

Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING DATE: **13th December 2023**

AGENDA
ITEM
NUMBER

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RESPONSIBLE OFFICER: Gary Collins – 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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ITEM NO.	APPLICATION NO. & TARGET DATE:	APPLICANTS NAME/SITE ADDRESS and PROPOSAL	WARD:	OFFICER:	REC:
01	23/02958/VAR 15 December 2023	Mr & Mrs J & S Flavell Waterworks Cottage , Charlcombe Way, Fairfield Park, Bath, Bath And North East Somerset Variation of conditions 5 (Bicycle Storage (Pre-occupation)), 7 (Implementation of Landscaping Scheme (Bespoke Trigger)) and 15 (Plans List (Compliance)) of application 23/00895/FUL (Erection of two detached dwellings with associated means of access, car parking and associated infrastructure following demolition of existing dwelling and outbuilding (Resubmission)).	Lambridge	Samantha Mason	PERMIT
02	23/02194/FUL 9 August 2023	Mr and Mrs J Piper Agricultural Buildings And Land, Blackrock Lane, Publow, Bristol, Bath And North East Somerset Erection of 1no. 4 bed dwelling and associated works	Publow And Whitchurch	Ed Allsop	PERMIT
03	23/03896/TCA 28 November 2023	Hodge Audley House , Park Gardens, Lower Weston, Bath, Bath And North East Somerset T1-Sequoia, section fell	Weston	Jane Brewer	NO OBJECTION

REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 23/02958/VAR
Site Location: Waterworks Cottage Charlcombe Way Fairfield Park Bath Bath And North East Somerset



Ward: Lambridge **Parish:** N/A **LB Grade:** N/A
Ward Members: Councillor Joanna Wright Councillor Saskia Heijltjes

Application Type: Application for Variation of Condition

Proposal: Variation of conditions 5 (Bicycle Storage (Pre-occupation)), 7 (Implementation of Landscaping Scheme (Bespoke Trigger)) and 15 (Plans List (Compliance)) of application 23/00895/FUL (Erection of two detached dwellings with associated means of access, car parking and associated infrastructure following demolition of existing dwelling and outbuilding (Resubmission)).

Constraints: Article 4 HMO, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, Policy CP9 Affordable Housing, MOD Safeguarded Areas, Policy NE2A Landscapes and the green set, Ecological Networks Policy NE5, SSSI - Impact Risk Zones,

Applicant: Mr & Mrs J & S Flavell

Expiry Date: 15th December 2023

Case Officer: Samantha Mason

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

REPORT

Reason for going to committee:

The application was heard that the November 2023 Planning Committee where it was resolved to overturn the officer's recommendation and grant planning permission. During the debate advice was sought from officers in respect of the ability of the committee to grant permission subject to a condition restricting Permitted Development rights for extensions. Upon receipt of a complaint from the applicant, the legal officer has reviewed the recording of the meeting and concluded that the advice given was not as clear as it could have been and there was potential for the committee to have been misdirected. In the interests of fairness, the application is therefore being brought back for re-consideration by the planning committee. Notwithstanding the decision taken at the November Planning Committee meeting, members should approach the application with an open mind and consider the matters afresh.

Both local ward members have requested that the application be brought to committee should the officer be minded to permit. The officer is minded to permit. As per the Scheme of Delegation the application was therefore recommended to the chair and vice chair for a decision. The Chair recommended it be heard at committee and the vice chair concurred.

Details of location and proposal and Relevant History:

The application refers to a site is located in the Fairfield Park residential area of Bath, within the World Heritage site but outside of the Conservation Area. The Green Belt bounds the site to the north along with the AONB.

Planning permission is sought for the variation of conditions 5 (Bicycle Storage (Pre-occupation)), 7 (Implementation of Landscaping Scheme (Bespoke Trigger)) and 15 (Plans List (Compliance)) of application 23/00895/FUL (Erection of two detached dwellings with associated means of access, car parking and associated infrastructure following demolition of existing dwelling and outbuilding (Resubmission)).

Relevant Planning History:

DC - 20/04067/FUL - RF - 4 August 2021 - Extension and alteration to existing Cottage and creation of two detached dwellings.

AP - 22/00002/RF - DISMIS - 26 April 2022 - Extension and alteration to existing Cottage and creation of two detached dwellings.

DC - 22/01884/DEM - RF - 1 June 2022 - Demolition of dwellinghouse (Waterworks Cottage).

DC - 22/02297/DEM - RF - 4 July 2022 - Demolition of dwellinghouse (Waterworks Cottage).

DC - 22/03249/DEM - PAPNRQ - 9 September 2022 - Demolition of dwellinghouse (Waterworks Cottage).

DC - 22/04122/FUL - RF - 27 January 2023 - Erection of two detached dwellings with associated means of access, car parking and associated infrastructure following demolition of existing dwelling and outbuilding

DC - 23/00895/FUL - PERMIT - 27 July 2023 - Erection of two detached dwellings with associated means of access, car parking and associated infrastructure following demolition of existing dwelling and outbuilding (Resubmission).

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

HIGHWAYS:

26th Sept: No objection

ECOLOGY:

4th Sept: Evidence of implementation of ecological mitigation and enhancement measures before occupation is required to comply with Condition 8 and to demonstrate compliance with the law and local best practice. It is potentially acceptable on ecological grounds for some elements of landscaping to be demonstrated at a later stage, but this would need to be within a short period of time following completion (1-2 years). Demonstration of compliance with essential ecological mitigation measures for common toad, reptiles and nesting birds, features which require integration into buildings e.g. green roofs and bat roost features and features required to maintain habitat for reptiles and amphibians e.g. tussocky/neutral grassland and habitat piles will be required before occupation. The proposed variation to condition 9 is therefore not acceptable.

Representations Received :

CLLR JOANNA WRIGHT - Please can I request as Ward Cllr for Lambridge that 23/02958/VAR is called into the Planning Committee should you be mindful to give consent.

Please can you add my objection to this planning request on the Planning Portal. I am objecting for the following reasons: Planning consent has previously been given for this development and was based upon the changes made to make the impact smaller and therefore the effect on the site to be less impactful. This new variation proposal puts a 4 bed house on a site that was agreed to be 3 bed which the applicant previously agreed would be reduced because it reduced the impact of the development. This significant change is therefore not in keeping with the planning consent previously agreed and is seen as overdevelopment on a site that sits on the gateway to an Area of Outstanding Natural Beauty. The applicant is also asking for the landscaping and ecology reporting to be loosened with regard to "planting seasons". The impact of this development is already a significant threat to the toad and frog migration and any further changes would impact on the local ecology.

CLLR SASKIA HEIJLTJES - Please can I request as Ward Cllr for Lambridge that 23/02958/VAR is called into the Planning Committee should you be mindful to give consent.

Please can you add my objection to this planning request on the Planning Portal. I am objecting for the following reasons: Planning consent has previously been given for this development and was based upon the changes made to make the impact smaller and therefore the effect on the site to be less impactful. This new variation proposal puts a 4

bed house on a site that was agreed to be 3 bed which the applicant previously agreed would be reduced because it reduced the impact of the development. This significant change is therefore not in keeping with the planning consent previously agreed and is seen as overdevelopment on a site that sits on the gateway to an Area of Outstanding Natural Beauty. The applicant is also asking for the landscaping and ecology reporting to be loosened with regard to "planting seasons". The impact of this development is already a significant threat to the toad and frog migration and any further changes would impact on the local ecology.

BATH PRESERVATION TRUST:

While recognising that the principle of the residential development of the site was secured under previous application 23/00895/FUL, we highlight the following strong concerns with subsequent proposed amendments to the scheme.

The proposed footprint of Plot 2 would be increased by 750mm to the south and 800mm to the east to accommodate a fourth bedroom, and would match the previously proposed floor plan of Plot 3 under application 20/04067/FUL, which was refused and subsequently dismissed at appeal. In the appeal decision notice, the Inspector described Plot 3 as "represent[ing] a substantive addition rising to two stories and covering a large overall footprint upon an individual plot of somewhat restricted size when compared to the typical composition of the closest existing plots to it."

Plot 2 was subsequently reduced in scale to a 3-bed dwelling as part of application 23/00895/FUL, which is directly recognised in the Committee Report as submitted: "Plot 2 is now reduced in scale in comparison to the Plot 3 appeal dwelling. [...] It is considered that Plot 2 remains discreet and now addresses the previous concerns of the inspector when considering development levels and plot size." It is noted that direct reference is made to the reduction of Plot 2's built footprint and overall scale, albeit the different context of application 23/00895/FUL in which the overall number of dwellings on the site had been reduced with a more generous plot size per dwelling.

We therefore question whether it is appropriate to increase the scale of Plot 2 back to the original plan form of Plot 3 in application 20/04067/FUL without having gone forwards to Planning Committee in order to come to a fully-informed decision about the appropriateness of the scheme in relation to the scale, form, massing, and layout of the proposed development in relation to its sensitive landscape setting. The progressive alteration of the scale and residential capacity of development through variation of condition would incrementally increase the build-up of the site and undermine the established parameters of development set out in the planning permission as already granted.

We further question proposals to relax Conditions 7 & 9, requiring all hard and soft landscaping works to be completed, and the creation of a post-construction report to ensure the development is compliant with the recommendations and measures of the Ecological Mitigation and Enhancement Scheme, prior to the development's occupation.

The site retains a strong visual connection with its wider landscape setting, and as existing contributes to the semi-rural qualities and appearance of the local streetscape. At appeal, the Inspector summarised the site as being "a gentle transition between urban Bath and

neighbouring open countryside designated for its outstanding natural beauty." The success of the proposed development is therefore highly dependent on the delivery and care appropriate soft landscaping works to ensure these thrive and help to embed the development within its distinctive and sensitive landscape context. The attached conditions are essential in ensuring the delivery of appropriate landscaping and ecological enhancement measures, and we emphasise that these conditions and the associated planning controls should not be loosened in order to appropriately mitigate risk of visual and ecological harm, and ensure compliance with Policies NE2, NE2a, NE3, and NE3a of the Core Strategy and Placemaking Plan.

CPRE:

It is the view of CPRE that the original conditions put on the recently permitted planning application are entirely reasonable and this request for a variation should be firmly rejected. It is also disappointing that this application should include proposals for an even larger building on a site where size and topography make this undesirable and might have been rejected if part of the previous application.

THIRD PARTY COMMENTS:

23 objections have been received, the following is a summary of the points raised:

- Loss of cottage will have negative impact
- Heritage concerns
- Modern dwelling design unacceptable
- Increase in plot 2 unacceptable
- Garden- plot size ratios unacceptable
- Congestion and traffic concerns
- Highways safety concerns
- Visually harmful
- Ecological harm
- No benefits to community
- Profiterring
- Landscape harm
- Overdevelopment
- Harm to residential amenity
- Safeguarding issues
- Relevant appeal history

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 Bath & North East Somerset Local Plan Partial Update (2023)
- o West of England Joint Waste Core Strategy (2011)
- 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:

B4: The World Heritage Site and its setting
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:

B1: Bath spatial strategy
BD1: Bath design policy
D1: General urban design principles
D2: Local character and distinctiveness
D3: Urban fabric
D5: Building design
D6: Amenity
D7: Infill and backland development
GB1: Visual amenities of the Green Belt
H4: Self Build
HE1: Historic environment
LCR9: Increasing the provision of local food growing
NE2A: Landscape setting of settlements
PCS1: Pollution and nuisance
PCS2: Noise and vibration
SCR5: Water efficiency

LOCAL PLAN PARTIAL UPDATE:

The Local Plan Partial Update for Bath and North East Somerset Council was adopted on 19th January 2023. The Local Plan Partial Update has introduced several new policies and updated some of the policies contained within the Core Strategy and Placemaking Plan. The following policies of the Local Plan Partial Update are relevant to this proposal:

D8: Lighting
H7: Housing accessibility
NE2: Conserving and enhancing the landscape and landscape character
NE3: Sites, species, and habitats
NE3a: Biodiversity net gain
NE5: Ecological networks
NE6: Trees and woodland conservation
PC55: Contamination
SCR6: Sustainable construction policy for new build residential development
SCR9: Electric vehicles charging infrastructure
ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

The following Supplementary Planning Documents (SPDs) are relevant in the determination of this application:

Sustainable Construction Checklist Supplementary Planning Document (January 2023)

Transport and Development Supplementary Planning Document (January 2023)

Planning Obligations Supplementary Planning Document (January 2023)

NATIONAL POLICY:

The National Planning Policy Framework (NPPF) 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 applicants are looking to vary conditions 5 (Bicycle Storage (Pre-occupation)), 7 (Implementation of Landscaping Scheme (Bespoke Trigger)), and 15 (Plans List (Compliance)) of application 23/00895/FUL (Erection of two detached dwellings with associated means of access, car parking and associated infrastructure following demolition of existing dwelling and outbuilding (Resubmission)).

Initially amendments to condition 9 (Ecology Follow-up Report (Pre-occupation)) were proposed, however the applicant has now chosen to withdraw this element from the scheme and is no longer proposing any amendments to condition 9. As such the description of development has also been updated accordingly.

Section 73 of the Town & Country Planning Act (1990) states that: 'on such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted'.

Therefore, a re-assessment of the scheme, as a whole, is unnecessary and beyond the scope of this application. The only matters that may be considered in respect of the current application are therefore those planning issues raised by the amendments. The planning issues to be considered are therefore:

- Character and appearance
- Residential amenity
- Highways

- Ecology
- Landscaping

CONDITION 5:

The applicants are proposing to vary condition 5 which relates to bicycle storage. Condition 5 of the permitted application states:

'No occupation of the development shall commence until secure, covered bicycle storage for 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.'

Cycle storage has been shown on the approved floorplans and as such the applicants consider the condition should be reworded so that further details are not required to be submitted but instead the cycle storage must be in situ prior to occupation. The proposed condition is as follows:

'No occupation of the development shall commence until the secure, covered bicycle storage has been provided in accordance with the details shown on the approved plans. The bicycle storage shall be retained permanently thereafter.'

It is noted also that the proposal plans included with this variation include amendments to bedroom numbers.

Policy ST7 of the Local Plan Partial Update has regard to transport requirements for managing development. The proposed development requires the provision of secure, covered cycle parking the following spaces per dwelling are required in accordance with the recently adopted standards.

- One space per 1 bedroom dwelling
- Two spaces per 2 bedroom dwelling
- Three spaces per 3 bedroom dwelling
- Four spaces per 4 bedroom + dwelling

Plot 1 will continue to be a four-bed dwelling and Plot 2 is proposed to be amended to a four-bed dwelling. This means that four cycle spaces are required per dwelling now. The amended plans show 4 cycle spaces are achieved on Plot 2 within the exiting driveway adjacent to the bin store. It is noted that the proposed garages are of a sufficient size to accommodate additional bicycle parking.

Additionally, the highways team have been consulted and raised no objection.

The amendments to condition 5 accords with policy ST7 of the Local Plan Partial Update, the Transport and Development Supplementary Planning Document, and part 9 of the NPPF.

CONDITION 7:

The submission proposes the variation of condition 7 which has regard to hard and soft landscaping. The current condition 7 wording is as follows:

'All hard and soft landscape works shall be carried out in accordance with the approved details, including requirements for ecology and habitat provision. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme of implementation agreed in writing with the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of 10 years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the current or first available planting season with other trees or plants of species, size and number as originally approved unless the Local Planning Authority gives its written consent to any variation.

All hard and soft landscape works shall be retained in accordance with the approved details for the lifetime of the development.'

The condition was included to ensure that the landscape works are implemented and maintained, to ensure the continued provision of amenity and environmental quality, and to ensure appropriate biodiversity net gain is secured, and in part was recommended by the Council's ecologist.

The submission considers the following reasons as to why the condition should be amended: 'The normal requirement is for an approved scheme of landscaping to be carried out not later than the first planting season following the substantial completion of the development. This may not coincide with the dwellings being ready for first occupation, and it would be neither reasonable nor necessary for first occupations to be precluded pending implementation of the landscaping works. The submission of a programme for implementation is also unnecessary since the trigger is the first planting season. The maintenance periods are also too long and onerous. The normal requirement for maintenance of a landscaping scheme is five years. Moreover, to require all hard and soft landscape works to be retained for the lifetime of the development is onerous since that time period may exceed the reasonable life expectancy of the plant species and/or materials concerned.'

The applicants therefore propose the following condition wording:

'All hard and soft landscape works shall be carried out in accordance with the approved details, including the requirements for ecology and habitat provision, no later than the first planting season following the substantial completion of the development.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the current or first available planting season with other trees or plants of species, size and number as originally approved unless the Local Planning Authority gives its written consent to any variation.'

Officers considers that amending the condition to be carried out prior to the first planting season actually reduces the scope and flexibility of the condition. and that the current

wording includes either prior to occupation or in accordance with a programme of implementation, therefore at a later date the applicants could submit a programme of implementation through a discharge of condition that was in line with the first planting season. This is the Council's standard condition wording and significant justification has not be given to deviate from it.

Additionally, the Council's standard wording also refers to any trees that have died, are removed, damaged or diseased to be replaced within the first 10 years of development. This time frame is considered appropriate to allow the trees time to bed in and succeed. Five years is not consider sufficient as the immature trees could still fail beyond that time frame.

The Council however do concur that to require all hard and soft landscape works to be retained for the lifetime of the development is onerous and that the justification that the time period may exceed the reasonable life expectancy of the plant species and/or materials concerned is reasonable. The Council would therefore accept amending the decision to remove that element alone. The updated condition 7 will therefore read:

'All hard and soft landscape works shall be carried out in accordance with the approved details, including requirements for ecology and habitat provision. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme of implementation agreed in writing with the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of 10 years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the current or first available planting season with other trees or plants of species, size and number as originally approved unless the Local Planning Authority gives its written consent to any variation.'

CONDITION 15:

Condition 15 is the plans list. The proposal seeks a number of amendments to the design of the proposal as follows:

- Increase in footprint of plot two by 750mm to the south and 800 mm to the east
- Resulting in internal amendments that create a further bedroom
- Minor changes to doors on east elevation

Character and Appearance:

In 2020 an application (20/04067/FUL) was refused at the site by committee and appealed by the applicant. The inspector upheld the committee decision and dismissed the appeal. In their decision the inspector found that the dwelling located in the location of the current plot 2 was of a large overall footprint upon an individual plot of somewhat restricted size.

In the assessment and report of the subsequently permitted application 23/00895/FUL, the officer stated the following: 'The orientation of both plots and the scale of the development means that the plot sizes retained for each dwelling are now more akin to those surrounding the site, not only in grain but in terms of ratio of built footprint to garden space. It is considered that Plot 2 remains discreet and now addresses the previous

concerns of the inspector when considering development levels and plot size.' The officer was satisfied that the inspectors previous concerns had been addressed.

The variation seeks to increase the footprint of Plot 2 so that it will reflect the size of the dwelling in this location at appeal stage. The increase in footprint is 750mm to the south and 800mm to the east.

Officers consider this amendment can be supported as the increase in footprint is not significant at less than a metre in only two directions, and the overall plot size of plot 2 is larger than the plot at appeal stage.

It is noted also that plot 2, once built, would benefit from permitted development rights and could build something of a larger footprint in any case. The agent has submitted an interpretation of the extensions to the dwelling on Plot 2 that could be carried out under permitted development rights. The additional volume equates to 235.2m³, compared with a volume increase of just 86.96m³ incorporated in the minor material amendment that is being sought.

The internal alterations are not considered to impact on the character and appearance of the dwelling and are acceptable.

There appears to be shown some minor changes to the design detail of the door openings in the east elevation however the doors are still retained in the same location and similar size.

The proposal changes to condition 15 by reason of its design, siting, scale, massing, layout and materials are acceptable and maintains the character and appearance of the surrounding area. The proposal accords with policy CP6 of the Core Strategy and policies D1, D2, D3, D4 and D5 of the Placemaking Plan and part 12 of the NPPF.

Residential Amenity:

The amendments result in the footprint of plot 2 extending by 750mm to the south and 800mm to the east, as set out above. The east elevation is the elevation closest to neighbours located at Combe House. As such the proposal will be sited 750mm closer to the neighbours. This elevation does not encompass any windows. A gap is still maintained between the dwelling and the plot boundary, and the dwelling is located adjacent to the lower end of Combe Houses garden. The initial proposal was not considered to result in overbearing impact, overshadowing or overlooking, the amendments are not considered to significantly alter the situation in a way that would lead to any of these impacts either.

Extending the footprint to the south and the minor design amendments to the doors are also not considered to have result in any additional impact to neighbours that would warrant refusal.

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 and part 12 of the NPPF.

Highways and Parking:

The highways team have been consulted and have not raised any comments on this part of the scheme.

As stated above the proposed amendments result in plot 2 increasing from a 3-bed dwelling to a four-bed dwelling. Policy ST7 of the Local Plan Partial Update has regard to transport requirements for managing development. The application site falls in Zone D of the emerging parking standards and require residential parking to be provided on the basis of no more than:

- Two spaces per 2/3 bedroom dwelling
- Three spaces per 4 bedroom + dwelling

The Transport and Developments SPD standards states that garages will not be counted as parking spaces for the purpose of the standards.

As such the maximum number of parking spaces required for plot 2 is now three spaces. The parking arrangements are not proposed to be altered. There remains the ability for two cars to be parked on the driveway and one garage space. Garage spaces are not counted within the parking standards as set out with the Transport and Development SPD. Therefore, two spaces remain to be provided for the purposes of the standards, as the standards are maximums and not minimums this is acceptable.

The proposal accords with policy ST7 of the Local Plan Partial Update, the Transport and Development Supplementary Planning Document, and part 9 of the NPPF.

Conclusion on amending condition 15:

As such the proposed amendments to condition 15 via the changes to the plans list are considered acceptable.

CONCLUSION:

Condition 5 will be amended as requested, condition 7 will be amended in part, and condition 15 plans list will be amended. The application is therefore recommended for permission.

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 Schedule and Samples (Bespoke Trigger)

No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have 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.

The development shall thereafter be carried out only in accordance with the approved details.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with policy CP6 of the Bath and North East Somerset Core Strategy, policies D1, D2 and D3 of the Bath and North East Somerset Placemaking Plan and Policy D5 of the Bath and North Somerset Local Plan Partial Update.

3 Parking (Compliance)

The areas allocated for parking and turning on submitted plans 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.

Reason: To ensure sufficient parking and turning areas are retained at all times in the interests of amenity and highways safety in accordance with policy D6 of the Bath and North East Somerset Placemaking Plan and policy ST7 of the Bath and North East Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document.

4 Bound/Compacted Vehicle Access (Compliance)

The vehicular access shall be constructed with a bound and compacted surfacing material (not loose stone or gravel).

Reason: To prevent loose material spilling onto the highway in the interests of highways safety in accordance with policy ST7 of the Bath and North East Somerset Local Plan Partial Update.

5 Bicycle Storage (Pre-occupation)

No occupation of the development shall commence until the secure, covered bicycle storage has been provided in accordance with the details shown on the approved plans. The bicycle storage shall be retained permanently thereafter.

Reason: To secure adequate off-street parking provision for bicycles and to promote sustainable transport use in accordance with policy ST7 of the Bath and North East Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document.

6 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. This shall include details of the following:

Deliveries (including storage arrangements and timings);
Contractor parking;
Traffic management;
Working hours;
Temporary arrangements for householder refuse and recycling collection during construction.

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

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

7 Implementation of Landscaping Scheme (Bespoke Trigger)

All hard and soft landscape works shall be carried out in accordance with the approved details, including requirements for ecology and habitat provision. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme of implementation agreed in writing with the Local Planning Authority.

Any trees or plants indicated on the approved scheme which, within a period of 10 years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the current or first available planting season with other trees or plants of species, size and number as originally approved unless the Local Planning Authority gives its written consent to any variation.

Reason: To ensure that the landscape works are implemented and maintained to ensure the continued provision of amenity and environmental quality and to ensure appropriate biodiversity net gain is secured in accordance with Policies D1 and D2 of the Bath and North East Somerset Placemaking Plan and NE2, NE3, and NE3a of the Bath and North East Somerset Local Plan Partial Update.

8 Ecological Mitigation and Compensation Scheme, and Biodiversity Net Gain (Compliance condition)

The development hereby approved shall be carried out only fully in accordance with the approved Ecological Mitigation and Enhancement Plan by Quantock Ecology dated Mar 2023; recommendations in Section 4.3 of the Updated Bat Survey dated February 2023 by Quantock

Ecology; ecological measures as shown on the proposed Setting Out Site Plan drawing reference P03; and habitat provision as detailed in the Biodiversity Net Gain file note and calculation dated March 2023 by Quantock Ecology. All measures shall thereafter be adhered to and features retained and maintained in accordance with approved details.

Findings of monitoring inspections shall be reported in writing to the Local Planning Authority Ecologist within 1 month of the monitoring event.

Reason: To avoid harm to ecology including a regionally important amphibian population (toads) and protected species (including reptiles badger and nesting birds).

9 Ecology Follow-up Report (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 all recommendations and measures of the approved ecological bat and biodiversity net gain reports and the Ecological Mitigation 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 all ecological mitigation and compensation requirements during construction and post-construction phases, 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.

10 External Lighting (Bespoke Trigger)

The development shall be constructed and all lighting installed and operated, and levels of darkness maintained in accordance with the approved Lighting Strategy drawing ref P19 dated January 2023. No new external or internal lighting shall be installed without full details of proposed

internal and external lighting design (which shall demonstrate compliance with the approved lighting strategy) 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; details of lighting controls, and details of all measures to limit use of lights when not required and to prevent upward light spill and light spill onto trees, wildlife habitat, 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.

11 Green Roof Details (Bespoke Trigger)

Prior to the construction of the roof of the approved development a detailed specification of the proposed green roof shall be submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. Section drawings of the roof;
2. A planting schedule;
3. A timetable for implementation;
4. A maintenance schedule.

The green roof shall be implemented in accordance with the approved details prior to the occupation of the development or in accordance with the approved timetable for implementation.

Reason: To ensure the successful implementation of the green roof in the interests of preserving the character and appearance of the 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.

12 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.

13 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.

14 SCR6 Residential Properties (Pre-occupation)

Prior to occupation of the development hereby approved, the following tables (as set out in the Council's Sustainable Construction Checklist Supplementary Planning Document) shall be completed in respect of the completed development and submitted to and approved in writing by the Local Planning Authority together with the further documentation listed below. The development must comply with the requirements of SCR6.

PHPP/SAP calculations are to be updated with as-built performance values. The following are to be completed using the updated as-built values for energy performance.

Minor Residential Development:

1. Energy Summary Tool 1 or 2
2. Tables 1.1 or 1.2 (if proposal has more than one dwelling type)

Major (or larger) Residential Development:

1. Energy Summary Tool 2
2. Table 2.1 or 2.2 (if proposal has more than one dwelling type)

All Residential Development:

3. Table 5 (updated)
4. Building Regulations Part L post-completion documents for renewables;
5. Building Regulations Part L post-completion documents for energy efficiency;
6. Final as-built full data report from Passive House Planning Package or SAP
7. Microgeneration Certification Scheme (MCS) Certificate/s

Reason: To ensure that the approved development complies with Policy SCR6 of the Local Plan Partial Update

15 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:

Plans Received 7th March 2023:

07 Mar 2023 P00 Existing - Site Location Plan

Plans received 15th March 2023:

15 Mar 2023 P05 Plot 1 Basement Floor Plan
15 Mar 2023 P06 Plot 1 Proposed Lower Ground Floor Plan
15 Mar 2023 P11 Proposed Plot 1 East Elevation [4]
15 Mar 2023 P19 Proposed Lighting Strategy
15 Mar 2023 P20 Proposed Street Elevation
15 Mar 2023 P21 Proposed Section Cc
15 Mar 2023 S01 Existing- Topographical Site Plan And Se
15 Mar 2023 S02 Existing Elevations
15 Mar 2023 S03 A Demolition Site Plan
15 Mar 2023 S04 Existing - Floor Plans

Plans received 1st May 2023:

01 May 2023 P07 A Plot 1 Proposed Upper Ground Floor Plan

Plans received 11th May 2023:

11 May 2023 P04 A Proposed Site Sections
11 May 2023 P08 A Plot 1 South Facing Elevation (1)
11 May 2023 P09 A Plot 1 West Facing Elevation (2)
11 May 2023 P10 A Plot 1 North Facing Elevation (3)
11 May 2023 P11 A Plot 1 East Facing Elevation (4)
11 May 2023 Sk05 Rev B Swept Path Analysis For Large Car Turning
11 May 2023 Sk12 Swept Path Analysis For Ambulance Turning

Plans received 9th August 2023:

09 Aug 2023 P02b Proposed Site Block Plan Plot 2
09 Aug 2023 P03b Proposed Setting Out Site Plan Plot 1 And 2
09 Aug 2023 P12a Proposed Floors Plan Plot 2
09 Aug 2023 P13b Proposed Elevations Plot 2
09 Aug 2023 P14b Proposed Elevations Plot 2
09 Aug 2023 P15a Proposed Section Plot 2

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 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

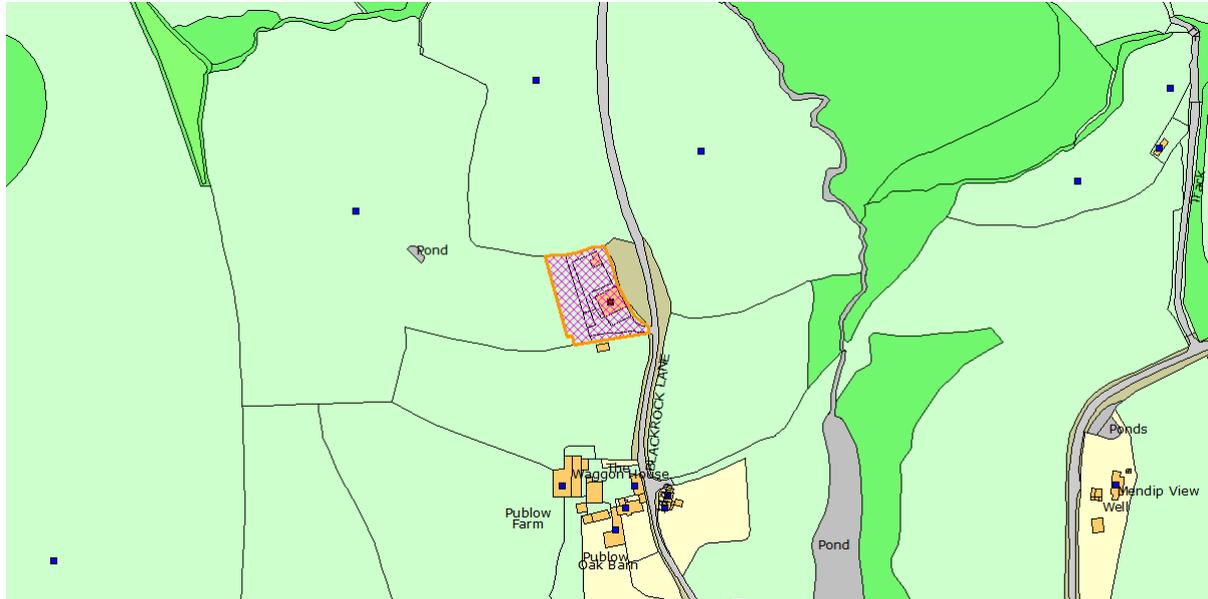
The CIL regulations are non-discretionary in respect of exemption claims. If you are intending to claim a relief or exemption from CIL (such as a "self-build relief") it is important that you understand and follow the correct procedure **before** commencing **any** development on site. You must apply 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. If you have any queries about CIL please email 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: 02
Application No: 23/02194/FUL
Site Location: Agricultural Buildings And Land Blackrock Lane Publow Bristol Bath And North East Somerset



Ward: Publow And Whitchurch **Parish:** Publow **LB Grade:** N/A

Ward Members: Councillor Paul May

Application Type: Full Application

Proposal: Erection of 1no. 4 bed dwelling and associated works

Constraints: Bristol Airport Safeguarding, Norton Malward Unlicensed Airstrip, Agricultural Land Classification, Coal - Standing Advice Area, Policy CP3 Solar and Wind Landscape Pote, Policy CP8 Green Belt, Policy CP9 Affordable Housing, Policy M1 Minerals Safeguarding Area, Policy NE3 SNCI 200m Buffer, NRN Woodland Ancient Existing Policy NE5, NRN Woodland Strategic Networ Policy NE5, Neighbourhood Plan, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodro,

Applicant: Mr and Mrs J Piper

Expiry Date: 9th August 2023

Case Officer: Ed Allsop

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

REPORT

This application was referred to the Chair and Vice Chair following the objection raised by Publow and Pensford Parish Council, as per the scheme of delegation.

Cllr Duncan Hounsell:

"I note that a Sustainable Construction Checklist has been submitted. The location is outside the Housing Development Boundary in Green Belt.

The committee will wish to consider the fundamental policy question of whether obtaining prior approval for a barn conversion can be used as a material consideration for an application for a new build in green belt. The Town and Country Planning Order 2015 includes the criteria that agricultural building conversion to residential should NOT include any external projections from the existing structure implying that the existing structure is expected to be retained and should maintain the same dimensions."

Therefore, the application will be determined by the planning committee.

The application site comprises an agricultural building located at Publow Farm, Blackhorse Lane which is north of Publow. The site is within the Green Belt. Planning permission is sought for the erection of 1no. 4 bed dwelling and associated works, following the demolition of the existing barn.

PLANNING HISTORY

22/03217/ADCOU- Prior approval request for conversion of agricultural building to dwelling (Use Class C3)- APPROVE

20/03888/ADCOU- Prior approval request for conversion of agricultural building to dwelling (Use Class C3)- APPROVE

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation responses:

Highways: No objection in relation to traffic, access or parking. There is an objection in relation to its remote location with no travel mode choices. However, highways officers note that it is for the local planning authority to determine whether the existing prior approval permission remains a material planning consideration.

Ecology: No objection, subject to condition.

Drainage: No objection, subject to condition.

Publow and Pensford Parish Council: The Parish Council resolved to OBJECT to this application as it is outside the Development Boundary. It appears from the drawings that the new building has a significantly increased the height from the original but it is not clear from the application what the height of the development would be. There is also lack of information on Sustainable Construction as required by the Neighbourhood Plan.

Representations:

1no. objection has been received as a Sustainable Construction Checklist (SCC) has not been submitted. (Officer note: A SCC was subsequently submitted)

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
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
D5: Building design
D.6: Amenity
CP8: Green Belt
GB1: Visual Amenities of the Green Belt
SU1: Sustainable drainage
NE3: Sites, species, and habitats
NE3A: Biodiversity Net Gain
NE1: Development and green infrastructure
NE5: Ecological networks
NE6: Trees and woodland conservation
SCR6: Sustainable Construction Policy for New Build Residential Development
ST7: Transport requirements for managing development

Local Plan Partial Update (LPPU):

On the 19th January 2023, Bath and North East Somerset Council updated a number of local planning policies through the introduction of the Local Plan Partial Update (LPPU).

SPDs:

The following Supplementary Planning Documents (SPDs) are relevant to the determination of this application:

Sustainable Construction Checklist Supplementary Planning Document (January 2023)
Transport and Development Supplementary Planning Document (January 2023)
Green Belt SPD

National Policy:

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 Planning Practice Guidance (PPG).

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

PRINCIPLE OF DEVELOPMENT

Policy DW1 of the Plan does not support the provision of new housing outside of the housing development boundaries. Policy RE4 does allow the provision of housing outside of the housing development boundary, but only if this is for agricultural workers dwellings, which this is not. However, this officer assessment will demonstrate the reasoning and justification for recommending approval in this instance.

GREEN BELT

The site is located within the Green Belt where the provision of new buildings is considered inappropriate, subject to the exceptions listed in paragraphs 149 and 150 of the NPPF. Paragraph 149 d) allows for the replacement of a building in the Green Belt, as long as it is in the same use and not materially larger than the one it replaces.

Officers do not consider the new building to be materially larger, but the new building would not be in the same use as the existing agricultural building. Therefore, it would present inappropriate development in the Green Belt. Inappropriate development in the Green Belt should not be approved unless there are very special circumstances. 'Very special circumstances' will not exist unless the potential harm to the Green Belt is clearly outweighed by other considerations. This report will later detail that very special circumstances do exist in this case.

CHARACTER AND APPEARANCE

The replacement dwelling continues its' agricultural and rural aesthetic and appearance through its design and materials. This is achieved through the use of stone, timber and natural slate. It has been re-sited slightly north west from that previously approved, away from the road which will reduce the current built view. The replacement building is of a size and scale which is appropriate for the site and its surroundings. The proposal accords with policies D1, D2 and D5 of the Placemaking Plan for Bath and North East Somerset (2017) and part 12 of the NPPF.

RESIDENTIAL AMENITY

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

No Highways objection was raised as part of the previous application (22/03217/ADCOU) which enabled this site to be used as residential.

However, highways have objected to the application based on its remote location as part of this application, presenting conflict with ST1 and ST7 of the Placemaking Plan and LPPU and this is accepted by officers. The concern is that the site is remote from services and there is no genuine travel mode choice. Notwithstanding this, highways have recognised that the site has an existing permission and it would be for the local planning authority to determine whether this is a material consideration and sufficient planning weight can be applied that would overcome such concerns.

In relation to the above, planning officers can confirm the previous permission is a material consideration and is a relevant material consideration weight. This is considered in the planning balance section below.

Highways have confirmed that there is unlikely to be a significant increase in the number of vehicle trips associated with the site. In addition, the size of the vehicles generated by the site is likely to reduce. Given this, the highway authority would not object to the use of the existing vehicular access being used. There is no objection to the level of car parking shown. An area for a bicycle store is identified, and there are no concerns regarding this arrangement. Waste and recycling would be able to be collected from the access point with Blackrock Lane.

However, the site is remote from services with no genuine travel mode choice, contrary to policies ST1 and ST7 of the Placemaking Plan and LPPU.

ECOLOGY AND BIODIVERSITY NET GAIN

Great Crested Newts (GCN):

The submitted GCN file note prepared by Quantrock Ecology details a number of Reasonable Avoidance Measures to protect great crested newts (should they be present), which would be fully supported. These measures can be secured by condition.

Reptiles:

No reptiles were recorded during the submitted surveys. This result is accepted by the Council's Ecologist. The recommendation in Section 4 of the report to maintain the site in its current state and not let it become overgrown, would be supported, and should be secured by condition.

Species Enhancements:

The provision of compost heaps, creation of brash piles and provision of a hibernaculum as per Section 4.3.2 of the ecology report would be supported.

Biodiversity Gain Plan can be secured by condition if consent is granted as no net loss and net gain of biodiversity is clearly feasible. The species-specific recommendations included in Section 4.1.1 of the report are welcomed. New buildings should incorporate integrated habitat features such as bat tubes and bird nesting boxes in accordance with Policy D5e. At least one integrated bird box and bat box should be included and hedgehog connectivity measures through site boundaries would also be welcomed. A detailed specification could be secured as part of the Biodiversity Gain Plan.

DRAINAGE AND FLOODING

The site is not located in an area of high flood risk, no objection has been raised by the Drainage and Flooding Officer in relation to surface water and foul drainage from the proposed works.

SUSTAINABLE CONSTRUCTION

A SCC was subsequently submitted and has been found policy compliant. The proposal achieves the relevant space heating demand, energy demand and renewable generation targets and complies with policy SCR6 of the Placemaking Plan. The applicant has

included high levels of insulation, thermal efficiency, solar panels, air source heat pump, rainwater harvesting and permeable surfaces.

PUBLIC SECTOR EQUALITY DUTY

In reaching its decision on a planning application the Council is required to have regard to the duties contained in section 149 of the Equality Act 2010, known collectively as the public sector equality duty Section 149 provides that the Council must have due regard to the need to—

(a) eliminate discrimination, harassment, victimisation

(b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

(c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard in particular, to the need to—

(a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;

(b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;

Due to the nature of the proposals, the development would not have any negative effects upon those with protected characteristics.

VERY SPECIAL CIRCUMSTANCES

The application presents a replacement building in the Green Belt which would not be in the same use as the existing agricultural building. Therefore, it is inappropriate development in the Green Belt.

Inappropriate development in the Green Belt should not be approved unless there are very special circumstances. The NPPF advises that substantial weight should be afforded to any harm to the Green Belt Officers consider there to be very special circumstances in this case.

The very special circumstances that outweigh this potential harm is the existence of the applicant's 'fall-back' position, i.e., the implementation of an existing permission for residential use on this site. Therefore, it is relevant to compare that proposed with the applicant's fall-back position in Green Belt terms.

There are size differences between that previously approved and that proposed. The proposed Gross Internal floor Area (m²) of the new dwelling is less than the dwelling which has permission. It's width has also been reduced by 4m, but the length has increased by 2.4m and the new dwelling will have a ridge line 2.5m higher. In summary, the replacement building has a smaller floor area, a substantial reduction in width, but its

length and height are greater, overall, this is considered not to have any greater impact than the permitted scheme.

Prior approval has previously been granted for the conversion of the agricultural building on site to a residential use. Due to the nature of the previous permission being a conversion, the residential building the applicant has permission for is a similar size, scale and design as the existing agricultural building.

This current application seeks to have a different designed building to that previously approved. The applicant is now seeking to build a house which is of a higher design quality, visually more appealing and that which has opportunities for sustainable construction techniques and environmental betterments such as Biodiversity Net Gain and ecological enhancements.

The previous permission is a material consideration, and the applicant's 'fall back' position holds weight. This has been evidenced through appeal decisions and case law. This means officers must consider the realistic prospect that should permission be refused, the applicant will implement their original permission. Therefore, it is for the decision maker to determine whether the new development in its implications for impact on the environment, or other relevant planning factors, is likely to have implications worse than, or broadly similar to, the original permission. Officers consider this application to have a better impact on the environment, ecology and Biodiversity without a more harmful impact on the Green Belt and or the character of the area.

PLANNING BALANCE AND CONCLUSION

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that *"where in making any determination under the planning Acts, regard is to be had to the development plan, the determination shall be made in accordance with the plan unless material consideration indicates otherwise"*.

The proposals are contrary to DW1, RE4, ST1 and ST7 of the placemaking plan and LPPU. However, the previous permission for residential use of the barn is a material consideration, and there is a realist possibility that it can be implemented. This means that regardless of the decision on this application, a new home will be provided outside of the housing development boundary in a remote location as existing, contrary to DW1, RE4, ST1 and ST7.

Officers have considered whether what is now being proposed is any worse, or broadly similar to that previously approved in terms of its impacts. The officer assessment has concluded that this new application provides more ecological and environmental benefits which wouldn't be secured if the applicant implements their original permission. Therefore, the conflict with the identified development plan policies is outweighed by the material considerations which provide clear justification and reasoning for recommending approval in this instance.

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 Biodiversity Gain and Habitat Management Plans (Pre-commencement)

No development shall take place until, full details of a Biodiversity Gain Plan for on-site delivery and monitoring of Biodiversity Net Gain, and a Habitat Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plans shall deliver at least 0.70 habitat units and 0.40 linear units. The Plans shall be in accordance with (but not limited to) the approved Biodiversity Net Gain metric and shall include (but not be limited to) the following:

- A) An up-to-date BNG habitat map for on-site proposed habitats.
- B) Habitat Management Plan- long-term management and protection measures for all retained habitats and species, including fencing and boundary details.
- C) Method statement for pre-construction and construction phases to provide full details of all necessary protection and mitigation measures for the avoidance of harm to great crested newts (should they be present) and reptiles. This shall be in accordance with the File Note- GCN produced by Quantock Ecology dated October 2023 and the site shall be regularly maintained (i.e. not left to become overgrown) to remain unsuitable for reptiles.
- D) A detailed prescription and specification for the management of trees, mixed scrub and hedgerow to provide biodiversity gain.
- E) A specification, location plan and details of any management requirements for species-specific habitat enhancements including creation of compost heaps, brash piles and hibernaculum and at least one integrated bird box and one integrated bat box.
- F) Annual work schedule for at least a 30 year period.
- G) Monitoring strategy for the trees, mixed scrub and hedgerow and details of proposed reporting to the Local Planning Authority and LA Ecologist.
- H) Proposed resourcing and responsibilities.

The Biodiversity Gain and Habitat Management Plans shall be implemented in accordance with the agreed details and timetable, and all habitats and measures shall be retained and maintained thereafter in accordance with the approved details.

Reason: To protect and enhance ecological interests in accordance with the Wildlife and Countryside Act 1981 (as amended) and Bath and North East Somerset Local Plan policies NE3, NE3a and D5e. NB The above condition is required to be pre-commencement as it involves approval of measures to ensure protection of habitats that would be otherwise harmed during site preparation and construction phases.

3 Ecological Compliance Report (Pre-occupation)

Prior to occupation of the development hereby approved, a report based on post-construction site visit and inspection, and confirming and demonstrating, using photographs, completion and implementation of ecological mitigation measures and

Biodiversity Net Gain Assessment (revised and updated version approved by condition) shall be submitted to and approved in writing by the Local Planning Authority.

These details shall include:

1. Confirmation of compliance with the method statements referenced above including dates and evidence of any measures undertaken to protect site biodiversity; and
 2. Confirmation that proposed measures to enhance the value of the site for target species and habitats have been implemented.
- All measures within the scheme shall be retained, adhered to, monitored and maintained thereafter in accordance with the approved details.

Reason: To prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3, NE3a and D5e of the Bath and North East Somerset Local Plan

4 External Lighting (Bespoke trigger - requires approval of details prior to installation of new lighting)

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 (particularly the southern boundary) 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.

5 Drainage (Pre-commencement)

No development shall commence, except ground investigations and remediation, until plans have been submitted to the Local Planning Authority and given written approval demonstrating that that surface water will be managed within the site using sustainable drainage principles to prevent any increase in onsite or offsite flood risk.

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.

6 Demolition of existing barn - Compliance

The new dwelling hereby approved shall not be occupied until the existing building on the site (shown on the Topographical Survey, drawing number 200/02) has been demolished.

Reason: To help preserve the openness of the Green Belt and prevent the creation of an additional dwelling.

7 SCR6 Residential Properties (Pre-occupation)

Prior to occupation of the development hereby approved, the following tables (as set out in the Council's Sustainable Construction Checklist Supplementary Planning Document) shall be completed in respect of the completed development and submitted to and approved in writing by the Local Planning Authority together with the further documentation listed below. The development must comply with the requirements of SCR6.

PHPP/SAP calculations are to be updated with as-built performance values. The following are to be completed using the updated as-built values for energy performance.

Minor Residential Development:

1. Energy Summary Tool 1 or 2
2. Tables 1.1 or 1.2 (if proposal has more than one dwelling type)

Major (or larger) Residential Development:

1. Energy Summary Tool 2
2. Table 2.1 or 2.2 (if proposal has more than one dwelling type)

All Residential Development:

3. Table 5 (updated)
4. Building Regulations Part L post-completion documents for renewables;
5. Building Regulations Part L post-completion documents for energy efficiency;
6. Final as-built full data report from Passive House Planning Package or SAP
7. Microgeneration Certification Scheme (MCS) Certificate/s

Reason: To ensure that the approved development complies with Policy SCR6 of the Local Plan Partial Update

8 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.

PLANS LIST:

1 Plans list:

- Existing drawings- 03
- Proposed plans- 04
- Proposed elevations A 05
- Proposed elevations B 06
- Proposed biodiversity 07
- Site location plan and block 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 or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

3 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. If you have any queries about CIL please email cil@BATHNES.GOV.UK

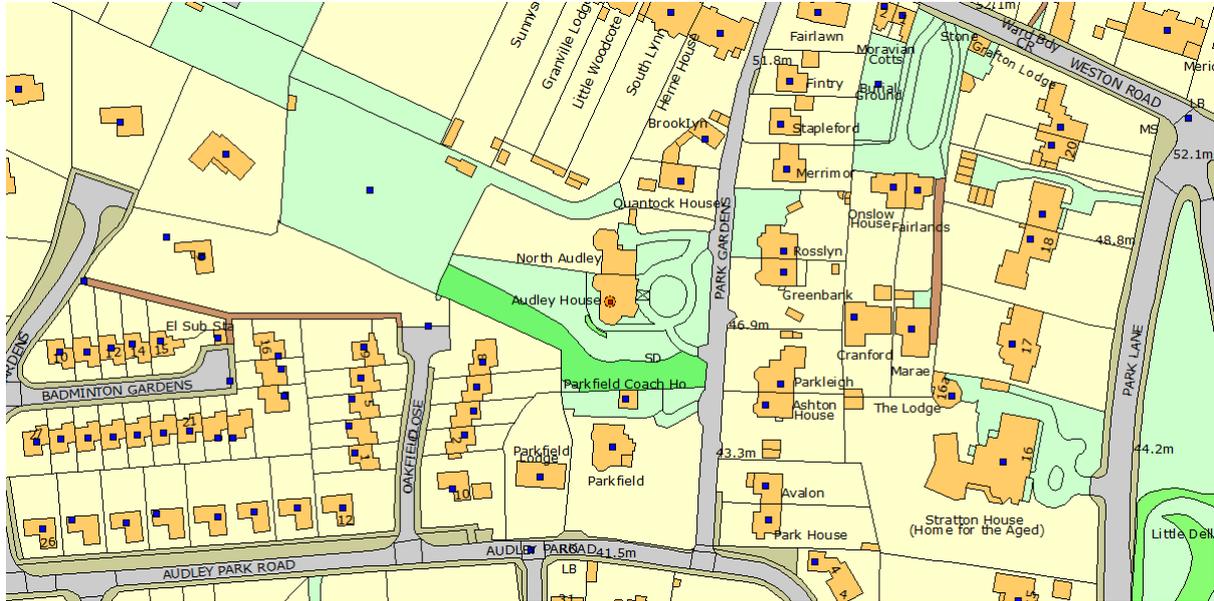
4 Responding to Climate Change (Informative):

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.

5 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.

Item No: 03
Application No: 23/03896/TCA
Site Location: Audley House Park Gardens Lower Weston Bath Bath And North East Somerset



Ward: Weston **Parish:** N/A **LB Grade:** II
Ward Members: Councillor Ruth Malloy Councillor Malcolm Treby
Application Type: Tree Works Notification in Con Area
Proposal: T1-Sequoia, section fell
Constraints: Conservation Area,
Applicant: Hodge
Expiry Date: 28th November 2023
Case Officer: Jane Brewer
To view the case click on the link [here](#).

REPORT

REASON FOR REPORTING NOTIFICATION TO COMMITTEE:

The notification is associated with a Councillor.

DESCRIPTION:

This notification relates to a tree located within the Bath Conservation Area.

The proposal is to fell a Sequoia growing in the front garden.

Six weeks notice must be submitted to the Council for tree works or tree felling within a conservation area if the tree has a trunk diameter of 7.5cm or over (when measured 1.5m above ground level) and where exceptions do not apply.

The proposal has been brought to Committee to ensure that the Planning Scheme of Delegation is complied with and that full transparency in decision making is demonstrated.

The purpose of a tree notification is to give the Council the opportunity to consider whether a Tree Preservation Order should be made to protect the trees.

The following criteria are used to assess whether trees are worthy of a Tree Preservation Order:

1. visibility to the general public
2. overall health, vigour and appearance
3. suitability of their location and anticipated future management
4. special factors such as contribution to the character of a conservation area, World Heritage Site setting or overall green infrastructure; their rarity; their ecological contribution and whether they have historical significance such as in the case of veteran trees.

Further information regarding trees in conservation areas can be found on the Council's website at:

<https://www.bathnes.gov.uk/services/environment/trees-and-woodlands/trees-conservation-areas>

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

SUMMARY OF CONSULTATIONS/REPRESENTATIONS:

No public comments have been received.

POLICIES/LEGISLATION

POLICIES/LEGISLATION:

Town and Country Planning Act 1990 (in particular sections 197-214 as amended)
Town and Country Planning (Tree Preservation)(England) Regulations 2012

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 sequoia is moribund which is evident by the retained brown foliage throughout the canopy. The tree is a significant individual which is readily visible from Park Gardens.

CONCLUSION:

The removal of the tree is appropriate.

RECOMMENDATION:

No objection

Advisory notes to be included in the response:

The Councils' core policies are to tackle the climate and nature emergencies which includes the need to retain and protect existing trees and woodlands given the contributory roles which trees play in climate change mitigation and ecosystem services.

Replacement planting when trees are removed is vitally important, particularly in our urban environments. A comprehensive list of tree species for green infrastructure is available online from the Trees and Design Action Group at <https://www.tdag.org.uk/tree-species-selection-for-green-infrastructure.html>

Guidance on tree planting and establishment can be found on the Arboricultural Association's website at <https://www.trees.org.uk/Help-Advice/Guide-to-Young-Tree-Establishment>

RECOMMENDATION

NO OBJECTION