/J1915/W/20/3254917) from East Hertfordshire also supports this view. In June 2020 an application for a replacement dwelling was refused. The property was partially destroyed by fire in 2017 and was demolished in 2018. The inspector ruled that as there was no building onsite, the new building could not be considered a replacement. Whilst it is accepted that everything must be assessed on a case by case basis, the fact that the passage of time since demolition in that case was only 2 years, this does support that Council's view that the element destroyed by fire in the 1980s should not be considered as still being present and therefore replaceable.

Additionally, what did remain of the previous building was in such a poor state of repair that the works required to renovate it amounted to a substantial reconstruction and therefore new building.

The building as existing in 2013 was dilapidated in appearance, largely constructed from corrugated iron sheeting and a metal frame and was almost wholly open on one side. The unauthorised building subject to this application has a substantial timber frame form, which is closed on all sides and features materials such as timber cladding, stone, and render. The roof is corrugated metal and features several roof lights. The building is enclosed on all sides. As such, visually it has a much more substantial appearance than the building it is replaces and is significantly larger than the structure that has existed on site for over 30 years.

Officers consider that the building is materially larger than the one it is replacing. Spatially, it has a larger volume and footprint than the building which existed post-fire which can be considered the building to be replaced. Whilst the replacement building may follow the scale of a historic building on the site, the passage of time since the building stood as such is considered to be significantly longer than can allow a consideration of this as the building to be replaced. Visually, the building subject of this application is of a more substantial construction, with timber clad walls, render and stone and as such would appear materially larger in this regard compared to the previous corrugated iron barn with an open side.

Overall, officers are satisfied that as a matter of fact the building as erected constitutes a materially larger replacement building, contrary to exception (d) of the NPPF.

The second matter to ascertain is whether the replacement building is in the same use as the one it is replacing. The use of the building which has been replaced was an agricultural barn. The applicant has submitted information to justify that the current use of the building is agriculture. The submission explains that the applicants are creating a "self-sustaining land project". The current work on the site focusses on flower production, vegetable patches, fruit trees, soft fruit, bushes, and a small flock of 5 sheep. It is stated that the barn is essential for providing secure, dry storage of equipment and a rest space/office for our workers. The rest room will be a place for workers to prepare food and drinks and undergo training sessions.

Evidence of a website relating to the land/commercial venture of the applicant has been submitted to the Council and officers have reviewed the website. This informs that the land surrounding the subject building is being used largely for agricultural purposes and volunteers can farm the land. There are images to support this use. Notwithstanding, the website also confirms that the building and wider land is used to host workshops and events, offering "occasional week-end 'help and camp overs'" and images show that the inside of the barn has been used for social entertainment with live music; officers have however been informed that this was a one off for the applicant's birthday.

The appearance of the barn does not appear inherently agricultural. The barn has double glazing and roof lights which are not generally considered to be necessary for agricultural functions. Steps lead up to a number of doors. Officers note that the sheep on site are not likely to, nor referenced in the submission as, taking shelter within the barn and there are no openings into the building that would be typically associated with housing livestock. Additionally, although the lighting statement notes that the building will rarely be used in the evenings, it goes on to say that shutters and blinds will be used to prevent light spill. Whilst this may be supported from an ecological perspective, officers query the necessity of shutters and blinds in what is allegedly an agricultural building.

The use of the building for food preparation and for gatherings/parties demonstrates that the scale of the building is not reasonably required for the scale of agriculture occurring at the site. Officers do not dispute that the building is used for agricultural purposes in some respects. However, it is also clear that there are other functions of the building such as occasional non-agricultural events and workshops.

It is therefore considered that the replacement building is not in a solely agricultural use and therefore is not considered to be in the same use as the one it is replacing. Given the building is materially larger and not satisfactorily in the same use, officers consider that the development does not comply with criterion (d) of paragraph 149 of the NPPF.

Officers have assessed whether the proposal could be considered under any other exception. Exception (a) of paragraph 149 of the NPPF allows for the erection of agricultural buildings in the Green Belt. Section 336 of the Town and Country Planning Act 1990 provides the definition of agriculture: "includes horticulture, fruit growing, seed growing, dairy farming, the keeping and breeding of livestock (including any creature kept for the production of food, wool, skins, fur, or for the purpose of the farming of the land), the use of land as grazing land, meadowland, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and 'agricultural' shall be construed accordingly".

Officers consider that the website for the land shows that the building is also being used for non-agricultural purposes. Additionally, the provision of workshops inside the building is not considered to be an ancillary agricultural function. The general appearance of the building, as above, with the inclusion of roof lights and double glazing, coupled with the other uses which are occurring at the site mean that officers do not consider that the building is solely in agricultural use.

As such, the proposal is not considered to meet exception (a) of paragraph 149 of the NPPF.

The proposal is therefore inappropriate development in the Green Belt which is, by definition harmful. It is also considered that the proposed building would cause harm to the openness of the Green Belt. Although a building in some form has been in existence on this land historically, given its dilapidated nature and noting the passage of time the majority of the former building has been absent from site it is considered it would have had a lesser impact upon openness to the one which has been erected.

Paragraph 148 of the NPPF states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. Very Special Circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The applicant has put forward three very special circumstances and these will be assessed in the planning balance section below.

#### CHARACTER AND APPEARANCE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host building and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

The application site is in rural location. The building features timber cladding on the east elevation, stone on the west elevation, timber cladding and render on the north elevation and cladding, stone and render on the south elevation. The roof is corrugated metal and there is corrugated metal on the south elevation. The overall effect of the building is one of a piecemeal appearance which has little overall cohesion. The justification that this is due to the re-use of recycled materials is not considered sufficient. Officers note the re-use of some metal cladding/sheeting on the walls, which is supported by policy CC1 of the Englishcombe Neighbourhood Plan. However, this minor use of recycled materials is visually detrimental and is of such a small scale that it cannot be said to significantly contribute to the sustainability of the building. The building also includes glazed windows and roof lights which are not common features on functional utilitarian agricultural buildings in rural locations. Officers note that a landscaping plan has proposed hedging to screen the building from public footpaths. This is welcomed but does not detract from the



piecemeal appearance of the building, which does not have a typical agricultural form. It is considered, therefore, that the building does not have a character and appearance which responds to its local context, nor its function as an agricultural building. This is viewed by officers as a sufficient reason for refusal.

The proposal, by reason of its design, scale, massing, layout and materials results in a building which does not respond to its local rural context and is visually detrimental to the character of the locality, as well as the visual amenities of the Green Belt. The proposal is therefore contrary to policies GB1, D1, D2 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

#### RESIDENTIAL AMENITY:

Policy D6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

A number of residents have raised that festivals and events occur on the land which cause noise and disturbance to residents. This application pertains solely to the building and not to the land surrounding the site. If this application were being recommended for approval, it would not permit the use of the land for such activities, outside of the 28 day temporary permission period allowed by permitted development rights.

The building itself is not considered to have a detrimental impact upon the residential amenity of neighbouring occupiers. Officers consider that, for reasons outlined in this report, that the building is not in a solely agricultural use and is therefore unacceptable in principle. If the building were used in an agricultural manner, officers do not consider that it would have a significant impact upon the residential amenity of the neighbouring occupiers.

#### HIGHWAYS SAFETY AND PARKING:

Policy ST7 states that development will only be permitted provided, amongst other things, the development avoids an increase in on street parking in the vicinity of the site which would detract from highway safety and/ or residential amenity.

Concerns have been raised by residents in relation to access and highway safety issues resulting from the manner in which the building and land are currently operating however as this application is not seeking permission for a change of use, the application can only be assessed on the basis of what is being applied for.

There is no highway objection to the proposed development. On that basis, if the building were used solely for the purposes of agriculture, it is not considered that it would cause harm to highway safety.

#### ECOLOGY:

Following comments from Ecology, a Lighting Statement and Hedgerow Planting Plan have been submitted; both are welcomed. The lighting statement confirms that no external lighting will be installed, and it is acknowledged that low power lighting will be used. The use of warm white LED lamps would be welcomed, as well as the use of shutters and

blinds. A sensitive lighting design could be secured by condition if approval were being granted.

There are not any credible risks of significant impacts to the Bath and Bradford-on-Avon Bats Special Area of Conservation (which is 3.2km away) given that a sensitive lighting scheme has been designed. Therefore, in this instance, a Habitats Regulations Assessment/Appropriate Assessment is not required in this instance.

The hedgerow planting plan identifies that a new hedge will be planted to the south of the barn and the proposed planting schedule is considered appropriate. The provision of a new hedgerow would be supported and shows the scheme can achieve net gain. This could be secured by condition.

The proposal is considered to comply with policy NE3 and D8 of the Bath and North East Somerset Placemaking Plan.

#### PLANNING BALANCE:

It has been ascertained that the development is inappropriate development in the Green Belt, as the building is not considered to be in the same use as the one it is replacing and is, as a matter of fact, materially larger.

The applicant has put forward three very special circumstances which they wish to be considered as part of the application:

1. There has been a barn of that size in that location for over 100 years
2. There is clearly agricultural activity taking place on the site and this is set to increase
3. In a time of climate crisis this type of proposal should be supported

Paragraph 148 of the NPPF states that when considering any planning application, local authorities should ensure substantial weight is given to any harm to the Green Belt. Very special circumstances will not exist unless the potential harm to the Green Belt by reason of its inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations. The harms arising from the development are:

1. Harm to the Green Belt by reason of the development's inappropriateness
2. Harm to the intrinsic openness of the Green Belt
3. Harm to the rural character of the area by reason of the building's appearance

As above, substantial weight must be applied to the harm to the Green Belt, and so the starting point of the balance assessment is weighed in favour of refusal. The harm to the rural character of the locality by reasons of the appearance of the building further tips this balance and the very special circumstances must, therefore, outweigh these cumulative harms.

Looking at the very special circumstances in turn, officers have assessed whether they would outweigh the harm of the development. The fact that a barn of this size may have been on the land historically has not been disputed within this report however what is proposed goes significantly beyond what can be considered a replacement building given

the passage of time. The fire damage and dilapidated state that the former building has been in for some years means that a building of the scale built has not stood on the land for a significant period of time. Reference to the historical presence of a building on site is therefore afforded limited weight. The Council does not dispute that there is agricultural activity taking place on the land. However, the function of the building is clearly not solely agricultural. It is noted that the agricultural function of the land is set to increase in scale, but officers remain unconvinced that workshops and other events would form part of the agricultural function; indeed, these would likely tip the use of the site into a mixed use. Again, this suggested very special circumstance is afforded limited weight. Finally, it has been put forward that in a climate crisis and in response to the declared climate emergency that developments of this type should be supported. This is further explained in the submission. The applicant states that community based, off-grid projects providing local produce and skill sharing should be encouraged. The low carbon building techniques, re-use of materials, maximising solar gain and natural lighting should also be supportive. Officers again do not dispute the benefit of the building regarding community gain and supporting local food growing. In this regard, this is afforded moderate weight. However, as above, it is considered that the building itself goes beyond what can reasonably be considered necessary for an agricultural use and the design does not lend itself to that purpose.

Given substantial weight to the Green Belt harm, and including harm to the local context, it is considered that in this case the very special circumstances put forward by the applicant do not outweigh the harm arising from the development. As such, the proposal is recommended for refusal.

## LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

## PUBLIC SECTOR EQUALITY DUTY:

The Public Sector Equality Duty requires public authorities to have regard to section 149 of the Equality Act 2010.

Officers have had due report to section 149 of the Equality Act 2010 and have concluded that the refusal of this application is not considered to impact upon any protected groups, or neighbouring residents. As such, the Council has complied with its Public Sector Equality Duty during the assessment of this planning application.

## CONCLUSION:

It is considered that the development represents inappropriate development in the Green Belt and is, by definition, considered harmful. Additionally, the character and appearance of the building is considered to be inappropriate in this location. As above, officers do not

consider that this is outweighed by very special circumstances. The application is therefore recommended for refusal.

## **RECOMMENDATION**

REFUSE

## **REASON(S) FOR REFUSAL**

1 The replacement building is materially larger than the building it replaces and is not considered to be within the same use. The building is not considered to fall within a solely agricultural use. As such, the application fails to comply with exceptions (a) and (g) of paragraph 149 of the National Planning Policy Framework. As such, the erection of the building represents inappropriate development in the Green Belt and is, by definition, harmful. The building will harm the openness of the Green Belt. The Very Special Circumstances put forward do not outweigh the harm identified to the Green Belt. The application is therefore contrary to policy CP8 of the Bath and North East Somerset Core Strategy, GB1 of the Bath and North East Somerset Placemaking Plan and Part 13 of the National Planning Policy Framework.

2 The proposal, by reason of its design, scale, massing, layout and use of materials results in a building which does not respond to its local rural context. It is visually detrimental to the rural character of the area, as well as the visual amenities of the Green Belt. The proposal is therefore contrary to policies GB1, D1, D2 and D5 of the Bath and North East Somerset Placemaking Plan (2017) and part 12 of the National Planning Policy Framework.

## **PLANS LIST:**

1 This decision relates to the following plans:

ELEVATIONS OF EXISTING BARN. Received 1st November 2021

PLAN OF BARN. Received 17th December 2021

Land below Haycombe Lane BA2 9DN. Received 17th December 2021

Hedgerow planting plan. Received 13th April 2022

Site Location Plan. Received 1st November 2021

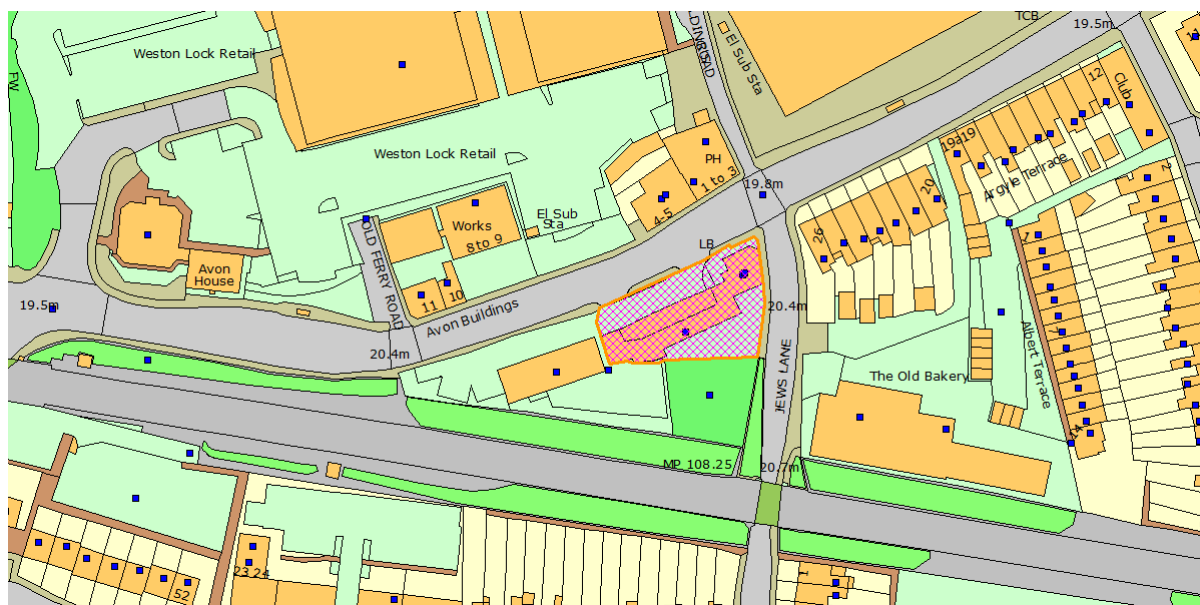
## **2 Community Infrastructure Levy**

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)

3 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons 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. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

**Item No:** 05  
**Application No:** 22/01299/FUL  
**Site Location:** Frome House Lower Bristol Road Westmoreland Bath Bath And North East Somerset



**Ward:** Westmoreland **Parish:** N/A **LB Grade:** N/A

**Ward Members:** Councillor Colin Blackburn Councillor June Player

**Application Type:** Full Application

**Proposal:** Change of use of the existing building (excluding ground floor tyre repair centre) to 25 student bedspaces and associated works.

**Constraints:** Article 4 HMO, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Air Quality Management Area, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, British Waterways Major and EIA, Contaminated Land, Policy CP9 Affordable Housing Zones, HMO Stage 1 Test Area (Stage 2 Test Req), LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Railway, River Avon and Kennet & Avon Canal, SSSI - Impact Risk Zones,

**Applicant:** Crossman Acquisitions Ltd

**Expiry Date:** 1st July 2022

**Case Officer:** David MacFadyen

To view the case click on the link [here](#).

## REPORT

The application is recommended to be permitted. In light of objections raised by Westmoreland ward Councillor June Player, the application has been referred to Planning Committee Chair in accordance with the Council's Planning Scheme of Delegation. The Chair has reviewed the recommendation and decided that the application will be determined by Committee. Whilst differences in comparison to an earlier application at the same site were recognised, it was acknowledged that the views of the ward member differed from the officer's recommendation and it was felt that for consistency in

democratic decision making, the current application should also be determined by Committee. This view was shared by the Vice Chair.

### Site Description & Application

The application relates to a part two, part three storey mixed use building known as Frome House. The site is located to the southern side of Lower Bristol Road in Westmoreland ward. The building includes a tyre fitting garage (Bathwick Tyres) at ground level and vacant office accommodation at ground, first and second floor levels. The site has accesses from both Lower Bristol Road and Jews Lane which runs to the eastern side of the site. The office building dates from 1960/70s. A two storey extension was added to the eastern side in the early 21st Century following demolition of the former Twerton post office building. The tyre fitting garage is located in part of the ground floor and a detached single storey workshop to the west of the site. The offices have been vacant since approximately 2018.

Full planning permission is sought for the proposed change of use of the offices to create student accommodation comprising 25 student beds within 13 studios and x2 six bedroom cluster flats. No extension or enlargement of the building is proposed and the tyre fitting garage will be retained at ground level unaffected by development. Externally the proposals include installation of cycle parking, bin and recycling storage, renewable energy equipment and removal of a fire escape at the rear of the site.

### Planning History

98/00692/FUL - REFUSED - 1 December 1998 - Demolition of former Post Office adjacent to Jews Lane, erection of building to form an extension to adjacent building to form additional office accommodation

99/00601/FUL - PERMITTED - 13 January 2000 - Demolition of former Post Office adjacent to Jews Lane, erection of building to form an extension to adjacent building to form additional office accommodation (revised proposal)

05/03137/FUL - PERMITTED - 12 January 2006 - Erection of 5-bay tyre fitting workshop and ancillary external works and car parking

15/05535/FUL - PERMITTED - 18 January 2016 - Re-roof building

18/01977/FUL - PERMITTED - 3 July 2018 - Erection of single storey extension to the rear elevation to allow access to lift from main lobby area. Creation of raised paving area to front elevation and other alterations. A newly installed Shower/WC will be installed to the 2nd floor again from an extended lobby area. The building's use will remain as offices

21/04147/FUL - REFUSED - 10 February 2022 - Enlargement of Frome House and associated change of use from office (Use class E(g)) (Excluding existing ground floor tyre repair centre) to 66 student bedspaces and associated works.

### **SUMMARY OF CONSULTATIONS/REPRESENTATIONS** **SUMMARY OF CONSULTATIONS & REPRESENTATIONS**

#### Archaeology:

Limited or no archaeological implications to this proposal and we therefore have no objections on archaeological grounds. - 4th April

#### Arboriculture:

No extensions to building and therefore no impact to adjacent trees. No arboricultural objection. - 28th April

#### Contaminated Land:

Conditions advised for investigation, risk assessment, remediation scheme, verification report and unexpected contamination. - 21st April

Following confirmation that development involves minimal ground works, conditions revised to require a desk study and walkover survey as well as reporting of unexpected contamination. No objection subject to conditions. - 16th May

#### Drainage:

Following confirmation that surface water will discharge to the Wessex Water surface water system as is the existing arrangement, no objection is held. Condition recommended regarding green roof to bin and bike stores. - 11th May

#### Environmental Health:

Conditions recommended relating to acoustic insulation to attenuate against road and commercial noise as well as a construction management plan. No objection subject to conditions. - 19th April

#### Ecology

The site is not in close proximity of any sites designated for nature conservation or habitat significance. The vegetated railway line at the rear of the site is likely to be a habitat corridor. Impacts can be mitigated through conditions requiring a construction environmental management plan and sensitive lighting strategy. Due to limited biodiversity at the site, it is acknowledged that any BNG calculator is likely to conclude an overall net habitat gain. The proposed green roof, native planting scheme and details of bird nesting and bat roosting proposals will be sought and secured as part of an ecological enhancement strategy in the event of permission being granted. No objection subject to conditions.

#### Highways:

Transport, highways and access implications of development considered acceptable subject to conditions relating to a construction management plan, securing cycle parking and car parking, a travel plan and student arrival and departure strategy. No objection subject to conditions. - 11th May



Parks:

No objection subject to contribution of £23,400 relating to greenspace enhancement projects in the local area secured by s.106 agreement.

Representations Received:

Councillor June Player -

Should you be minded to permit this application then I am requesting that it goes to committee on the grounds it is contrary to the following Planning Policies of the BANES Core Strategy (2014) and Placemaking Plan (2017):-

D6: Residential Amenity

CP10: Housing Mix

ED1B: Change of Use and redevelopment of Office to Residential Use

In the Design & Access Statement 1.3 Public Benefit Social, it states the application will 'release 10 existing student HMOs back in to traditional residential use'.

Please can this statement be quantified i.e. which properties are you referring to as I cannot agree with it at all as an increase in student numbers leads to an increase in demand for more HMOs as students very seldom stay in Purpose Built Student Accommodation after the first year. Living in a ward for over 20 years that now has many, many student HMOs and PBSA blocks I have very seldom seen an HMO revert back to a C3 residential property.

As this site is within an area with a really high concentration of existing HMOs and PBSAs, this application should not be permitted as it will be contrary to supporting a balanced community. The residential amenities of neighbouring properties and lack of a good mixed community in this locality will be even more seriously harmed with this proposal.

WITHIN A 6 MINUTE WALK from this site there are the following Existing PBSAs:-

Charlton and Waterside Courts on the Lower Bristol Rd just up from Frome House which between them have 661 student beds

The Old Bakery in Jews Lane where Frome House also fronts on to is almost nearing completion with 63 student beds

PLUS out of 23 properties along Lower Bristol Rd in Vernon Terrace there are 13 HMOs with a total of 61 students and In the next terrace of Argyle and Bloomfield (along Lower Bristol Rd) there are 26 properties with another 13 HMOs with a total of 62 students.

TOTAL number of students = 847

These figures have been obtained from latest Council HMO Register.

Opposite the Tyre Repair Centre of Frome House on Lower Bristol Rd there is also the Seven Stars student accommodation, next to the Golden Fleece Pub which is advertised

as consisting of 7 double bedroom accommodation which could house a further 7 to 14 students.

Please note that these figures have not taken in to account the student HMO numbers in the side streets off Lower Bristol Rd of Vernon Park, Inverness and Burnham Rds plus Albany Rd which is at the rear of Frome House all within 6 minute walk.

The remaining buildings along this stretch of Lower Bristol Rd consists of Charlton Buildings Nos 6,7 and 8 which No. 6 appears to have 2 apartments in, No. 7 has 4 flats in and No. 8 has 2 flats in, the Mero Business Retail Park where Lidl is situated and The Golden Fleece Pub and on to Weston Lock Retail Park.

If this application is permitted to become housing and not continue to be for Office Use of which there is a shortage then it should be offering C3 residential housing. Any more student accommodation here will add to an already hugely disproportionate number of students in the locality.

This application will result in the unacceptable loss of residential C3 housing and or Office space.

Due to the above comments I have no choice but to object to this application.

Bath Preservation Trust (summarised)-

Bath Preservation Trust maintain an in-principle objection to speculative purpose-built student accommodation (PBSA) without evidence of justified need from an education provider.

No design comments are made given the proposals would re-use the existing building. Bath Preservation Trust are supportive of reuse and refurbishment of the existing building based on sustainability.

The area surrounding the site already has a disproportionate makeup of student orientated housing. Further student accommodation should only be driven by need associated with growth and expansion of Bath's universities and education providers, rather than speculative developments. There is no evidence that PBSA results in existing HMO being released back into the single dwelling market. A preference for market housing is expressed for this site.

The application is contrary to section 7 of the NPPF and Policies B1 and D1 of the Core Strategy and Placemaking Plan and should be refused or withdrawn.

Public consultation:

11 responses were received with 6 classified as in support of the development and 5 classified as objecting to the development.

A summary of grounds of support is as follows:

- o Students taking up too many family houses and require purpose built accommodation to avoid this
- o Building is empty and attracts crime. Given no alternative use, student accommodation should be permitted
- o Location is in close proximity of Locksbrook Campus and ideally located for student use
- o There is need for proper student accommodation
- o Purpose built blocks have better management, monitoring and support than HMOs

A summary of grounds of objection is as follows:

- o Too much student accommodation close by including new development on Jews Lane
- o No need for more student accommodation in this area
- o Students will bring cars and park in local streets which cannot accommodate additional parking
- o Need for affordable homes for key workers
- o No enough food/supplies in local supermarkets to accommodate further increase in population
- o Local residents should not be made to feel like they live on a campus
- o Development purely for profit with no benefit to city and residents

## **POLICIES/LEGISLATION**

### **RELEVANT LEGISLATION & POLICIES**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:

- Policy GDS.1 Site allocations and development requirements (policy framework)
- Policy GDS.1/K2: South West Keynsham (site)
- Policy GDS.1/NR2: Radstock Railway Land (site)
- Policy GDS.1/V3: Paulton Printing Factory (site)
- Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)

- o Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

B1: Bath Spatial Strategy  
B4: The World Heritage Site and its Setting  
B5: Strategic Policy for Bath's Universities  
CP2: Sustainable Construction  
CP3: Renewable Energy  
CP5: Flood Risk Management  
CP6: Environmental Quality  
CP10: Housing Mix  
SD1: Presumption in favour of sustainable development

#### Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles  
D2: Local character and distinctiveness  
D.3: Urban fabric  
D.5: Building design  
D.6: Amenity  
ED1b: Change of use and redevelopment of B1(a) Office to residential use  
HE1: Historic environment  
NE2: Conserving and Enhancing the landscape and landscape character  
NE2A: Landscape setting of settlements  
NE3: Sites, species and habitats  
NE5: Ecological networks  
NE6: Trees and woodland conservation  
ST7: Transport requirements for managing development  
H7: Housing accessibility  
SCR1: On-site renewable energy requirement  
SCR5: Water efficiency  
SU1: Sustainable drainage policy  
LCR9: Increasing the provision of local food growing  
PC55: Contamination

#### National Policy:

National Planning Policy Framework (2021) and the National Planning Practice Guidance (March 2014) must be awarded significant weight in decision making.

#### SPD's:

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2013) is also relevant in the determination of this planning application.

## Conservation Areas:

In addition, there is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area.

## Listed Buildings:

In addition, there is a duty placed on the Council under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 'In considering whether to grant planning permission for development which affects a listed building or its setting' to 'have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.'

## LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

## LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

## **OFFICER ASSESSMENT**

### OFFICER ASSESSMENT

The main planning issues resulting from legislation, national and local planning policy, planning guidance and other material considerations relevant to the proposed development will be addressed in turn beneath.

### Acceptability of Proposed Change of Use

The application seeks planning permission for change of use of Frome House to create student accommodation. This development would comprise loss of the established office use (use class E [g]) totalling 680m<sup>2</sup> office floor area and creation of 25 student beds within 13 studios and x2 6 bedroom cluster flats. The existing tyre fitting garage (Bathwick Tyres) will be retained, unaffected at ground level to the west of the site.

Policy ED1B sets out that change of use of office buildings to residential (use class C3) will typically be permitted development and therefore such change of use is accepted. This would apply to Frome House and therefore no objection is held to loss of established

use of the site as offices in this instance. It is noted that the applicant has supplied a Marketing Report which sets out that the building has been vacant and marketed unsuccessfully from March 2018 until the building was sold in June 2021. Policy does not specifically require the submission of such information to demonstrate lack of demand due to permitted development rights, however the vacancy and unsuccessful marketing process are acknowledged.

In respect of the existing tyre fitting garage (Bathwick Tyres) it is noted that this would be retained, unaffected by the development. The proposed student accommodation would be located over and to the west of the garage premises. The development would not result in the loss of a 'non-strategic industrial premises' and Policy ED2A is not triggered.

As the current proposals are for change of use to student accommodation (rather than residential dwellings - use class C3), Policy ED1B sets out that Policy B5 will be used to determine acceptability.

In respect of 'Off-Campus Student Accommodation' Policy B5 states that: "Proposals for off-campus student accommodation will be refused within the Central Area, the Enterprise Area and on MoD land where this would adversely affect the realisation of other aspects of the vision and spatial strategy for the city in relation to housing and economic development."

Frome House is not located within the Central Area, the Enterprise Area or on MoD land. The site is consequently in an area where the development of student accommodation accords with the requirements of adopted local policy and is thereby acceptable. Student accommodation at this location would not adversely affect the realisation of other aspects of the vision and spatial strategy for the city and can be taken to support housing and economic development.

Concerns have been raised through public consultation in relation to levels of student accommodation and HMO's in the area adjacent to the site. Concerns relate to the residential amenities of neighbouring properties and lack of a 'good' mixed community in this locality. Concerns have also cited the speculative nature of the development and have questioned the need for additional student accommodation.

In relation to these points, it is highlighted that purpose built student accommodation and multiple occupancy housing (HMOs) are different land uses. The current application relates to purpose built student accommodation. The strategic policy approach set out within the Local Plan (Core Strategy and Placemaking Plan) is to support development of purpose built student accommodation on and off campus in order to ensure growth in student numbers do not pressurise the private lettings market which relies on market housing. Policy therefore outlines support for purpose built student accommodation on the basis this will prevent creation of further HMOs and associated loss of housing. Irrespective, it is highlighted that HMOs are not exclusively occupied by students.

It is noted that there is no cap stipulated in policy for student accommodation. Policy DW1.5 targets that growth in student numbers matches growth in purpose built accommodation at each plan review. The Council's latest study (Local Plan Partial Update: Student Accommodation Topic Paper, August 2021) estimates an expected shortfall of 640 student bedspaces in the city by 2029/2030. It is noted that there are

extant planning permissions which currently cover this shortfall however the delivery of these is not guaranteed. Given that the current proposals are for 25 bedspaces, the development would not cause a significant oversupply even if supply were to outstrip demand. Change of use in this instance predominantly relates to works to internal layouts which could easily be reversed or repurposed for alternative uses if required.

There are no policies which currently restrict speculative developments, in student accommodation or other land uses. Many buildings granted planning permission do not benefit from identified tenants at the point of gaining planning permission. Officers do not believe that this would represent a robust or legitimate reason for withholding planning permission. This is particularly given there is no substantive evidence of vacancies in existing student accommodation and some evidence of recent student accommodation shortages locally as well as strategic policy support for such accommodation.

Several recent appeals relating to student accommodation within Bath have been determined to be policy compliant and allowed by Government appointed Inspectors. In the recent Plumb Centre decision (December 2020) located inside the Enterprise Area, the Inspector accepted "it is a reasonable assumption that in the lifetime of the appeal scheme, there will be strong demand for student accommodation. There are some advantages to both the students and to the local community in meeting this demand in dedicated student accommodation, rather than it being met by the private rented sector."

In the Hartwells Garage appeal decision (March 2021), the Inspector also found the proposals for student accommodation policy compliant noting: "It appears that there is still a need for additional student accommodation in the city. LP Policy B5 prevents off-campus student accommodation within the Central Area and the Enterprise Zone, but the appeal site is not located in either."

Concerns have also been raised regarding the appropriateness of further student accommodation in this area due to the area currently accommodating high levels of students. Concerns highlight creation of mixed and balanced communities as well as residential amenity.

In relation to creation of a mixed community, Policy CP10 has been cited in objections. This policy relates to housing mix and states that: "New housing development, both market and affordable must provide for a variety of housing types and size to accommodate a range of different households, including families, single people and low income households as evidenced by local needs assessments (e.g. B&NES Residential Review, 2007) and the Strategic Housing Market Assessments or future evidence."

"The mix of housing should contribute to providing choice in tenure and housing type, having regard to the existing mix of dwellings in the locality and the character and accessibility of the location".

"Housing developments will also need to contribute to the provision of homes that are suitable for the needs of older people, disabled people and those with other special needs (including supported housing projects), in a way that integrates all households into the community."

This policy is focused at ensuring housing developments provide a mix of types and sizes to meet local needs and achieve a mixed and inclusive community. It is noted that student accommodation is not referenced within the policy. It is not interpreted that the policy intends to limited student accommodation given that it relates to new housing development. It is acknowledged that there is existing purpose built student accommodation in the area however this does not outnumber other forms of housing. Census data for Westmoreland ward confirms that terraced housing (1666 households), followed by semi-detached housing (275 households) are the main types of housing, before purpose built flats (165 households), shared houses (75 households) and detached (60 households). Census data in relation to tenure suggests that of a total of 2216 households in Westmoreland ward, 386 are multiple person households comprising all full time students. Approximately 17% of households comprise all full time students which is not found to be indicative of an area which lacks a variety of housing types and sizes to accommodate a range of different households. In any event, Policy CP10 relates to new housing development rather than purpose built student accommodation.

The development relates to change of use of offices to create student accommodation and would therefore create student accommodation without the loss of any existing housing. The proposals therefore avoid any detrimental impact to the variety of housing types and sizes currently available within the area. Provision of purpose built student accommodation would mean that students do not need to occupy further market housing thereby preserving the existing housing stock in accordance with strategic policy objectives. It is highlighted that neither Policy CP10, nor any other policy sets thresholds relating to students or student accommodation within an area and should not be interpreted as a tool to limit student levels with a geographical area. The proposals include studios and cluster flats so do provide diversity and would contribute to a variety of housing types and sizes in the area. No conflict with Policy CP10 is identified.

The Local Planning Authority is required to determine the application before it which seeks permission for student accommodation. However officer's generally question the appropriateness of this site to accommodate other land uses such as traditional open market dwellings. The site is environmentally constrained by its position adjacent to a major road (A36) and mainline railway. The site includes a tyre fitting garage which will be associated with high levels of noise and activity during the day. It is also directly opposite a public house, supermarket, retail and enterprise park. The site is significantly impacted by noise and air pollution. Due to the size and layout of the site, there is also limited opportunity to accommodate gardens or outdoor amenity space which are desirable for dwellings. These factors weigh against housing development at the site.

As discussed above, student accommodation at this location complies with relevant Local Plan policy. The site is only 200m from Locksbrook Campus so accessing this site would be highly sustainable and discourage car use by students. There are also a range of public transport services in the area with a bus stop immediately outside the site on Lower Bristol Road and Oldfield Park Railway Station 600m east of the site. Provision of student accommodation is associated with the benefit of ensuring there is sufficient accommodation available to meet growth in student numbers, without pressurising the private lettings market which relies on market housing. Furthermore, student accommodation counts towards the district's 5 year housing land supply which is necessary for the Local Planning Authority to robustly resist inappropriate development within the district. Student accommodation is also necessary to ensure the continued



success of the city's universities which is in turn linked to the city's identity and profile. There would be economic benefits including jobs associated with construction of the development as well as on going management and maintenance. These factors weigh strongly in favour of student accommodation at this site representing sustainable development and according with the development plan.

Overall, the loss of the established office use accords with Policy ED1B which requires compliance with Policy B5 where change of use is to student accommodation. The site is located within an area where student accommodation is acceptable in accordance with Policy B5. The existing tyre fitting garage will be retained unaffected. The change of use would not result in any harmful impact to the variety of housing types and sizes currently available within the area and accord with Policy CP10 in relation to housing mix. No conflict with the local plan is identified relating to loss of the existing use or the proposed use. A number of benefits are identified relating to proposals for purpose built student accommodation at this site. The proposed change of use is found policy compliant and thereby acceptable in principle. Other detailed impacts of development resulting from relevant policy will be addressed under subsequent subheadings.

### Neighbouring Amenity

Paragraph 130 of the National Planning Policy Framework (NPPF) requires that planning decisions ensure that developments: "create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience".

Policy D6 (Amenity) of the Placemaking Plan requires that development must provide for appropriate levels of amenity and must:

- a. Allow existing and proposed development to achieve appropriate levels of privacy, outlook and natural light;
- b. Not cause significant harm to the amenities of existing or proposed occupiers of, or visitors to, residential or other sensitive premises by reason of loss of light, increased noise, smell, overlooking, traffic or other disturbance;
- c. Allow for provision of adequate and usable private or communal amenity space and defensible space.;
- d. Include adequate storage and functional arrangements for refuse and recycling; and
- e. Ensure communal refuse and recycling provision is appropriately designed, located and sized.

The site is located on Lower Bristol Road (A36) within a mixed commercial and residential context. The site contains offices and a tyre fitting garage, with the latter being retained as part of the proposals. The Great Western Railway mainline runs immediately to the south of the site, dividing the site from Twerton. The Golden Fleece public house is located immediately opposite to the north. Beyond this is a large supermarket (Lidl), Weston Lock retail park and some industrial units which form part of the Bath Enterprise Zone. There is some residential use in the immediate area although these are predominantly HMO properties. The area to the south beyond the railway line is predominantly residential including a mix of dwellings and HMOs.

The proposed use as student accommodation is not found to be significantly different in nature or characteristics to the established use of the site as offices during daytime hours. Student accommodation would likely be associated with greater levels of occupation and activity beyond traditional office hours. However the site is in a busy area adjacent to Lower Bristol Road (A36), the mainline railway, Golden Fleece pub, supermarket and retail park which generate high levels of activity and background noise throughout the day and into the evening. Within this context, the proposed student accommodation use is not found to be beyond parameters of activity and noise already commonplace locally.

The nearest residential properties to the site are 20-26 Argyle Terrace which lie to the east. Of this terrace, all but one property (22 Lower Bristol Road) are licensed HMOs. The majority of these properties would therefore also be associated with higher intensity residential accommodation, not indifferent to purpose built student accommodation. The neighbouring properties are separated from the site by Jews Lane and reasonable physical distance. The building envelope, background noise levels and the physical separation will be sufficient to ensure that noise and activity associated with the proposed student accommodation does not unduly disturb nearest neighbouring properties on Argyle Terrace.

This assessment similarly applies to neighbouring properties found to the south of the site such as those on Lansdown View and Albany Road. These are significantly physically separated from the site by a minimum of 60m. The mainline railway viaduct is noted to run between which provides a greater division between the site and neighbouring properties to the south. The building envelope, background noise levels and the physical separation will be sufficient to ensure that noise and activity associated with the proposed student accommodation does not unduly disturb neighbouring properties to the south.

A 'Student Management Plan' has also been submitted accompanying the application. This sets out measures for how the student accommodation will be managed to minimise and mitigate impact to neighbouring residents. Measures include a dedicated management company, on site staff including an accommodation manager, car parking enforcement measures, move in/out protocols, out of hours measures including management contact details, complaints protocol, discipline procedure and security measures including CCTV. These measures would be secured by compliance condition attached to any planning permission. The measures will contribute to safeguarding amenity of neighbouring residents.

The only enlargement or extension of the building relates to construction of single storey bin storage and cycle parking. This will be small scale and avoid any material harm to neighbouring living conditions as a result of loss of light or outlook.

In relation to privacy, the proposals will retain and utilise existing windows. A fire escape located at the rear of the building will be removed and infilled. No enlargement or additional windows are proposed and therefore privacy conditions at neighbouring sites will be preserved.

The Environmental Health officer has been consulted in relation to the development. However, they have only raised requirements relating to the living environment for residents of the development itself as a result of existing commercial activity, road and

railway noise in the area. No objection has been submitted by Environmental Health relating to amenity at neighbouring properties.

Officers are satisfied that the development will safeguard acceptable standards of amenity for all neighbouring residents and uses. The proposals are found to accord with Policy D6 and are acceptable as a result.

#### Future Occupants Amenity

Policy D6 also requires assessment of amenity relating to proposed development in respect of achieving appropriate levels of privacy, outlook, natural light, noise, odour, traffic and other disturbances for future occupiers of developments.

The proposed layout has been reviewed and it is noted that all rooms benefit from a minimum of one window which would provide natural light and outlook. Some bedrooms and studios benefit from multiple windows and are dual aspect.

There are a number of single aspect north facing bedrooms and studios at the northern side of the building. Where these are bedrooms within cluster flats, residents have access to a communal kitchen, dining, living room which is dual aspect. Whilst single aspect north facing dwellings would likely be unacceptable, as this is student accommodation which is a temporary residence and students have access to university facilities, amenity standards are relaxed. Most accommodation will be above ground floor level and the building is not overlooked by any neighbouring site. The development will achieve acceptable levels of light, outlook and privacy for all residents.

It is noted that the site includes an existing tyre fitting garage which generates noise as a result of commercial activity. There are further commercial businesses located nearby such as The Golden Fleece pub which will also generate noise. The site is also located on a major arterial road and adjacent to the railway mainline which are also associated with noise emissions. To ensure that the building will achieve acceptable internal noise levels for future occupiers, the Environmental Health officer has recommended an acoustic assessment is undertaken prior to occupation. It will be required that sound attenuation is specified to achieve appropriate noise levels within the building to provide adequate amenity for residents. Subject to this measure, the Environmental Health officer is satisfied that appropriate standards of amenity can be achieved for residents in relation to noise environment.

#### Transport, Highways and Access

Paragraph 110 of the NPPF requires that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location;
- b) safe and suitable access to the site can be achieved for all users;
- c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and

d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

Paragraph 111 of the NPPF states that: "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

Policy ST1 (Promoting Sustainable Travel) of the Placemaking Plan requires that planning permission is permitted for developments which reduce the growth and the overall level of traffic and congestion through reducing private car dependency and giving priority to active and low carbon modes of transport such as walking and cycling.

Policy ST7 (Transport Requirements for Managing Development) of the Placemaking Plan requires that development avoids prejudicing highway safety, provides safe and convenient access, suitable vehicle access, avoids excessive traffic impact and provides adequate mitigation and improvements.

The site is located to the southern side of Lower Bristol Road (A36) and includes a three storey vacant office building with tyre fitting garage to the western side. The site includes vehicular and pedestrian access from Lower Bristol Road as well as a secondary vehicular access to the rear from Jews Lane.

The proposals involve change of use of the offices to create 25 student bedspaces within 13 studios and x2 six bedroom cluster flats. The building would be accessible to pedestrians from both the front and rear which include existing level, ramped access. Two car parking spaces are allocated at the rear of the site. These would be accessed from Jews Lane and include an accessible bay with hatched buffer to side and rear as well as a loading bay. Bin storage and cycle parking are proposed within single storey enclosures also located to the rear of the site with access from Jews Lane. The bin store would include 10m<sup>2</sup> area. The cycle store would be 17m<sup>2</sup> and include capacity for 18 bikes as well as e-bike/scooter capacity and charging facilities.

The Highways officer has been consulted and confirmed no objections to the proposed change of use on highways grounds subject to conditions. They noted that they previously also held no objection to an earlier scheme for 66 student bedspaces at the site based on trip impact. It therefore stands that the current proposals for 25 bedspaces are also deemed acceptable. It is noted that the site is in an accessible location, nearby local shops, services, public transport and Locksbrook Campus.

Extension of the dropped kerb to the rear of the site on Jews Lane is required to vehicular facilitate access however does not raise any highways issues and would be undertaken subject to a licence from the Highway Authority.

The development is proposed to be car-free and clauses will be included within student tenancy agreements to secure this. There are also enforcement measures included within the Student Management Plan which would be secured by condition. It is noted that similar arrangements have been adopted with other student accommodation schemes granted consent by the Local Planning Authority and allowed on appeal by The Planning Inspectorate. These measures accord with Local Plan requirements to discourage car use

within student developments and are considered sufficiently robust to prevent parking issues in the area surrounding the site. The measures are deemed effective in preventing car parking issues without the requirement for a full residents parking scheme.

The development will include 18 cycle parking spaces as well as some capacity for e-bikes and e-scooters. This will be located within a single storey 17m<sup>2</sup> enclosure located at the rear of the site. The level of cycle parking provision exceeds the parking standards (1 space per 3 students) set out at Schedule 2 of the Local Plan. The cycle parking would include direct, level access from Jews Lane, would be weathertight and sufficiently secure. This will ensure that residents have access to good quality cycle parking which will enable sustainable and active travel choices.

Waste and recycling storage is proposed adjacent to cycle parking in a separate store. This has been confirmed to be of sufficient scale to accommodate bins required by the development and in adequate manoeuvring distance of the highway for collection.

Highways have recommended conditions securing a Construction Management Plan including highway condition survey, Student Management Plan and Travel Plan as well as compliance with cycle parking and car parking proposals submitted. Subject to these measures, the development will accord with Policies ST1-ST7, preserve the safe and free flow of surrounding highway network and encourage travel by sustainable and active means.

#### Appearance, Character and Design

Paragraph 126 of the NPPF outlines that: "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

Paragraph 130 of the NPPF requires that planning decisions should ensure that developments:

- a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
- d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>49</sup>; and where

crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies D1-D5 of the Placemaking Plan guide high quality design in the district; they have regard to the character and appearance of a development and its impact on the character and appearance of the wider area.

With regards to appearance, character and design the impact of the development is limited by the extent of external alterations proposed in this instance. The development primarily involves change of use of the building through internal alterations. External changes would relate to removal and infill of a fire escape on the rear of the building, installation of cycle parking and bin storage as well as installation of renewable energy equipment including solar PV panels to the roof and air source heat pumps to the rear at ground level. No extension, enlargement or major changes to the external appearance of the building is proposed.

The area has a mixed character including both commercial and domestic uses and buildings. The site itself is decidedly commercial including offices and a tyre fitting garage. The adjacent public house, supermarket and retail park add to the commercial nature of the immediate area. There is a terraced row of two storey houses (Argyle Terrace) to the east of the site, although most of these dwellings are in use as HMO. To the rear of the site on Jews Lane, the Old Bakery site is also being developed as student accommodation. This development comprises 63 student bedspaces within a part three, part four storey building as well as a two storey office building on the site of a former commercial bakery.

With regards to the proposed use, this would differ in character to the existing use as offices. Occupancy and activity levels associated with the building would increase. It is noted that the offices are presently vacant and this has been the case for at least 4 years. In this context, the proposed change of use to student accommodation would increase public surveillance in comparison to existing levels and contribute positively to the vitality of the area.

Student accommodation is a more intensive residential use. This is not dissimilar in character to multiple occupancy housing which is notably common within the area. There are also other purpose built student accommodation sites nearby. The proposed use is consequently not found to be at odds with the character of the area.

External alterations to the site including cycle parking and bin storage enclosures, infilling of the fire escape and installation of renewable energy equipment would have a very limited and low degree impact to the external appearance of the building and site. The detailed specifications of external materials, renewable energy systems and landscaping would be secured via condition in the event of permission being granted. Subject to these conditions, the impact of development to the mixed commercial character of the area is found to be negligible. No conflict with Policies D1-D5 is identified and the application is found acceptable in terms of appearance, character and design.

## Heritage and Conservation

Sections 16, 66 and 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 require the Local Planning Authority to have special regard to the desirability of preserving listed buildings and their setting including any features of special architectural or historic interest the building possesses. Similarly, the Local Planning Authority has a duty to pay special attention to the preservation or enhancement of the character of designated conservation areas.

Paragraph 199 of the NPPF states that: "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be)."

Policy HE1 (Historic Environment) of the Placemaking Plan sets out that: "Within the scope of Core Strategy Policies B4 and CP6, development that has an impact upon a heritage asset, whether designated or non-designated, will be expected to enhance or better reveal its significance and/or setting, and make a positive contribution to its character and appearance."

The site is located within the Bath World Heritage Site. It is adjacent to two buildings included on the National Heritage List for England. These are the Former Cabinet Makers Factory and Avon House which are both listed at Grade II level. Bath Conservation Area is located to the north and west of the site. The site is a minimum 100m from the conservation area boundary. There are further listed heritage assets in the vicinity including the Twerton Viaduct, the Old Station House and arches 1-13 all included at Grade II level on the National Heritage List for England. These are however considered to be outside the sphere of influence relative to the current development.

The site is located within the City of Bath World Heritage Site. The Local Plan requires that there is a strong presumption against development that would result in harm to the Outstanding Universal Value of the World Heritage Site, its authenticity or integrity. The significance of the WHS is set out within the Statement of Outstanding Universal Value (OUV) (2010). In summary, the significance relates to the Georgian architecture, town-planning and social history as well as the Roman archaeology, hot springs and the green setting of the city. The city is also inscribed separately as one of the 11 'Great Spa Towns of Europe'.

It is noted that the development involves change of use and minor external alterations only. There would be no enlargement or extension of the building under the current application. The development therefore poses no harm to Georgian architecture, town-planning, social history, the hot springs or the green setting of the city. In relation to Roman archaeology value, the Archaeological officer has been consulted and confirmed that there are limited or no archaeological implications to this proposal. It is noted that only very limited ground works will result relating to highways access, landscaping, bin storage and cycle parking enclosures. The Archaeological officer raised no objections and required no conditions. Resultantly the development is assessed to pose no harm to the authenticity or integrity of the World Heritage Site.

In respect of adjacent listed buildings, the Former Cabinet Makers Factory is the nearest to the site. This is a single storey former furniture factory (now supermarket) dating from the late 1960's. The significance of the building lies in its steel space frame commercial construction method and contemporary industrial architectural style. There is also some historic interest associated with evidence of post-war search for better working standards.

Given the very limited external changes proposed to Frome House under this application, it is found that the development poses a negligible degree of harm to the adjacent Former Cabinet Makers Factory as a heritage asset. There would be no change to the size, scale, form or external appearance of the building. All external works would be located to the rear of the site and thereby lacking intervisibility with the adjacent Former Cabinet Makers Factory. As a result of these factors, the development would have a very limited influence to the setting of the listed building. All features of significance and the social significance of the asset itself would be preserved. It is therefore assessed that the development poses no material harm to the Former Cabinet Makers Factory as a heritage asset.

Avon House is the second nearest listed building to the site. This is a detached former dwelling (now part of an adjacent fast-food restaurant) dating from the early 19th century. The building has a symmetrical form including central doors and five sash windows. The building is constructed with render, rubble stone and slate roof tiles. The historic significance of the building relates to its age and evidential value relating to buildings of this period as well as its historic construction, quality and aesthetic value.

Avon House is 90m west of the site. The development would not influence the evidential value or historic features of the listed building. The development would only stand to impact the setting of Avon House however given no extension or significant scale external changes to Frome House are proposed, the development is found to pose no material harm to Avon House as a heritage asset.

The development would be situated at minimum 100m south and east of Bath Conservation Area. The site could have some influence on the setting of the conservation area. However given the physical separation, scale and nature of development proposed which relate to a change of use and minor external alterations only, no harm to the setting of the conservation is identified in this instance. No harm is identified as a result of the development proposed and the significance of the conservation area and its status as a heritage asset would be preserved in this instance.

Overall, accounting for the extent of development proposed in this instance, no harm to all relevant heritage assets is identified. The significance and integrity of all surrounding heritage assets would be preserved following development. This accords with relevant legislation, policy and guidance and consequently the application is deemed acceptable in this regard.

## Drainage and Flooding

Policy CP5 (Flood Risk Management) of the Placemaking Plan requires that: "Development in the District will follow a sequential approach to flood risk management, avoiding inappropriate development in areas at risk of flooding and directing development away from areas at highest risk in line with Government policy NPPF).



Policy SU1 (Sustainable Drainage) of the Placemaking Plan requires that: "Sustainable Urban Drainage Systems (SuDs) are to be employed for the management of runoff from both major development (as defined by the Town and Country Planning (Development Management Procedure) (England) Order 2015) and for minor development in an area at risk of flooding (from any source up to and including the 1 in 100year+ climate change event)."

"SuDS are to comply with the "Non-statutory technical standards for sustainable drainage systems" published by the Department for Environment, Food and Rural Affairs (DEFRA) and the standards/requirements contained in the West of England Sustainable Drainage Developer Guide (2015), or successor guidance."

The site is located within flood zone 1 and consequently at low risk of flooding and the development does not qualify as 'major development'. There is no requirement to undertake site specific flood risk assessment or provide a SuDS scheme in this instance.

The Drainage and Flooding Team were consulted in relation to the application. They initially expressed the requirement for a sustainable drainage strategy for the development however later confirmed a full strategy would not be necessary. This was on the basis that the development involves no increase in roof or hard surfaced area at the site. Therefore, surface water run off rates will remain comparable, if not less than existing rates. The applicant has confirmed that intend to drain to the Wessex Water surface water system which is the existing arrangement at the site. This has been confirmed as acceptable. The development also includes proposals for green roofs to cycle parking, waste and recycling stores. Subject to these measures, the Drainage Engineer is satisfied that the development will not increase the risk of flooding in the area. The development accords with policy requirements and is acceptable in terms of drainage and flooding.

## Contaminated Land

Paragraph 183 of the NPPF requires that planning decisions should ensure that: "a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation)."

Policy PCS5 (Contamination) of the Placemaking Plan requires that: "Development will only be permitted on land either known to be or strongly suspected of being contaminated, or where development may result in the release of contaminants from adjoining land, provided:

1. the proposal would not cause significant harm or risk of significant harm to health or the environment or cause pollution of any watercourse, water body or aquifer
2. remediation measures are put in place as appropriate, and
3. any identified potential harm can be suitably mitigated

The Contaminated Land officer was consulted in relation to the application. It is noted that there is potentially contaminative historical uses of the site as a timber yard, along with railway land with further railway land to the south and chemicals/fuels associated with the

current use as a garage. However, the current development relates to conversion and change of use of the existing offices to student accommodation, largely comprising internal layout works rather than invasive groundworks which would expose historic contaminants. The Contaminated Land officer has therefore advised a desk study and walkover survey are undertaken. It is noted that the developer is responsible for ensuring that the development is safe and suitable for use for the purpose for which it is intended. It will also be required that any unexpected contamination encountered during the construction process is reported to the Local Planning Authority. These processes will be secured by condition. Subject to these measures, the development will avoid undue risk to human health through pollution and contamination.

## Sustainable Construction

Section 14 of the NPPF requires that new development should be planned for in ways that: "can help to reduce greenhouse gas emissions, such as through its location, orientation and design."

Paragraph 157 of the NPPF requires that in determining planning applications, local planning authorities should expect new development to:

- a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and
- b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

Policy CP1 (Retrofitting Existing Buildings) of the Placemaking Plan outlines that: "Retrofitting measures to existing buildings to improve their energy efficiency and adaptability to climate change and the appropriate incorporation of micro-renewables will be encouraged."

Policy CP2 (Sustainable Construction) of the Placemaking Plan requires that all planning applications should include evidence that the standards below will be addressed:

- o Maximising energy efficiency and integrating the use of renewable and low-carbon energy (i.e. in the form of an energy strategy with reference to Policy CP4 as necessary);
- o Minimisation of waste and maximising of recycling of any waste generated during construction and in operation;
- o Conserving water resources and minimising vulnerability to flooding;
- o Efficiency in materials use, including the type, life cycle and source of materials to be used;
- o Flexibility and adaptability, allowing future modification of use or layout, facilitating future refurbishment and retrofitting;
- o Consideration of climate change adaptation.

Applications for all development will need to be accompanied by a B&NES Sustainable Construction Checklist.

The application has been submitted with a Sustainable Construction Checklist in accordance with the requirements of the Sustainable Construction Checklist

Supplementary Planning Document (v.2, 2020). The development is assessed to fall within the 'all medium scale proposals or larger for works on existing buildings' category as it would create 25 student bedspaces which is equivalent to 5 or greater dwellings. The development is therefore required to demonstrate compliance with 'Track 3: Medium or Major Existing Buildings'. This requires a 10% CO2 emissions reduction from renewables, or energy efficiency if renewables are not suitable for the existing building in accordance with Policies CP2 and SCR1.

The supplied Sustainable Construction Checklist includes a summary energy strategy, energy calculations and Part L design stage documents. It is noted that the development is not within a Heat Network Priority or Opportunity Area and therefore is not required to connect to the district heating network. As the proposals relate to conversion of an existing building, opportunities to employ passive solar design are accepted to be limited. The development includes proposals for solar PV which would be mounted to the rear pitched south facing roof and generate renewable energy. The development also includes air source heat pumps which will provide renewable heating and/or hot water. It is estimated that these technologies will reduce CO2 emissions associated with the development by 10% over a Part L compliant level. The proposals also include mechanical ventilation with heat recovery and low energy LED lighting. These measures will reduce energy demand further. The development will also utilise construction materials specified in accordance with the BRE 'Green Guide to Specification' which will reduce the carbon footprint of the development. All measures outlined within the supplied Sustainable Construction Checklist will be secured by condition as well as detailed specifications of renewable energy systems. Subject to such conditions, officers are satisfied that the development has demonstrated compliance with Policy CP2 and the Sustainable Construction Checklist SPD.

### Arboriculture

Paragraph 131 of the NPPF states that: "Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users."

Policy NE6 (Trees and Woodland Conservation) of the Placemaking Plan states that development will only be permitted where:

- a) it seeks to avoid any adverse impact on trees and woodlands of wildlife, landscape, historic, amenity, productive or cultural value; and
- b) it includes the appropriate retention and new planting of trees and woodlands; and

If it is demonstrated that an adverse impact on trees is unavoidable to allow for appropriate development, compensatory provision will be made in accordance with

guidance in the Planning Obligations SPD (or successor publication) on replacement tree planting.

The Arboricultural officer has been consulted in relation to the application. It was acknowledged that there are no trees located on site. Furthermore, as no major extension or enlargement of the building is proposed, the Arboricultural officer confirmed that the development would avoid harm to all adjacent, off-site trees also. They raised no objection or requirements for conditions. No conflict with Policy NE6 is identified and the development is acceptable in terms of its impact to trees.

## Ecology

Paragraph 174 of the NPPF outlines that planning decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
- d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

The Ecologist has been consulted in relation to the application and commented on the documents submitted. It is noted that the site is not within proximity to any sites designated for their nature conservation value, including being located over 100m to the south of the River Avon. The vegetated railway line 30m to the south is likely to be a habitat corridor, but it has been recommended that this habitat could be reasonably be protected from indirect impacts by the sites southern boundary which comprises a retaining wall with fence. This would be retained during construction. Details of any construction lighting can be secured as part of an external lighting strategy condition.

The results of the bird and bat survey undertaken in October 2021 and supplied with the previous and current applications are accepted. This found that the building is well-sealed and consequently offers very limited potential for roosting bats and no evidence of nesting birds was found. The development is therefore unlikely to pose harm to these protected species.

In relation to biodiversity, the requirement within the National Planning Policy Framework that all developments achieve biodiversity net gains is highlighted. It is noted that the existing site comprises only 2m<sup>2</sup> of any semi-natural habitat made up of ruderal/tall herb habitat. Therefore it is acknowledged that any BNG calculator is likely to conclude an overall net habitat gain is easily attainable. The proposed site layout includes an area of landscaping as well as green roofs to the cycle parking and bin stores. Conditions are recommended to ensure that these green infrastructure features utilise appropriate planting specifications such as native and beneficial biodiverse species to achieve net gains. Features for nesting swift and roosting bats are also recommended and could be integrated within the design.

In the event that permission is granted, an ecological enhancement strategy for the site would be secured by condition as well as a construction environmental management plan, details of any external lighting and submission of an ecological follow up statement following installation of ecological enhancement measures but prior to occupation. Subject to these measures, no objection to the development is held on ecological or biodiversity grounds and the proposals will accord with all relevant policy requirements.

## Parks and Open Space

Paragraph 98 of the NPPF outlines that: "Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change."

Policy LCR6 (New and Replacement Sports and Recreational Facilities) of the Placemaking Plan outlines that: "Where new development generates a need for additional recreational open space and facilities which cannot be met on-site or by existing provision, the developer will be required to either provide for, or to contribute to the provision of accessible sport and recreational open space and/or facilities to meet the need arising from the new development in accordance with the standards set out in the Green Space Strategy, and Planning Obligations SPD or successor documents."

The Parks Department has been consulted in relation to the current application. They have confirmed no objection to the development subject to a financial contribution towards maintenance of parks and open space within the local area surrounding the site.

The Parks & Green Spaces Service have assessed green space demand generated from the proposal. The Green Space Strategy (2015) provides the evidence base informing the green space requirement of development in consideration of Policy LCR6. The student accommodation proposed would be occupied by 25 persons. These new residents will generate demand for a total of 725m<sup>2</sup> green space. On-site amenity green space totalling 32m<sup>2</sup> is proposed. However this short fall means that the development will remain reliant on existing or new off-site provision for the recreational needs of the residents.

The development site is in the vicinity of the Linear Park Green Space projects. The Linear Park Projects include Bloomfield Green, Sandpits, Brickfields Open Space and the Linear Park corridor that links these spaces. The green space demands generated from the development can be met through a S106 payment towards Brickfields Open Space. Brickfield Open Space is approximately 365m walk from Frome House to the nearest

Brickfields entrance. This is well within the GSS 600m direct line access standard. Brickfields is directly related to the Frome House development and a request for a S106 contribution is justified. It is noted that funding from this development will not overlap with funding for Brickfields from elsewhere.

Based on a contribution of £936.00 per person as outlined as table 24: Costs for Providing Open Space, Green Space Strategy (2015), the development generates an obligation for a £23,400 financial contribution. The applicant has been made aware of this requirement and confirmed agreement to the financial contribution. This would be secured by s.106 agreement which would be drafted in the event of delegation to permit. Subject to this measure, the development will accord with the requirements of the Green Space Strategy (2015) and Policy LCR6, making a policy compliant and acceptable contribution to the amenity of residents and maintenance of parks and open space within the area surrounding the site.

### Planning Obligations

As discussed above, the development will be associated with a financial contribution of £23,400 towards improvement and maintenance of Brickfields Open Space. The development will also generate CIL liability estimated to total £136,000 (plus indexation). Full liability will be calculated and issued following consent.

### Planning Balance and Conclusion

In light of the consultation responses and assessment set out above, no policy conflict or material considerations are identified which would warrant the refusal of permission in this case.

The application seeks permission for change of use of a vacant office building to create student accommodation. As the site is not within the Central Area, the Enterprise Area or MoD land, it qualifies as an acceptable location for student accommodation in accordance with Policy B5. The development would not detrimentally impact the existing housing stock and would contribute diversity to the types and sizes of accommodation available locally. Officers find the site is well suited to accommodate student residences given the location in close proximity of Locksbrook Campus, nearby shops, services and public transport facilities. The site is constrained by its proximity to noisy and polluting commercial businesses, roads and railway line. These environmental factors weight in favour of student accommodation and against other uses such as dwellings being appropriate at this specific site.

Provision of student accommodation is associated with the benefit of ensuring there is sufficient accommodation available to meet growth in student numbers, without pressurising the private lettings market which relies on market housing. Student accommodation counts towards the district's 5 year housing land supply which is necessary for the Local Planning Authority to robustly resist inappropriate development within the district. Student accommodation is also necessary to ensure the continued success of the city's universities which is in turn linked to the city's identity and profile.

The development would be associated with a parks and green space improvement contribution which would benefit the local area as well as a community infrastructure levy

payment. The development would create jobs during construction and in management and maintenance of the proposed accommodation. A biodiversity net gain would also be achieved as well as a more sustainable and energy efficient building in comparison to existing.

All other relevant policy matters are found to be acceptable subject to the conditions discussed. No harm is identified in respect of neighbouring amenity, appearance, character and heritage assets including the world heritage site, listed buildings and conservation areas or in relation to highways issues.

Cumulatively, these factors weigh strongly in favour of the application being permitted. No material considerations have been identified which would warrant the refusal of permission. The officer's recommendation is therefore that authority is delegated for the negotiation and completion of the aforementioned s.106 agreement and the application is permitted subject to the conditions set out beneath.

## **RECOMMENDATION**

Delegate to PERMIT

## **CONDITIONS**

0 A) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to secure a financial contribution of £23,400 towards off-site greenspace enhancement projects;

B) Subject to the prior completion of the above agreement, authorise the Head of Planning to PERMIT subject to the following conditions:

### **1 Standard Time Limit (Compliance)**

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permission.

### **2 Construction Management Plan (Pre-commencement)**

No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority and shall include details of demolition, deliveries (including storage arrangements and timings), contractor parking, traffic management, working hours, site opening times, wheel wash facilities, a local highway condition survey and site compound arrangements. The development shall thereafter be undertaken in accordance with the approved details, unless subsequently otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that safe operation of the highway and in the interests of protecting residential amenity in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan. This is a condition precedent because any initial construction or

demolition works could have a detrimental impact upon highways safety and/or residential amenity.

### **3 Wildlife Enhancement Scheme (Pre-commencement)**

No development shall take place until full details of a Wildlife Enhancement Scheme for the site have been submitted to and approved in writing by the Local Planning Authority.

These details shall include proposals for implementation of wildlife enhancement measures, including green roof, wildlife-friendly planting / landscaping strategy; provision of integrated bat boxes and 10 x swift features, with proposed specifications and proposed numbers and positions to be shown on plans as applicable.

All works and measures included in the approved Wildlife Enhancement Scheme will then be carried out and completed in accordance with the approved details and within specified timescales, prior to first occupation of the development.

Reason: To ensure that the development includes sufficient landscaping, habitat mitigation and achieves a demonstrable biodiversity gain in accordance with Policies NE1 and NE3.

### **4 Submission of further details (Bespoke Trigger)**

Prior to implementation of the relevant element of development, further details of proposed materials including detailed specifications, images and samples (as necessary) of the following elements shall be submitted to and approved in writing by the Local Planning Authority.

1. Timber cladding, fascia and doors to bin and cycle stores
2. Green roofs including planting and substrate specifications
3. Fire escape infill stone

Development shall then be completed in accordance with the agreed specifications prior to first commencement of the use hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order that the finished appearance of the development is to a high standard, respectful of the character and appearance of the site and surrounding area, preserving the significance of adjacent heritage assets in accordance with Policies D2, HE1 and NE1.

### **5 External Lighting (Bespoke Trigger)**

No new external lighting shall be installed, until full details of the proposed lighting design have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. Lamp models and manufacturer's specifications, positions, numbers and heights;



2. Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation and adjacent land (particularly the railway line).

The lighting shall be installed and operated thereafter in accordance with the approved details, unless other

Reason: To avoid harm to bats using the vegetated railway line in accordance with Policy CP6 of the Bath and North East Somerset Core Strategy and Policies NE3 and D8 of the Bath and North East Somerset Placemaking Plan.

## **6 Reporting of Unexpected Contamination (Bespoke Trigger)**

In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the Local Planning Authority. Thereafter an investigation and risk assessment shall be undertaken, and where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. Following completion of measures identified in the approved remediation scheme, a verification report (that demonstrates the effectiveness of the remediation carried out) must be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 and 15 of the National Planning Policy Framework.

## **7 Renewable Energy (Pre-Occupation)**

The development hereby approved shall incorporate sufficient renewable energy generation (solar PV and ASHP) such that carbon emissions from anticipated (regulated) energy use in the development shall be reduced by at least 10% calculated against DER/BER Baseline emissions. Prior to first occupation of the development hereby approved those matters listed below shall be submitted to and approved in writing by the Local Planning Authority:

- o A completed copy of Energy Table 1 (of the Local Planning Authority's Sustainable Construction Checklist). This shall be completed to reflect the actual technologies installed as part of the development hereby approved,
- o A completed copy of Energy Table 3 (of the local planning authority's Sustainable Construction Checklist). This shall be completed to reflect the actual renewable energy systems installed as part of the development hereby approved,
- o Manufacturers specifications of proposed renewable energy generation equipment (solar PV and ASHP)
- o Evidence documentation (e.g. commissioning certificates, Feed in Tariff certificates or receipts) relating to those installed technologies listed in Energy Table 3 demonstrating

to the Local Planning Authority's satisfaction that they have been installed correctly and are generating energy in line with the assumptions set out in Energy Table 1.

The approved renewable energy systems (Solar PV and ASHP) shall be installed and fully operational in accordance with the approved Energy Tables 1 and 3 and the approved evidence documents prior to first occupation of the development hereby approved and shall be retained as such thereafter as an integral part of the development hereby approved.

Reason: To ensure that the development's carbon emissions (from anticipated regulated energy use) are reduced by at least 10% by means of sufficient renewable energy generation, in accordance with Policy SCR1 of the Bath & North East Somerset Placemaking Plan.

### **8 Indoor Acoustic Insulation (Pre-occupation)**

Prior to first occupation of the development hereby approved, an acoustic assessment shall be submitted to and approved in writing by the Local Planning Authority. This shall be undertaken by a competent person and must demonstrate that the development has been constructed to provide the following sound attenuation levels relating to external noise:

Maximum internal noise levels of 35dBLAeq,16hr and 30dBLAeq, 8hr for living rooms and bedrooms during the daytime and night time respectively.

For bedrooms at night individual noise events (measured with F time-weighting) shall not (normally) exceed 45dBLAmax

The development and associated sound attenuation measures must be maintained in accordance with the agreed details for the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order that residents of the development are not disturbed by pre-existing background noise levels present within the area, to ensure sufficient standards of residential amenity and avoid prejudice to the commercial operations of other land uses at and adjacent to the site in accordance with Policies D6 and PCS2.

### **9 Desk Study and Walkover Survey (Pre-occupation)**

Prior to first occupation of the development hereby approved, a Desk Study and Site Reconnaissance (Phase 1 Investigation) survey shall be undertaken to develop a conceptual site model and preliminary risk assessment. A Phase I investigation should provide a preliminary qualitative assessment of risk by interpreting information on a site's history considering the likelihood of pollutant linkages being present. The Phase I investigation typically consists of a desk study, site walkover, development of a conceptual model and preliminary risk assessment. The site walkover survey should be conducted to identify if there are any obvious signs of contamination at the surface, within the property or along the boundary of neighbouring properties. Should the Phase 1 investigation identify potential pollutant linkages then further investigation and assessment will be

required. Where development is proposed, the developer is responsible for ensuring that the development is safe and suitable for use for the purpose for which it is intended.

Reason: In order to ensure that the land is suitable for the intended uses and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors and in accordance with section 11 and 15 of the National Planning Policy Framework.

#### **10 Ecological Follow-up Statement (Pre-occupation)**

No occupation of the development hereby approved shall commence until an Ecological Follow-up Statement has been submitted to and approved in writing by the Local Planning Authority. The statement shall evidence with photographs the completion and implementation of all measures of the approved wildlife enhancement scheme in accordance with approved details.

Reason: To demonstrate adherence to the approved wildlife enhancement scheme, in accordance with NPPF and Policies NE3 & D5e of the Bath and North East Somerset Local Plan.

#### **11 Bicycle Storage (Pre-occupation)**

No occupation or use hereby permitted shall commence until bicycle storage for at least 10 bicycles have been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter, free from obstruction and used solely for the purpose of parking bicycles unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interest of encouraging sustainable travel methods in accordance with Policy ST1 of the Bath and North East Somerset Placemaking Plan.

#### **12 Resident Parking Restriction Enforcement Measures (Compliance)**

The residents of the development hereby approved shall enter into a legally binding tenancy agreement prior to their occupation which includes a clause prohibiting residents from parking cars within a 1km radius of the site. This shall be managed and enforced in accordance with section 4.1 of the submitted Student Management Plan.

Reason. In the interests of highway safety and residential amenity.

#### **13 Student Management Plan (Compliance)**

The use hereby approved shall operate in accordance with all terms and measures set out within the submitted Student Management Plan (Student Management Plan, Frome House, Lower Bristol Road by Crossman Acquisitions, dated 23 March 2022) including the proposed Move-in/Move-out strategy unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of highway safety and residential amenity.

## 14 Travel Plan (Compliance)

The use hereby approved shall operate in accordance with all terms and measures set out within the submitted Travel Plan (Travel Plan, Frome House, Lower Bristol Road by Jubb Consulting Engineers Ltd. dated November 2021, document 21123-TP-01) unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the development contributes to national and local objectives to promote sustainable, active and low carbon travel which reduces the impacts of climate change, reduces vehicular congestion and improves public health in accordance with policies SD1, ST1 and ST7.

## 15 Car Parking (Compliance)

The areas allocated for parking, as indicated on submitted Proposed Ground Floor Plan W0653-0210B shall be kept clear of obstruction and shall not be used other than for the parking of vehicles in connection with the development hereby permitted unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure sufficient parking are retained at all times in the interests of amenity and highways safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

## 16 Plans List (Compliance)

The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

Reason: To define the terms and extent of the permission.

### PLANS LIST:

1 This decision relates to the following plans:

24 March 2022	W0653-0000 A	Site Location Plan
24 March 2022	W0653-0211 A	Proposed First Floor Plan
24 March 2022	W0653-0212 A	Proposed Second Floor Plan
24 March 2022	W0653-0310 A	Proposed North West Elevation
24 March 2022	W0653-0311 B	Proposed East Elevation
24 March 2022	W0653-0312 B	Proposed South East Elevation
24 March 2022	W0653-0313 A	Proposed South West Elevation
24 March 2022	W0653-0410 B	Proposed Sections
30 March 2022	W0653-0100 A	Existing Site and Roof Plan
30 March 2022	W0653-0111 A	Existing Ground Floor Plan
30 March 2022	W0653-0112 A	Existing First Floor Plan
30 March 2022	W0653-0113 A	Existing Elevations 1
30 March 2022	W0653-0114 A	Existing Elevations 2
13 May 2022	W0653-1150 B	Proposed Site Plan
13 May 2022	W0653-0210 C	Proposed Ground Floor PIN
19 May 2022	W0653-1151 B	Proposed Renewable Energy Layout Plan

## 2 Condition Categories

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

Compliance - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

Pre-commencement - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

Pre-occupation - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

Bespoke Trigger - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

## 3 Permit/Consent Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

## 4 Community Infrastructure Levy - General Note for all Development

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. CIL may apply to new developments granted by way of planning permission as well as by general consent (permitted development) and may apply to change of use permissions and certain extensions. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council **before any development commences**.

**Do not commence development** until you have been notified in writing by the Council that you have complied with CIL; failure to comply with the regulations can result in surcharges, interest and additional payments being added and will result in the forfeiture of any instalment payment periods and other reliefs which may have been granted.

## Community Infrastructure Levy - Exemptions and Reliefs Claims

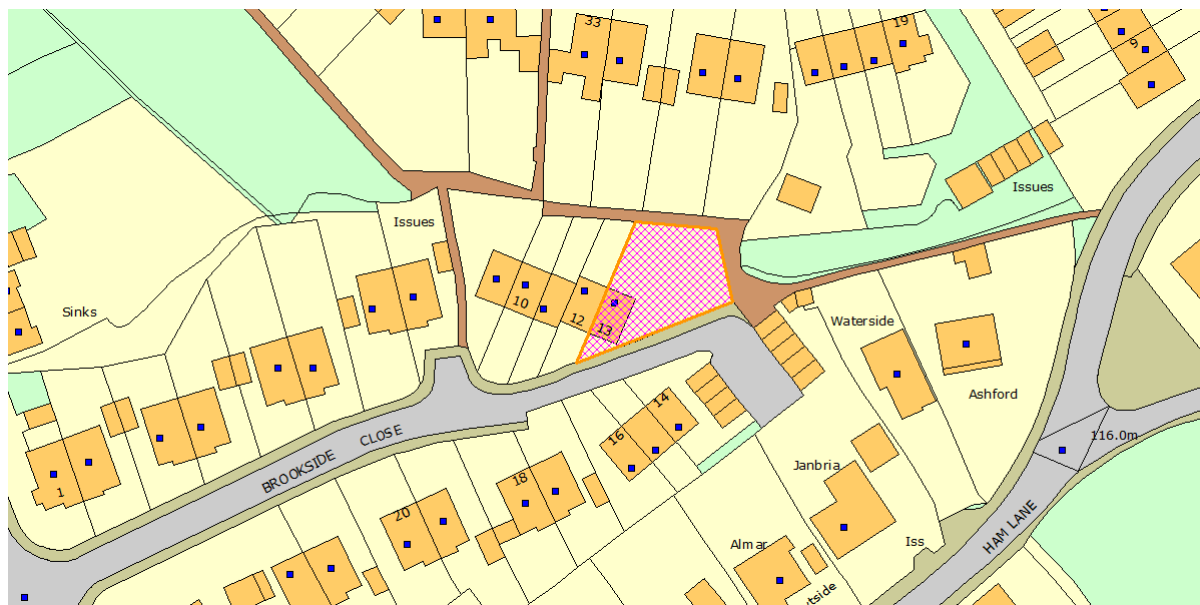
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply for any relief and have it approved in writing by the Council then notify the Council of the intended start date **before** you start work on site. Once development has commenced you will be unable to claim any reliefs retrospectively and CIL will become payable in full along with any surcharges and mandatory interest charges. If you commence development after making an exemption or relief claim but before the claim is approved, the claim will be forfeited and cannot be reinstated.

Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil). If you have any queries about CIL please email [cil@BATHNES.GOV.UK](mailto:cil@BATHNES.GOV.UK)

### **5 Responding to Climate Change (Informative):**

The council is committed to responding to climate change. You are advised to consider sustainable construction when undertaking the approved development and consider using measures aimed at minimising carbon emissions and impacts on climate change.

**Item No:** 06  
**Application No:** 22/00672/FUL  
**Site Location:** 13 Brookside Close Paulton Bristol Bath And North East Somerset BS39 7NN



**Ward:** Paulton                      **Parish:** Paulton                      **LB Grade:** N/A  
**Ward Members:** Councillor Liz Hardman      Councillor Grant Johnson  
**Application Type:** Full Application  
**Proposal:** Erection of 1no four bed dwelling.  
**Constraints:** Agric Land Class 1,2,3a, Coal - Standing Advice Area, Policy CP9 Affordable Housing Zones, Housing Development Boundary, LLFA - Flood Risk Management, Neighbourhood Plan, SSSI - Impact Risk Zones,  
**Applicant:** Mr Mike Baxter  
**Expiry Date:** 1st July 2022  
**Case Officer:** Danielle Milsom  
To view the case click on the link [here](#).

## REPORT

Paulton Parish Council have objected to the application, contrary to the officer's recommendation. In accordance with the Council's Scheme of Delegation, the application was referred to the Chair and Vice Chair of the Planning Committee who both decided the application should be debated and decided at the Planning Committee. Their comments are as follows:

Chair's comments:

"I note PPC objection comments & those from both statutory & third party consultees which has led to some further information being presented to address points raised.

The application has been assessed against relevant planning policies & issues raised addressed however I feel as it has caused concern in the area I recommend the

application be determined by the planning committee so it can be debated in the public arena."

Vice Chair's comments:

"I have reviewed this application and note the objections and comments from Paulton Parish Council and other parties. The officer has worked with the applicant to address and/or condition the issues raised but from the pov of the neighbours, this remains a controversial addition to the street and as such, I believe it would benefit from consideration at committee."

Details of location and proposal and relevant history:

The application refers to the residential curtilage of 13 Brookside Close, an end of terrace, two-storey dwelling. The site is situated withing Paulton, a residential area comprising of two-storey and single storey dwellings.

Planning permission is sought for the erection of 1no four bed dwelling.

Relevant Planning History:

01/01583/FUL - permit - Side conservatory

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

Paulton Parish Council: Object

- o Dwelling is within 20 meters of a watercourse
- o Access concerns
- o Draining responsibility of residents which is a concern with the flood risk
- o No arrangements for foul sewage
- o No clear plans on the position of level of the dwelling.

Ecology: no objection subject to condition

Highways: no objection subject to condition

Drainage and Flooding: no objection subject to condition

Representations Received :

11 Objections received. A summary is as follows:

- o Construction activities will cause disruption to parking and traffic
- o Impact upon the footpath which runs close to the dwelling
- o Parking is very restricted, only safe place to park is in front of the garages, free entry without obstacles is necessary
- o The house is too big for the plot
- o the dwelling would be out of place
- o a four bed house need more than 2 car spaces
- o a brook/stream runs to the side of the dwelling which floods this end of the cul-de-sac



- o the single track access to garages needs to be kept clear
- o a bat survey is required as there are bats in the area
- o the stream also has established wildlife
- o developer should assure residents that noise and other pollutions will be kept to a minimum
- o the house will spoil the street scene.
- o Not enough infrastructure to support new houses
- o Houses on Valley View road will be overlooked
- o The stream runs under the gardens
- o The noise and disruption is unfair
- o Reduce value of property
- o The dwelling will undermine the drain and cause flooding issues
- o The gov.uk website identifies a medium risk of flooding from surface water
- o Increases amount of hardstanding will increase flood risk
- o No flood risk assessment submitted
- o No turning space for cars
- o Increased pollution
- o Bears no resemblance to the existing dwellings
- o A dropped kerb would case water to flow down into the homes
- o Visitor parking would not be possible

## **POLICIES/LEGISLATION**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
  - Policy GDS.1 Site allocations and development requirements (policy framework)
  - Policy GDS.1/K2: South West Keynsham (site)
  - Policy GDS.1/NR2: Radstock Railway Land (site)
  - Policy GDS.1/V3: Paulton Printing Factory (site)
  - Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)
- o Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP6: Environmental Quality

DW1: District Wide Spatial Strategy

SD1: Presumption in favour of sustainable development

## Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles  
D2: Local character and distinctiveness  
D3: Urban fabric  
D5: Building design  
D6: Amenity

NE3: Sites, species and habitats  
NE5: Ecological networks  
NE6: Trees and woodland conservation

ST7: Transport requirements for managing development

## New Dwellings:

H7: Housing accessibility  
SCR1: On-site renewable energy requirement  
SCR5: Water efficiency  
SU1: Sustainable drainage policy  
LCR9: Increasing the provision of local food growing  
PC55: Contamination

## National Policy:

The National Planning Policy Framework (NPPF) was published in February 2019 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

## LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

## OFFICER ASSESSMENT

### PRINCIPLE OF DEVELOPMENT:

The site is within the Housing Development boundary where the principle of development is acceptable subject to other material planning considerations discussed below.

## CHARACTER AND APPEARANCE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host building and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

The proposed development comprises a two-storey, detached, 4 bed dwelling positioned to the north-east of 13 Brookside Close. Brookside Close comprises of two-storey terraces, and semi-detached bungalows. The proposed site is currently part of the residential curtilage of no.13. The site is situated at the end of the cul-de-sac and is surrounded on all sides by residential dwellings.

The proposed dwelling features design elements which tie in with the design of the terraced dwellings to the west and south-west, including blockwork, rend and brickwork. A condition is recommended to secure the use of matching materials to ensure the proposed dwelling is in keeping with the character and appearance of the cul-de-sac. The use of a dual pitched, gable ended roof is also in keeping with the existing dwellings within Brookside Close.

The dwelling is set back from the row of terraces to the west, however this is considered to be an acceptable position given that there is no strict pattern of development within the cul-de-sac. The set back positioning would therefore not cause harm to the gain of development and would instead appear as a continuation of the cul-de-sac. Due to several extensions to existing dwellings and subsequent variety of footprints, the scale of the proposed dwelling is considered to not be significantly larger in comparison to other properties. A four bedroom dwelling in this location is as such considered acceptable and the use of a complimentary and matching design approach limits any potential harm to the character and appearance of the street.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

## RESIDENTIAL AMENITY:

Policy D6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

The proposal does not show potential to cause significant harm to residential amenity of neighbouring occupiers. The front elevation is roughly inline with the rear elevation of 13 Brookside Close, therefore no direct lines of sight would be created from the front of the proposed dwelling. The proposed dwelling is positioned a sufficient distance from no.14 so as to not impact privacy.

The rear of the dwelling would face the rear of the properties of Valley View Road. The rear of the proposed and the rear of the dwellings to the North would have a substantial gap which limits the potential for increased overlooking. This gap is considered to be consistent with usual distances between dwellings in a built up, residential area.

The separation between no.13 and the proposed dwelling will lessen the potential for a significant amount of overshadowing. Any additional overshadowing would be limited to early hours and is therefore not significant enough to warrant refusal.

The proposal is considered to allow for a suitable amount of outdoor amenity space, for both 13 Brookside Close and the proposed dwelling.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

#### HIGHWAYS SAFETY AND PARKING:

Policy ST7 states that development will only be permitted provided, amongst other things, the development avoids an increase in on street parking in the vicinity of the site which would detract from highway safety and/ or residential amenity.

Revised plan PLN-1 shows that four parking spaces are proposed across the entire site of No. 13 Brookside Close. The two double stacked spaces are to be allocated to the existing dwelling (No. 13), and the remaining spaces allocated to the new dwelling (No. 13a). This equates to a provision of two spaces per dwelling.

All of the proposed spaces exceed B&NES' minimum parking bay dimensions of 4.8m x 2.4m, which is accepted. The space to the east will be supplied with electric vehicle charging, which is welcomed.

The proposed dwelling is required to provide 3 off-street parking spaces to accord with policy ST7. The proposed 2 spaces therefore fall short of the requirement. A review of the submitted Accessibility Statement revealed a score of 19 which does not qualify for a secondary discount from the adopted parking standards.

However, HDM recognise that the proposals include off-street parking for the existing dwelling, which will reduce overall on-street parking demand by two-spaces. As such the proposals as a whole provide a net reduction of one on-street parking space and as such HDM is able to accept a proposed reduction from residential minimum parking standards as a betterment compared to the existing situation.

There is sufficient space within the development to provide cycle parking areas, in addition to those shown on the plans.

The submitted Waste Management Plan states that refuse collection will be from kerbside on Brookside Close. Updated plan PLN-1 shows that refuse storage areas of dimensions

1m x 2m are proposed to the front of each dwelling, which are considered acceptable to accommodate waste associated with a single dwelling. The distance from kerbside collection and the proposed dwelling is considered acceptable.

Concerns have been raised with regards to disturbance from construction activities with regards to parking and traffic generated by developers. The Highways team have not requested a construction management plan (CMP). In this instance, the amount of development is considered not to be large enough to warrant a CMP. Requesting a CMP is as such considered not to be necessary or reasonable in this instance and therefore would fail to meet the NPPF 6 tests for adding a condition.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 9 of the NPPF.

#### SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

Policy CP2 of the Placemaking Plan has regard to Sustainable construction. The policy requires sustainable design and construction to be integral to all new development in B&NES and that a sustainable construction checklist (SCC) is submitted with application evidencing that the prescribed standards have been met.

For minor new build development a 19% reduction in CO2 emissions is required by sustainable construction. In this case the submitted SCC shows that a 33.27% CO2 emissions reduction has been achieved from energy efficiency and/or renewables. Therefore, the proposed development is compliant with policy CP2 in this instance.

Policy SCR5 of the emerging Placemaking Plan requires that all dwellings meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day. This can be secured by condition.

Policy SCR5 also requires all residential development to include a scheme for rainwater harvesting or other method of capturing rainwater for use by residents (e.g. water butts). These matters can be secured by a relevant planning condition.

#### ECOLOGY:

The submitted report identifies that the site comprises a small PVC lean-to conservatory and garden which encompasses regularly mown lawn with flower borders, a pile of arising and a few shrubs. The existing adjacent property was considered to offer negligible bat roost potential, which the lean-to had no potential to support roosting bats. The habitats on site were considered suitable to support commuting bats, reptiles, amphibians and nesting birds. These results were accepted.

The measures to protect reptiles, amphibians and nesting birds as set out in Sections 4 & 5 of the report would be supported and would be secured by condition for a wildlife protection & enhancement scheme.

The report identifies that the tree line adjacent to the eastern boundary could be used by commuting bats. Therefore, the recommendation for sensitive lighting would be fully supported. A detailed specification can be secured by condition.

The recommendations in Sections 3, 4 & 5 of the report including native planting, provision of 2 x bat & 2 x bird boxes and inclusion of hedgehog connectivity measures would be supported. Integrated features for bats and birds should be utilised into the new building in order to demonstrate compliance with Policy D5e. A detailed specification should be secured by condition.

#### **FLOODING AND DRAINAGE:**

A culverted watercourse crosses the plot, this culvert has been identified as potentially having significant impact on flood risk in the area. Further information was therefore requested by the Flooding and Drainage team. A CCTV survey has been provided which shows the culvert to be in good condition free from structural or operational defects. The survey also confirmed the location of the culvert across the site and its depth.

The CCTV footage which was undertaken has confirmed that the pipe is in good condition. This survey has also traced the location of the water culvert.

The drawings of the proposed new dwelling show the culvert to be 3 meters away at the closest point, this provides adequate access for future maintenance. They also demonstrate that the foundations will be a meter deep, which would indicate that there will be no additional load onto the culvert. The finished floor level will be 200mm above the ground level. The drawings confirm the size and location of the proposed soakaway. A condition would be attached regarding the construction of the soakaways and to secure an alternative method should soakaways not be appropriate.

#### **SUSTAINABLE CONSTRUCTION:**

A sustainable construction checklist and accompanying SAP calculations have been submitted. The checklist shows that incorporated measures will reduce the overall CO2 output by 33.27% which exceeds the policy requirement of 19% in accordance with policy CP2 of the Core Strategy (2014).

#### **CONCLUSION:**

It is considered that the proposed dwelling is of an acceptable design and scale and will have an acceptable impact upon residential amenity. Drainage and Flooding, Ecology and Highways issues have been resolved. This application is therefore recommended for approval.

#### **RECOMMENDATION**

PERMIT

#### **CONDITIONS**

##### **1 Standard Time Limit (Compliance)**

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

Reason: As required by Section 91 of the Town and Country Planning Act 1990 (as amended) and to avoid the accumulation of unimplemented planning permission.

## **2 Materials - Submission of Materials Schedule (Bespoke Trigger)**

No construction of the external walls of the development shall commence until a schedule of materials and finishes to be used in the construction of the external surfaces, including roofs, has been submitted to and approved in writing by the Local Planning Authority. The schedule shall include:

1. Detailed specification of the proposed materials (Type, size, colour, brand, quarry location, etc.);
2. Photographs of all of the proposed materials;
3. An annotated drawing showing the parts of the development using each material.

Samples of any of the materials in the submitted schedule shall be made available at the request of the Local Planning Authority.

The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with policies D1, D2, D3 and D5 of the Bath and North East Somerset Placemaking Plan and policy CP6 of the Bath and North East Somerset Core Strategy.

## **3 Soakaways (bespoke trigger)**

The development hereby permitted is to manage surface water onsite using soakaways as indicated on the application form and/or approved drawings. Soakaways are to be designed and constructed in accordance with Building Regulations Approved Document Part H section 3, noting the requirement for infiltration testing which should be undertaken at an early stage of the development to confirm viability of infiltration techniques.

If the infiltration test results demonstrate that soakaways are not appropriate, an alternative method of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority.

The soakaways or other approved method of surface water drainage shall be installed prior to the occupation of the development.

Reason: To ensure that an appropriate method of surface water drainage is installed and in the interests of flood risk management in accordance with Policy CP5 of the Bath and North East Somerset Core Strategy and Policy SU1 of the Bath and North East Somerset Placemaking Plan

## **4 Wildlife Protection and Enhancement Scheme (Pre-commencement)**

No development shall take place until full details of a Wildlife Protection and Enhancement Scheme have been submitted to and approved in writing by the local planning authority. These details shall include:

- (i) Method statement for pre-construction and construction phases to provide full details of all necessary protection and mitigation measures, including, where applicable,

protection measures and proposed pre-commencement checks and update surveys, for the avoidance of harm to nesting birds, reptiles, amphibians and other wildlife, and proposed reporting of findings to the LPA prior to commencement of works; and

(ii) Detailed specification and location plan for native planting, provision of 2 x bat & 2 x bird boxes and hedgehog connectivity measures.

All works within the scheme shall be carried out in accordance with the approved details and completed in accordance with specified timescales and prior to the occupation of the development.

Reason: To prevent ecological harm in accordance with the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended) and to provide biodiversity gain in accordance with Policy NE3 of the Bath and North East Somerset Local Plan.

### **5 Implementation of Wildlife Scheme (Pre-occupation)**

No occupation of the development hereby approved shall commence until a statement confirming and demonstrating, using photographs, completion and implementation of the Wildlife Protection and Enhancement Scheme in accordance with approved details, has been submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate the completed implementation of the Wildlife Protection and Enhancement Scheme, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and Policies NE3 and D5e of the Bath and North East Somerset Local Plan.

### **6 External Lighting (Bespoke Trigger)**

No new external lighting shall be installed until full details of the proposed lighting design have been submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. Lamp models and manufacturer's specifications, positions, numbers and heights; and
2. Measures to limit use of lights when not required, to prevent upward light spill and to prevent light spill onto nearby vegetation and adjacent land.

The lighting shall be installed and operated thereafter in accordance with the approved details.

Reason: To avoid harm to bats and wildlife in accordance with Policies NE3 and D8 of the Bath and North East Somerset Local Plan.

### **7 Parking (Pre-occupation)**

No occupation of the development shall commence until four parking spaces have been provided on-site and should be retained permanently thereafter.

Reason: To ensure that adequate and safe parking is provided in the interests of amenity and highway safety in accordance with Policy ST7 of the Bath and North East Somerset Placemaking Plan.

### **8 Bicycle Storage (Pre-occupation)**

No occupation of the development shall commence until bicycle storage for at least four bicycles has been provided in accordance with details which have been submitted to and



approved in writing by the Local Planning Authority. The bicycle storage shall be retained permanently thereafter.

Reason: In the interest of encouraging sustainable travel methods in accordance with Policy ST1 of the Bath and North East Somerset Placemaking Plan.

### **9 Rainwater Harvesting (Pre-occupation)**

No occupation of the approved dwellings shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (e.g. Water butts) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of water efficiency in accordance with policy SCR5 of the Placemaking Plan.

### **10 Water Efficiency (Compliance)**

The approved dwellings shall be constructed to meet the national optional Building Regulations requirement for water efficiency of 110 litres per person per day.

Reason: In the interests of water efficiency in accordance with Policy SCR5 of the Placemaking Plan.

### **11 Sustainable Construction (Pre-Occupation)**

Prior to first occupation of the development hereby approved the following tables (as set out in the Council's Sustainable Construction Supplementary Planning Document, Adopted November 2018) shall be completed in respect of the completed development and submitted to the local planning authority together with the further documentation listed below:

- o Table 2.4 (Calculations);
- o Building Regulations Part L post-completion documents

Reason: To ensure that the approved development complies with Policy SCR1 of the Placemaking Plan (renewable energy) and Policy CP2 of the Core Strategy (sustainable construction).

### **12 Plans List (Compliance)**

The development/works hereby permitted shall only be implemented in accordance with the plans as set out in the plans list below.

Reason: To define the terms and extent of the permission.

### **PLANS LIST:**

1 This decision relates to the following plans:

Revised Drawing - 29 April 2022 - PLN-1 - Proposed Elevations, Floor Plan and Site Location Plan

OS Extract - 15 Feb 2022 - Site Location Plan

## 2 Condition Categories

The heading of each condition gives an indication of the type of condition and what is required by it. There are 4 broad categories:

**Compliance** - The condition specifies matters to which you must comply. These conditions do not require the submission of additional details and do not need to be discharged.

**Pre-commencement** - The condition requires the submission and approval of further information, drawings or details before any work begins on the approved development. The condition will list any specific works which are exempted from this restriction, e.g. ground investigations, remediation works, etc.

**Pre-occupation** - The condition requires the submission and approval of further information, drawings or details before occupation of all or part of the approved development.

**Bespoke Trigger** - The condition contains a bespoke trigger which requires the submission and approval of further information, drawings or details before a specific action occurs.

Please note all conditions should be read fully as these headings are intended as a guide only.

Where approval of further information is required you will need to submit an application to Discharge Conditions and pay the relevant fee via the Planning Portal at [www.planningportal.co.uk](http://www.planningportal.co.uk) or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

## 3 Permit/Consent Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework.

## 4 Community Infrastructure Levy - General Note for all Development

You are advised that as of 6 April 2015, the Bath & North East Somerset Community Infrastructure Levy (CIL) Charging Schedule came into effect. CIL may apply to new developments granted by way of planning permission as well as by general consent (permitted development) and may apply to change of use permissions and certain extensions. **Before** commencing any development on site you should ensure you are familiar with the CIL process. If the development approved by this permission is CIL liable there are requirements to assume liability and notify the Council **before any development commences**.

**Do not commence development** until you have been notified in writing by the Council that you have complied with CIL; failure to comply with the regulations can result in surcharges, interest and additional payments being added and will result in the forfeiture of any instalment payment periods and other reliefs which may have been granted.

## **Community Infrastructure Levy - Exemptions and Reliefs Claims**

The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply for any relief and have it approved in writing by the Council then notify the Council of the intended start date **before** you start work on site. Once development has commenced you will be unable to claim any reliefs retrospectively and CIL will become payable in full along with any surcharges and mandatory interest charges. If you commence development after making an exemption or relief claim but before the claim is approved, the claim will be forfeited and cannot be reinstated.

Full details about the CIL Charge including, amount and process for payment will be sent out in a CIL Liability Notice which you will receive shortly. Further details are available here: [www.bathnes.gov.uk/cil](http://www.bathnes.gov.uk/cil). If you have any queries about CIL please email [cil@BATHNES.GOV.UK](mailto:cil@BATHNES.GOV.UK)

### **5 Responding to Climate Change (Informative):**

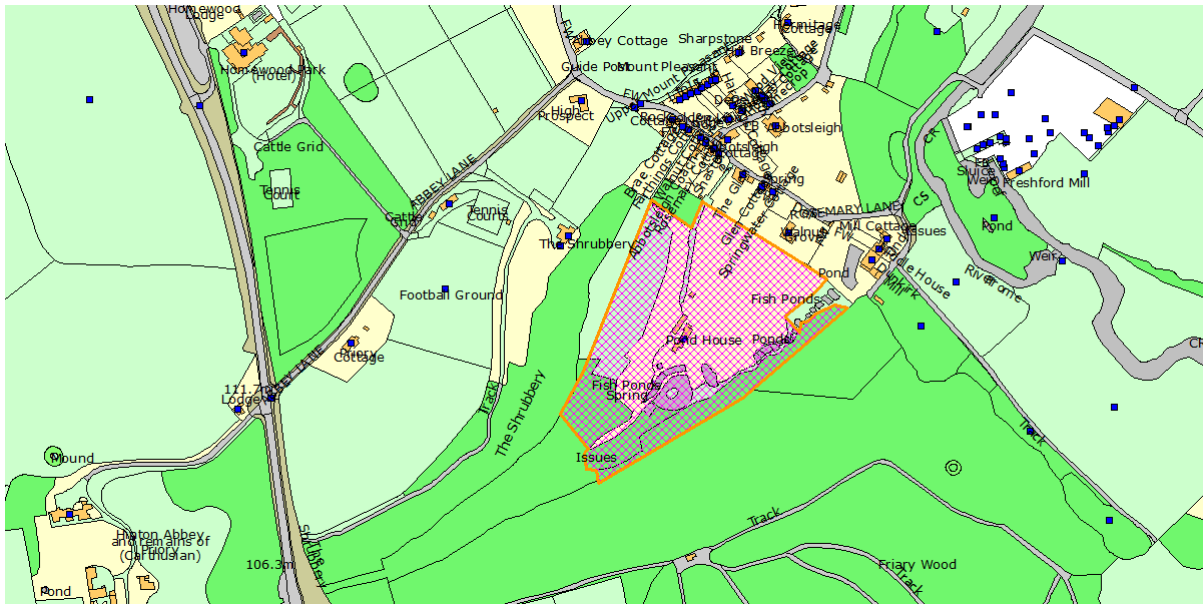
The council is committed to responding to climate change. You are advised to consider sustainable construction when undertaking the approved development and consider using measures aimed at minimising carbon emissions and impacts on climate change.

### **6 Coal Mining - Low Risk Area (but within coalfield)**

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to the Coal Authority on 0345 762 6848.

Further information is also available on the Coal Authority website at: [www.gov.uk/government/organisations/the-coal-authority](http://www.gov.uk/government/organisations/the-coal-authority)

**Item No:** 07  
**Application No:** 22/00443/FUL  
**Site Location:** Pond House Rosemary Lane Freshford Bath Bath And North East Somerset



**Ward:** Bathavon South      **Parish:** Hinton Charterhouse      **LB Grade:** N/A  
**Ward Members:** Councillor Neil Butters      Councillor Matt McCabe  
**Application Type:** Full Application  
**Proposal:** Partial demolition of ancillary outbuilding and conversion of remaining building into granny annex. Erection of extensions following demolition of the south-west end of the existing dwelling.  
**Constraints:** Agric Land Class 3b,4,5, Contaminated Land, Policy CP8 Green Belt, Policy CP9 Affordable Housing Zones, LLFA - Flood Risk Management, MOD Safeguarded Areas, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE3 SNCI, Policy NE5 Ecological Networks, Policy NE5 Strategic Nature Areas, All Public Rights of Way Records, SSSI - Impact Risk Zones,  
**Applicant:** Mr and Mrs Walters  
**Expiry Date:** 18th April 2022  
**Case Officer:** Angus Harris  
To view the case click on the link [here](#).

## REPORT

The application refers to a detached dwelling at Pond House, Rosemary Lane, Freshford, Bath, BA2 7UD.

Planning permission is sought for the partial demolition of ancillary outbuilding and conversion of remaining building into granny annex. Erection of extensions following demolition of the south-west end of the existing dwelling.

Relevant Planning History:

DC - 18/02591/FUL - RF - 25 October 2018 - Erection of two storey and single storey side extension and associated landscaping.

DC - 18/05603/CLPU - LAWFUL - 31 January 2019 - Erection of single storey rear extensions (Certificate of Lawfulness for a Proposed Development).

DC - 19/00810/FUL - RF - 6 June 2019 - Extension and alterations to Pond House (Revised Application)

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

Cllr Neil Butters:

"I can report that both Hinton Charterhouse and Freshford parish councils have now enthusiastically endorsed the latest proposals. I assume that that in itself is sufficient to warrant reference to the Chair with a view to the application going to Committee in the event that you were minded not to approve?

Nonetheless, I would like to support the application myself - and, if necessary - the proposal to go to Committee for the following reasons:

The proposal has been revised and further reduced in size - with removal of a large outbuilding.

Also, it has been shown how the dwelling could be extended in any event using its permitted development rights (Certificate of Lawfulness obtained), with an even larger addition.

It is again put forward that the total extension volume is under one third (which is down to whether or not outbuildings are included in the calculation; apparently not an issue elsewhere in B&NES).

The key difference vis-a-vis the last application would appear to be the addition of a S106 agreement, specifically designed to ensure that the applicants cannot both build the established permitted development plus the proposed if approved.

This is an exemplary sustainable design proposal, which may help promote and raise standards in other parts of the Council area."

Hinton Charterhouse Parish Council:

"Hinton Charterhouse Parish Council met on the 15th March to discuss this planning application. The Council considers the design to be an attractive one with many admirable features, and which has no negative impacts on neighbours. The Council voted unanimously to Support the application."

Freshford Parish Council: supports the application.

Whilst not in Freshford, the property is on the parish boundary. It is not within the Conservation Area. The site is not overlooked and the proposals will update the property within the guidelines using an imaginative and exciting design.

The proposals appear to have been well thought through. The PC suggests that keeping to the architect's design and materials is preferred.

Cllr Matthew McCabe

Given that two Parish Councils are now endorsing this application, were you minded to refuse I would request that this is considered at committee, so that your reasons for refusal can be fully debated in the public domain.

Representations Received :

None received

### **POLICIES/LEGISLATION**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
  - Policy GDS.1 Site allocations and development requirements (policy framework)
  - Policy GDS.1/K2: South West Keynsham (site)
  - Policy GDS.1/NR2: Radstock Railway Land (site)
  - Policy GDS.1/V3: Paulton Printing Factory (site)
  - Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)
- o Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

CP6: Environmental Quality

CP8: Green Belt

CP12: Centres and Retailing

DW1: District Wide Spatial Strategy

SD1: Presumption in favour of sustainable development

## Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles  
D2: Local character and distinctiveness  
D.3: Urban fabric  
D.5: Building design  
D.6: Amenity  
GB1: Visual amenities of the Green Belt  
GB2: Development in Green Belt villages  
GB3: Extensions and alterations to buildings in the Green Belt.  
NE2A: Landscape setting of settlements  
ST7: Transport requirements for managing development

## National Policy:

The National Planning Policy Framework (NPPF) was published in August 2021 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

## SPD's:

The Existing Dwellings in the Green Belt Supplementary Planning Document is also relevant in the determination of this application.

## LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

## OFFICER ASSESSMENT

### GREEN BELT:

The primary issue to consider is whether the proposal represents inappropriate development in the Green Belt. Extensions to buildings within the Green Belt are considered acceptable provided they do not represent a disproportionate addition to the existing dwelling. Additions will be found proportionate where there is a volume increase of about a third, of the original dwelling, as highlighted in the 'Existing Dwellings in the Green Belt SPD' and Policy GB3 of the Placemaking Plan

The building to be extended

In the case of Pond House it must first be identified what is 'the building' to be extended.

The planning statement attempts to include all of the existing outbuildings in the interpretation of 'building' and as such within the volume calculations. Within the 2019 refusal, reference was made to the *Tandridge District Council v Secretary of State (2015)* which clarifies that building can refer to either singular or multiple structures on site. The High Court judgement states that " 'building' should not be read as excluding more than one building, providing that as a matter of planning judgement they can sensibly be considered together in comparison with what is proposed to replace them' showing that Tandridge case specifically addresses replacement dwellings in the Green Belt. However, this application is for the extension of a building in the Green Belt. In accordance with the wording in the NPPF each outbuilding could be extended in turn by a proportionate addition and therefore it is not considered that in this instance all the outbuildings should be included as part of the volume calculations of the original building to be extended if they could each be extended again at a later date, additionally none are proposed to be demolished.

As such it is considered that the detached out buildings on site do not form part of the building to be extended. In this regard 'the building' being extended is the existing house which consists of A, B (prior to extension), C, D, is 726.9 m<sup>3</sup>. This approach is consistent with the previous applications.

The proposal has since been revised to adjoin the outbuildings J, L, M and N within the envelope of the development. It is recognised that these outbuildings in turn could be extended by 'about a third' of their individual, original volumes, which are as follows:

Outbuilding J = 36.0 m<sup>3</sup>.

Outbuilding K = 10.5 m<sup>3</sup>

Outbuilding M = 219.4 m<sup>3</sup>

Outbuilding N = 168.3 m<sup>3</sup>                      A combined total of 434.2 m<sup>3</sup>

Therefore, the total volume of the original dwelling and outbuildings J, K, M and N is a combined 1161.1 m<sup>3</sup>.

#### Volume Assessment

It is noted in the submission that the applicant considers the original volume to be 1455.7m<sup>3</sup>, however this includes the volume of all of the detached outbuildings which should be disregarded as outlined above. As such the volume of the original building and outbuildings that the addition must be proportionate to, would be 1,161.1m<sup>3</sup>.

Pond House was previously extended in 1989 through a two storey extension to the north east of the property. Under a previous refusal volume calculations were provided showing this extension to be 319m<sup>3</sup>. Under this application the previous extension is shown to be 214m<sup>3</sup>, it appears this change is because a lean-to was removed. The volume of 214m<sup>3</sup> is taken as correct. Additionally, outbuilding J had been extended by 6.3 m<sup>3</sup>. These later additions equates to an 19.0 % increase in volume.

The proposed addition under this application results in an additional 480.2 m<sup>3</sup> volume increase, cumulatively resulting in a 700.5 m<sup>3</sup> volume increase. This calculation has included the proposed demolition of outbuilding M.



The current proposal along with the previous extensions results in a cumulative volume increase of 60.3%. This is significantly greater than the guidance within the Council's SPD that states that extensions of about a third of the original volume are more likely to be acceptable. The extension is therefore regarded as disproportionate and, by definition inappropriate development within the Green Belt.

In this instance, the volume addition is still significantly above the threshold of about a third, and is considered to be a disproportionate addition to the dwelling. The development is therefore not considered to meet the exceptions to inappropriate development within the green belt.

#### Impact on openness

Given that the proposal is found to be disproportionate an assessment of its impact on openness is required.

The Government attaches great importance to Green Belts, with the fundamental aim to keep land permanently open, and openness forming a key characteristic of the Green Belt, as outlined in para 137 of the NPPF.

An assessment of impact on openness is based on visual and spatial impact. The proposal would be visible from within the wider grounds of Pond House, which are extensive, although it is unlikely to be widely visible from public views. The absence of visual intrusion does not in itself mean that there is no impact on the openness of the Green Belt as the result of the location of new built form. The proposal is for a large scale extension that would clearly reduce the physical openness of the site; as such the proposal fails to maintain openness, albeit by a small amount in the scheme of the Green Belt as a whole, and represents an encroachment into the countryside.

#### Very Special Circumstances

As discussed above, the proposal is inappropriate development in the Green Belt and in accordance with paragraph 147 of the NPPF should only be approved if very special circumstances existing. Paragraph 148 goes on to state that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

#### Certificate of Lawfulness

The applicant has demonstrated that a 511 m<sup>3</sup> volume addition (representing a 62.4 % increase) is able to come forward via permitted development rights, supported by a Certificate of Lawfulness, 18/05603/CLPU. The extensions proposed within the Certificate of Lawfulness are situated on the north side of the building, in a similar position to the first floor additions now proposed, but do not however extend beyond the south extent of the dwelling and do not include the 'leaf' extension.

Consideration was given within the previous refusal, in that both the permitted development scheme and proposed application could be developed, but in this case the

schemes partially overlap and the applicant has submitted a S106 to prevent the Certificate of Lawfulness coming forward in the event of an approval.

While the volume proposed within the certificate of lawfulness represents a volume increase slightly greater to that now proposed, consideration is given to this permitted development option as a fall-back position and whether this might be considered a very special circumstance.

In this instance, there are clear differences in the positioning and design of the permitted development scheme. Its siting, contained entirely within the existing built form, infilling the space between the buildings at a single storey height, has a reduced visual impact within the green belt and Area of Outstanding Natural Beauty, and proposes matching materials to those of the existing buildings. The permitted development scheme also omits the main focus of the works, being the larger 'leaf' extension to the south of the building. As such, the permitted development scheme is not considered to be a comparable proposal to this application and is not considered to constitute a very special circumstance.

### Green Belt Summary

Overall, the proposed development represents inappropriate development in the Green Belt and as such it would be harmful to openness and the purposes of including land within the Green Belt. The proposal is therefore contrary with policy CP8 of the adopted Core Strategy and policy GB1 and GB3 of the Placemaking Plan for Bath and North East Somerset (2017) and part 13 of the NPPF. Very Special Circumstances would be required to outweigh this harm.

### DESIGN AND LANDSCAPE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host dwelling and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

Freshford and Limpley Stoke Neighbourhood Plan states in its Planning and Development Policy that the design of new development must be mindful of and sensitive to the physical and environmental context of the site and its location. This includes the need for any development to be proportionate both to its site and in relation to its immediate neighbours. The design, contemporary or traditional, must be a positive addition to the rural environment reflecting the character of its setting and acknowledging the local built heritage. It must sit well in the landscape and not dominate it.

The site is located within the Cotswolds Area of Outstanding Natural Beauty (AONB), and the Green Belt. These designations underscore the quality and importance of the existing landscape and visual character of the surrounding area.

The proposal consists of a contemporary 'leaf' extension and a part single, part 2-storey extension, which includes infilling and linking the space between the main dwelling and outbuildings.

The main element is a new timber and glass extension, which in plan appears leaf like and houses the open plan living areas. This element extends from the main house to the south west. The proposal is contemporary in design constructed from glass and cedar cladding and includes a sedum roof.

The infilling and linking extension will be entirely timber clad to the sides and rear, and matching stonework to the front. It will form a flat roof at a single storey height between the outbuildings, and 2-stories in height where it projects to the rear.

The contemporary nature of the proposal and the use of natural materials are considered to be acceptable however the scale of the proposal remains too dominate. The size of the extension continues to be regarded as dominating the appearance of the existing building to the effect that it detracts from the character of the existing dwelling and this part of the AONB.

The proposed development by virtue of its scale and massing would adversely affect the natural beauty of the landscape of the designated AONB contrary to policy NE2 of the Placemaking Plan for Bath and North East Somerset (2017), as well as policies D1, D2 and D5. It is also considered contrary to the Freshford and Limpley Stoke Neighbourhood Plan Planning and Development Policy and the NPPF.

#### HERITAGE:

Although outside of the Conservation Area the proposal site is on the boundary and therefore regard must be had to the setting of Freshford Conservation Area. In this case given the distance of the proposal from the conservation area, the limited views of the site available from the conservation area and the design it is not considered that there will be any impact on the setting.

There is a duty placed on the Council under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act to pay special attention to the preservation or enhancement of the character of the surrounding conservation area. In this case by virtue of the design, scale, and position of the proposed development it is considered that the development would at least preserve the character and appearance of this part of the Conservation Area and its setting. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 12 of the NPPF.

#### RESIDENTIAL AMENITY:

Policy D.6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

The site is located over 100m from its nearest neighbours, furthermore there are limited views into the site expect for some very long reaching views further across the valley.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and paragraph 17 and part 7 of the NPPF.

#### **HIGHWAYS:**

Although increasing the size of the property there are no alterations to access and there is ample parking within the site.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 4 of the NPPF.

#### **SCHEME OF DELEGATION:**

The application was referred to the Chair and Vice Chair of the B&NES Planning Committee in accordance with the Council's Scheme of Delegation, as the officer's recommendation is contrary to formal comments received by the local Parish's and Ward Councillor, which gave planning reasons supporting the application.

The Vice Chair decided to delegate the decision, commenting as follows:

I have studied the application, noting the Ward Cllr planning cmt request, I am familiar with the site as a previous application came to me in 2018.

These proposals, which I note are supported by the FPC & HCPC have been assessed against relevant planning policies however regarding Greenbelt Policy there are no very special circumstances demonstrated as explained in the report the fall back permission linked to PD rights will not make this application policy compliant therefore I recommend it be delegated to Officers for decision.

The Chair decided to refer the decision to the committee, commenting as follows:

I have reviewed this application and note the support from both parish councils and the local ward councillor. This application is a revision of a proposal previously brought to planning committee and for purposes of continuity, I believe it should benefit from the same public debate as it's predecessor. I therefore refer this decision to the committee.

The application will therefore be referred to the planning committee.

#### **CONCLUSION:**

It is therefore considered that the proposal is contrary to the relevant planning policies as outlined above and the proposal is recommended for refusal.

#### **RECOMMENDATION**

**REFUSE**

## **REASON(S) FOR REFUSAL**

1 The proposed development represents inappropriate development in the Green Belt and would be harmful to openness and the purposes of including land within the Green Belt. The proposal is therefore contrary to policy CP8 of the adopted Core Strategy and policy GB1 and GB3 of the Placemaking Plan for Bath and North East Somerset (2017) and the NPPF.

2 The proposed development by virtue of its scale and massing would detract from the character of the existing building and adversely affect the natural beauty of the landscape of the designated AONB. The proposal is therefore contrary to policy NE2, D1, D2 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) as well as the Freshford and Limpley Stoke Neighbourhood Plan Planning, and the NPPF.

## **PLANS LIST:**

1 This decision relates to the following plans:

Drawing - 01 Feb 2022 - 387(10)002 - EXISTING AND PROPOSED SITE PLANS

Drawing - 01 Feb 2022 - 387(20)001 - EXISTING GROUND AND FIRST FLOOR LAYOUTS

Drawing - 01 Feb 2022 - 387(20)002 - PROPOSED GROUND AND FIRST FLOOR LAYOUTS

Drawing - 01 Feb 2022 - 387(20)003 - EXISTING GROUND AND FIRST FLOOR LAYOUTS WITH PERMITTED DEVELOPMENT

Drawing - 01 Feb 2022 - 387(21)001 - EXISTING ELEVATIONS

Drawing - 01 Feb 2022 - 387(21)002 - EXISTING ELEVATIONS 2

Drawing - 01 Feb 2022 - 387(21)003 - PROPOSED ELEVATIONS

Drawing - 01 Feb 2022 - 387(21)005 - EXISTING ELEVATIONS WITH PD

Drawing - 01 Feb 2022 - 397(24)001 - 3D IMAGES

OS Extract - 01 Feb 2022 - 0387(10)004 B - SITE LOCATION PLAN

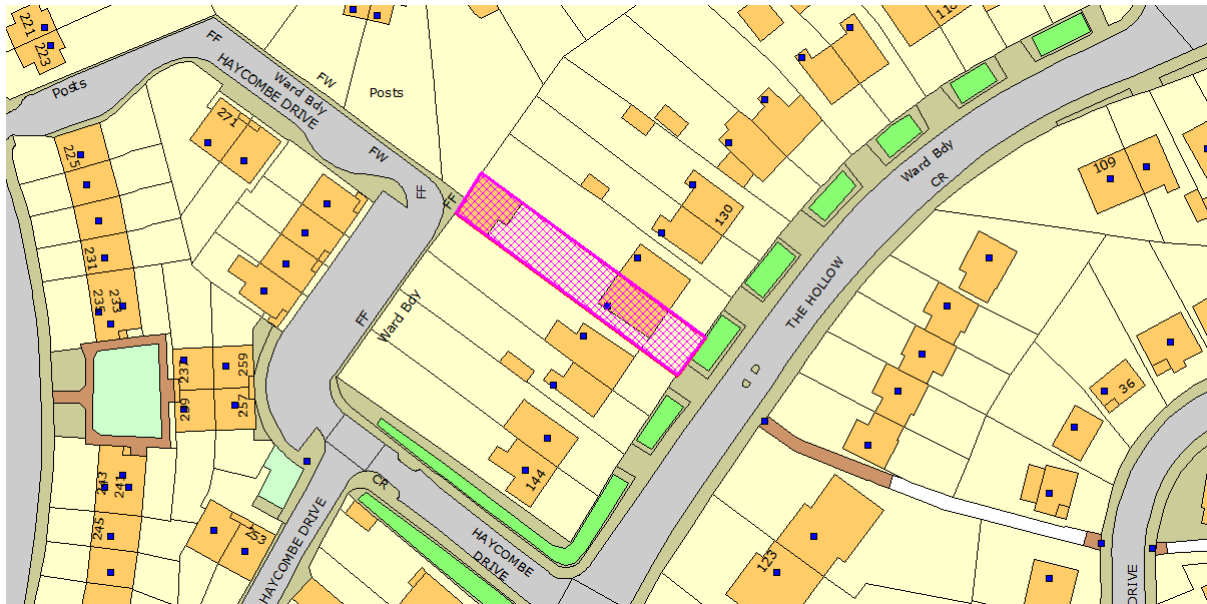
Drawing - 25 May 2022 - VOLUME COMPARISON TABLE PLAN

2 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons 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. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

## **3 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)

**Item No:** 08  
**Application No:** 22/00624/FUL  
**Site Location:** 136 The Hollow Southdown Bath Bath And North East Somerset BA2 1NF



**Ward:** Southdown      **Parish:** N/A      **LB Grade:** N/A  
**Ward Members:** Councillor Paul Crossley    Councillor Dine Romero  
**Application Type:** Full Application  
**Proposal:** Loft conversion with side and rear dormers (Resubmission)  
**Constraints:** Article 4 HMO, Colerne Airfield Buffer, Agricultural Land Classification, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing Zones, MOD Safeguarded Areas, Policy NE5 Ecological Networks, SSSI - Impact Risk Zones,  
**Applicant:** Andrew Webster  
**Expiry Date:** 8th April 2022  
**Case Officer:** Angus Harris  
To view the case click on the link [here](#).

## REPORT

The application refers to a semi-detached property at 136 The Hollow, Southdown, Bath, BA2 1NF.

Planning permission is sought for a loft conversion with side and rear dormers (Resubmission).

Relevant Planning History:

DC - 21/05656/FUL - PERMIT - 14 March 2022 - Erection of single storey side extension and alterations to existing outbuilding.

DC - 21/05657/FUL - WD - 14 January 2022 - Loft conversion with side and rear dormers.

## **SUMMARY OF CONSULTATIONS/REPRESENTATIONS**

Consultation Responses :

Councillor Romero:

I have been approached by Andrew Webster about the above allocation for a dormer extension.

I am happy to support the application. This application does no harm to the WHS, and mirrors much of the housing and changes to these on the street: there are many similar side dormer extensions close by. There is no overlooking of a public footpath, nor any loss of amenity to the most near neighbours.

I am concerned that we still have a policy that is against dormer extensions and so this type of application is invariably refused without argument. We have a growing need for affordable family housing in Bath as so much has become student lets, allowing dormer extensions is one way of keeping families in Bath, and keeping our communities diverse, and our local amenities, shops and schools viable.

If you are minded to refuse then I would like to bring this application to the planning committee to decide.

Representations Received :

None received.

## **POLICIES/LEGISLATION**

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The Core Strategy now forms part of the statutory Development Plan and will be given full weight in the determination of planning applications. The Development Plan for Bath and North East Somerset comprises:

- o Bath & North East Somerset Core Strategy (July 2014)
- o Bath & North East Somerset Placemaking Plan (July 2017)
- o West of England Joint Waste Core Strategy (2011)
- o Bath & North East Somerset saved Local Plan policies (2007) not replaced by the Core Strategy or the Placemaking Plan:
  - Policy GDS.1 Site allocations and development requirements (policy framework)
  - Policy GDS.1/K2: South West Keynsham (site)
  - Policy GDS.1/NR2: Radstock Railway Land (site)
  - Policy GDS.1/V3: Paulton Printing Factory (site)
  - Policy GDS.1/V8: Former Radford Retail System's Site, Chew Stoke (site)
- o Made Neighbourhood Plans

Core Strategy:

The Core Strategy for Bath and North East Somerset was formally adopted by the Council on 10th July 2014. The following policies of the Core Strategy are relevant to the determination of this application:

B1: Bath Spatial Strategy  
B4: The World Heritage Site and its Setting  
CP6: Environmental Quality  
DW1: District Wide Spatial Strategy  
SD1: Presumption in favour of sustainable development

#### Placemaking Plan:

The Placemaking Plan for Bath and North East Somerset was formally adopted by the Council on 13th July 2017. The following policies of the Placemaking Plan are relevant to the determination of this application:

D1: General urban design principles  
D2: Local character and distinctiveness  
D.3: Urban fabric  
D.5: Building design  
D.6: Amenity  
HE1: Historic environment  
ST7: Transport requirements for managing development  
National Policy:

The National Planning Policy Framework (NPPF) was published in August 2021 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

#### SPD's:

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2013) is also relevant in the determination of this planning application.

#### LOW CARBON AND SUSTAINABLE CREDENTIALS

The policies contained within the development plan are aimed at ensuring development is sustainable and that the impacts on climate change are minimised and, where necessary, mitigated. A number of policies specifically relate to measures aimed at minimising carbon emissions and impacts on climate change. The application has been assessed against the policies as identified and these have been fully taken into account in the recommendation made.

#### **OFFICER ASSESSMENT**

The main issues to consider are:

- Character and Appearance
- Bath World Heritage Site
- Residential Amenity

#### CHARACTER AND APPEARANCE:

Policy D1, D2, D3 and D5 of the Placemaking Plan have regard to the character and appearance of a development and its impact on the character and appearance of the host



building and wider area. Development proposals will be supported, if amongst other things they contribute positively to and do not harm local character and distinctiveness. Development will only be supported where, amongst other things, it responds to the local context in terms of appearance, materials, siting, spacing and layout and the appearance of extensions respect and complement their host building.

The extension seeks to convert the loft to addition of a bedroom at the second floor. The works are proposing a rear dormer and a side dormer to facilitate the loft conversion. The rear dormer will provide a dual pitched roof with a gable end. It is set below the ridge height and back from the eaves. It will utilise roof tiles to match those of the host dwelling and hanging tiles for the dormer cheeks. While there are no existing rear dormers on these properties on the north west side of The Hollow, it will be situated to the rear and of limited visibility from the public domain.

The side dormer will utilise the same material pallet. While its design is to be set down from the ridge and back from the eaves, the dormer will fill the hipped roof and appear as an overly dominant addition.

The dwellings on the north west side of The Hollow are a series of matching semi-detached dwellings and while set slightly back from the public highway, are elevated above the street level. While some have been modified at the ground floor level with rear and side additions, no side dormers are present and the existing symmetry of the roofscape is retained. The addition of the side dormer is considered to unbalance the roofscape of the semi-detached pair, result in a harmful visual impact to the character of dwelling and streetscene.

Examples of modifications have been highlighted at neighbouring properties, including a 2-storey side extension at number 144 and a gabled end at number 116, these properties are situated at their respective ends of this row of dwellings and further from the application site.

The 2-storey side extension at number 144 is a different proposal with a different form at the end of terrace and is not comparable to the side dormer now proposed. The gable end at number 116 does unbalance the roofscape of the semi-detached property however the presence of a harmful addition does not set a precedent to allow additional harm.

Additional examples of side dormers are highlighted at properties on the south east side of The Hollow, approximately 200 meters from the application site. These properties are of a different character and design to that of the application site and some of the existing side dormers appear to have been erected via permitted development rights prior to the legislation changes.

Support has been received by a local Ward Councillor, raising concern to a b&nes policy which invariably refused dormer extensions without argument. However as demonstrated above, detailed consideration is given to the impact of the dormer extensions on the character and appearance of the host dwelling and streetscene. While the rear dormer is found to be acceptable, the side dormer is considered to have an unacceptable visual impact given its dominant form and unbalancing appearance on the semi-detached property.

The proposal by reason of its design, siting, scale, massing, layout and materials is acceptable and contributes and responds to the local context and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the adopted Core Strategy (2014) and policies D1, D2, D3, D4 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

The proposed development is within the World Heritage Site, therefore consideration must be given to the effect the proposal might have on the setting of the World Heritage Site. In this instance, due to the size, location and appearance of the proposed development it is considered that it will result in harm to the outstanding universal values of the wider World Heritage Site. The proposal is contrary with policy B4 of the adopted Core Strategy (2014) and Policy HE1 of the Placemaking Plan for Bath and North East Somerset (2017) and Part 16 of the NPPF.

#### RESIDENTIAL AMENITY:

Policy D.6 sets out to ensure developments provide an appropriate level of amenity space for new and future occupiers, relative to their use and avoiding harm to private amenity in terms of privacy, light and outlook/overlooking.

Due to the existing windows at the first floor level for the host dwelling and neighbouring dwellings in this row, the addition the rear dormer windows are not considered likely to result in an unacceptable loss of neighbouring privacy. The side dormer will provide windows looking directly towards the roof of the neighbouring property, Number 138. The side dormer is proposed to host the staircase and would not provide frequent views from a living space.

Given the design, scale, massing and siting of the proposed development the proposal would not cause significant harm to the amenities of any occupiers or adjacent occupiers through loss of light, overshadowing, overbearing impact, loss of privacy, noise, smell, traffic or other disturbance. The proposal accords with policy D6 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

#### HIGHWAYS SAFETY AND PARKING:

Policy ST7 states that development will only be permitted provided, amongst other things, the development avoids an increase in on street parking in the vicinity of the site which would detract from highway safety and/ or residential amenity.

No alterations are proposed to the existing driveway and access. Therefore, the means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Placemaking Plan for Bath and North East Somerset (2017) and part 9 of the NPPF.

#### OTHER MATTERS:

A support comment has been submitted, quoting a growing need for affordable housing in Bath while many properties are becoming student lets. This application relates to the extension of an existing property, and it is being refused due to its impacts on the visual amenity of the dwelling and surrounding area.

**Delegation Note:**

The application was referred to the Chair and Vice Chair of the B&NES Planning Committee in accordance with the Council's Scheme of Delegation, as the officer's recommendation is contrary to formal comments received by a local Ward Councillor, which gave planning reasons supporting the application.

The Chair decided to refer the application to committee, commenting as follows:

I have reviewed this application and note the comments and support from the ward councillor. The officer has assessed the proposal against our current policies but, given the fact that other properties in the area have been extended in this way, I believe this application would benefit from being debated at committee.

The Vice Chair also decided to refer the application to committee, commenting as follows:

I have read the application carefully & note the references made to other properties in the area which have been extended, these comments have been addressed as the application has been assessed against relevant policies.

However I feel the issue of the impact of the size of the side dormer would benefit from debate in the public arena therefore I recommend the application be determined by the planning committee.

The application will therefore be referred to the planning committee.

**CONCLUSION:**

It is therefore considered that the proposal is contrary with the relevant planning policies as outlined above and the proposal is recommended for refusal.

**RECOMMENDATION**

REFUSE

**REASON(S) FOR REFUSAL**

1 The proposed side dormer due to its size, scale, form and positioning will appear as a dominant addition to the roof of the host dwelling, resulting in an unbalanced appearance for the semi-detached property. It will neither preserve nor enhance the character or appearance of the street scene. The proposal is therefore contrary to policy CP6 of the Core Strategy adopted July 2014, policies D1, D2, D3, D5 and HE1 of the Placemaking Plan adopted July 2017 and guidance in the National Planning Policy Framework.

**PLANS LIST:**

1 This decision relates to the following plans:

Drawing - 11 Feb 2022 - 002 - EXISTING PLANS

Drawing - 11 Feb 2022 - 003 - EXISTING ROOF PLAN

Drawing - 11 Feb 2022 - 004 - EXISTING ELEVATIONS

Drawing - 11 Feb 2022 - 005 - PROPOSED PLANS  
Drawing - 11 Feb 2022 - 006 - PROPOSED ROOF PLAN  
Drawing - 11 Feb 2022 - 007 - PROPOSED ELEVATIONS  
OS Extract - 11 Feb 2022 - 001 - LOCATION AND BLOCK PLAN

2 In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 38 of the National Planning Policy Framework. Notwithstanding informal advice offered by the Local Planning Authority the submitted application was unacceptable for the stated reasons 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. In considering whether to prepare a further application the applicant's attention is drawn to the original discussion/negotiation.

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