

Bath & North East Somerset Council

MEETING: **Planning Committee**

MEETING
DATE: **7th May 2025**

AGENDA
ITEM
NUMBER

--

RESPONSIBLE OFFICER: Louise Morris - Head of Planning & Building Control

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.

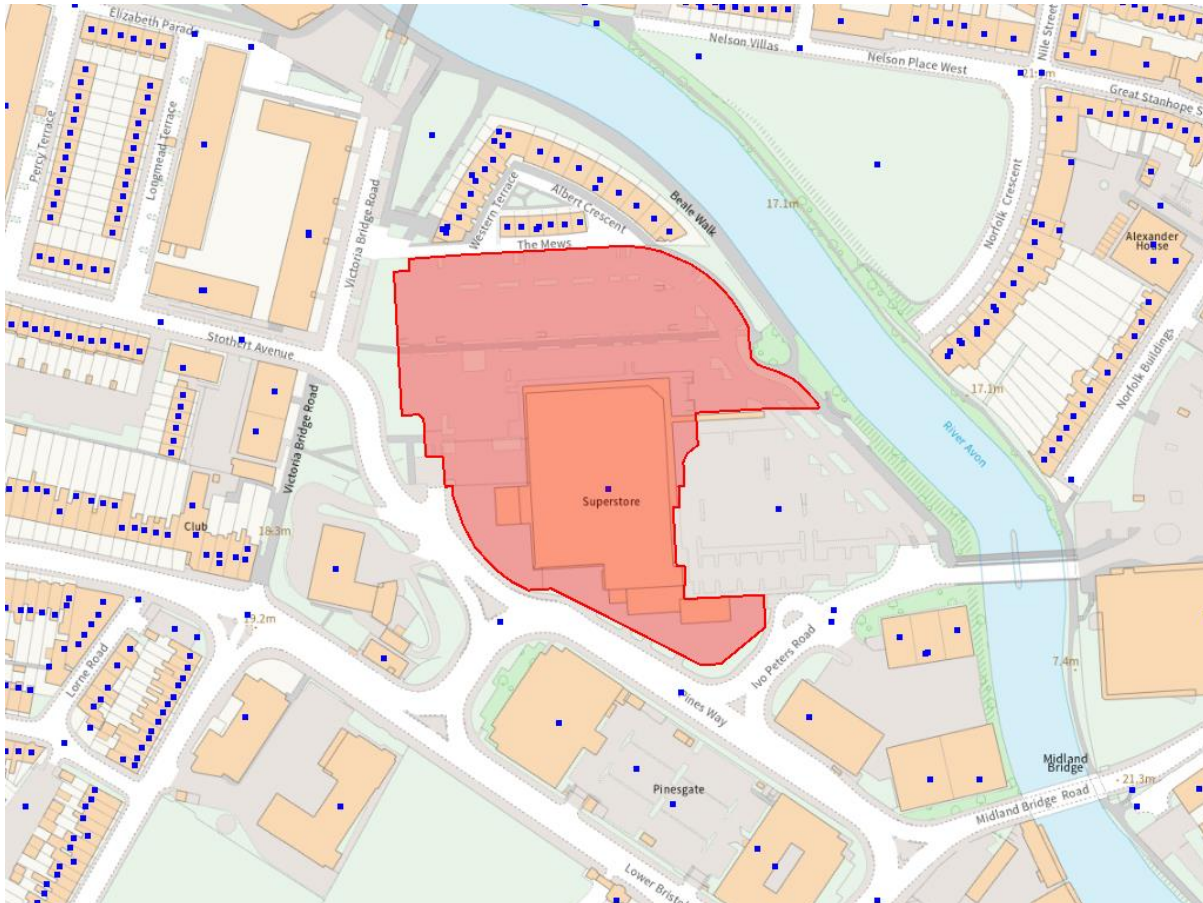
- [2] The papers identified or referred to in this List of Background Papers will only include letters, plans and other documents relating to applications/proposals referred to in the report if they have been relied on to a material extent in producing the report.
- [3] Although not necessary for meeting 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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REPORT OF THE HEAD OF PLANNING ON APPLICATIONS FOR DEVELOPMENT

Item No: 01
Application No: 24/03831/FUL
Site Location: Homebase Pines Way Westmoreland Bath Bath And North East Somerset



Ward: Oldfield Park **Parish:** N/A **LB Grade:** N/A

Ward Members: Councillor Ian Halsall

Application Type: Full Application

Proposal: Redevelopment of the site to provide residential dwellings (Class C3), shared living (Sui Generis), flexible commercial floorspace (Use Class E), amenity space, car and cycle parking provision, with pedestrian and vehicular access, servicing arrangements, public realm works, landscaping and associated works.

Constraints: Article 4 HMO, Colerne Airfield Buffer, Agric Land Class 3b,4,5, Policy B1 Bath Enterprise Area, Policy B2 Bath Central Area, Policy B4 WHS - Indicative Extent, Policy B4 WHS - Boundary, British Waterways Major and EIA, British Waterways Minor and Householders, Contaminated Land, Policy CP9 Affordable Housing, District Heating Priority Area, Flood Zone 2, Flood Zone 3, HMO Stage 1 Test Area (Stage 2 Test Req), LLFA - Flood Risk

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Applicant: Pines Way (Bath) LLP

Expiry Date: 30th April 2025

Case Officer: Isabel Daone

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

REPORT

This application seeks full planning permission to redevelop the existing 'Homebase' site in central Bath and provide a mixed-use development, which principally includes residential build to rent dwellings (use class C3) and shared living accommodation (use class Sui Generis). Alongside the residential provision, flexible commercial floorspace (use class E) is also proposed, as well as amenity space, car and cycle parking provision, servicing arrangements, public realm works, landscaping and associated works. For the avoidance of doubt, the term "shared living" is an interchangeable term for "co-living". This report refers to the development as "shared living" as this reflects the description of development.

The site measures 1.8ha (4.45 acres) in area and was, until early 2023, occupied by a large Homebase retail shed which ceased trading in August 2020 as well as its substantial associated surface car park and landscaping. The Homebase building has now been demolished.

The surrounding land uses are mixed, with residential dwellings located immediately to the north and north-west, a petrol filling station to the south west, offices buildings (Pinesgate) to the south and the Sainsburys car park immediately adjacent to the east.

The site is situated within the designated Enterprise Zone and Bath Central Area; it is not however within the designated City Centre. The site is also situated within the City of Bath UNESCO World Heritage Site and Great Spa Towns of Europe UNESCO World Heritage Site but is not within the conservation area, though is close to its boundary. The River Avon passes in close proximity to the north eastern boundary, as does a pedestrian walkway along the river which links the Sainsburys car park with the adjacent Bath Western Riverside (BWR) development. There are also a number of listed buildings within close proximity to the site, include Grade II* listed Norfolk Crescent.

In more detail, the proposed scheme encompasses:

- 275 Build to Rent (BTR) units (C3 use)
- 179 Shared Living units (sui generis)
- Associated shared spaces
- 1126m³ of flexible retail and/or office floorspace (E use)
- 51 car parking spaces
- 704 cycle parking spaces

- 1 car club space
- Private amenity space
- Landscaping including publicly assessable connections through the site and new public spaces

Environmental Impact Assessment

In 2024 the Local Planning Authority received a formal EIA (Environmental Impact Assessment) Screening Opinion request (Ref: 24/02081/SCREEN). The application sought formal determination as to whether that development required an EIA. The council concluded at that time that the development was not EIA development and as such a formal EIA/ES was not required. The current proposal differs from that described in the 2024 Screening Opinion in terms of the proposal design and unit numbers but not significantly so. The Council similarly considers that the current proposal is not EIA development.

Reason for Committee

The application is accompanied by a Viability Assessment and, as per the Council's Planning Scheme of Delegation, should be debated and decided by the B&NES Planning Committee.

Relevant Planning History

The site has been subject to a number of planning applications and advertisement consents historically, many of which relate to the now demolished Homebase building. A full list of planning history can be found on the Council's website and the applications most relevant to the current proposal are listed below:

19/04643/DEM

Permission not required: 20 November 2019

Demolition of the Homebase retail warehouse

20/00259/FUL

Refused: 5 January 2021

Allowed on appeal: 2 September 2021

Redevelopment of the site to provide a new care community (Use Class C2) comprising care residences and care suites and ancillary communal, care and well-being facilities, offices in Use Class E(g)(i) together with associated back of house and service areas, pedestrian and vehicular access, car and cycle parking, landscaping, private amenity space and public open space.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses:

ACTIVE TRAVEL ENGLAND:

23rd December 2024 - standing advice provided

7th March 2025 - standing advice provided

ARBORICULTURE:

7th November 2024 - Scope for revision

24th December 2024 - Scope for revision/No objection subject to conditions

17th March 2025 - Same comments provided

ARCHAEOLOGY:

No objection, subject to conditions

AVON AND SOMERSET POLICE:

No objection, subject to comments

AVON FIRE AND RESCUE:

No objection subject to contribution (S106)

CONTAMINATED LAND:

15th January 2025 - No objection subject to conditions.

DRAINAGE AND FLOODING:

17th December 2024 - Scope for revision

10th December 2024 - No objection, subject to condition

ECOLOGY:

15th November 2024 - Further information required (objection)

15th April 2025 - No objection subject to conditions

ECONOMIC DEVELOPMENT:

7th November 2024 - Scope for revision

18th December 2024 - Comments made

EDUCATION SERVICES:

No objection.

ENVIRONMENT AGENCY:

20th November 2024 - Objection

30th January 2025 - No objection

ENVIRONMENTAL MONITORING:

13th November 2024 - No objection, subject to conditions

ENVIRONMENTAL PROTECTION:

4th November 2024 - No objection, subject to conditions.

HIGHWAYS:

13th November 2024 - Scope for revision

28th February 2025 - No objection, subject to conditions

HISTORIC ENGLAND:

28th November 2024 - Historic England has concerns regarding the application on heritage grounds. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 201 and 212 of the NPPF.

23rd December 2024 - No further comment at this time

17th January 2025 - Historic England has concerns regarding the application on heritage grounds.

20th March 2025 - No objection, subject to materials condition.

GULL MANAGEMENT:

No objection subject to conditions

NATURAL ENGLAND:

31st October 2024 - Objection (further information required)

18th February 2025 - Further information required

15th April 2025 - No objection, subject to mitigation being secured.

PARKS AND GREENSPACES:

13th November 2024 - No objection subject to conditions and contribution (S106)

PLANNING POLICY:

14th November 2024 - Scope for revision

SUSTAINABLE CONSTRUCTION:

13th November 2024 - Scope for revision

9th December 2024 - Scope for revision

31st March 2025 - Scope for revision

URBAN DESIGN and LANDSCAPE:

13th November 2024 - Scope for revision

21st March 2025 - No objection subject to conditions

UNESCO WORLD HERITAGE CENTRE:

20th December 2024 - Overall ICOMOS supports HE's response but considers that it needs strengthening to give the Planning Committee a clearer idea of why what has been put forward is inappropriate and what might be an appropriate revised approach to the development of this site that could mitigate the negative impacts of the current proposals.

WORLD HERITAGE OFFICER:

3rd December 2024 - Scope for revision

Representations Received :

TRANSITION BATH:

3 objection comments have been received from Transition Bath, summarised as follows:

- We support implementation of reasonable insulation standards, heat pumps, mechanical ventilation with heat recover
- We support limited car parking availability
- We support good potential for walking and cycling access
- Solar PV will not equitably be distributed to the residents to reduce energy bills
- Lack of viability assessment and commitment to affordable housing
- No affordable housing proposed
- High embodied energy
- Should commit to 50% affordable housing
- Car clubs should be increased
- Overheating is not in compliance
- Alternative loop for cycle path unacceptable

BATH PRESERVATION TRUST:

Two objections have been received from the Bath Preservation Trust and are summarised as follows:

December 2024 comment conclusions:

BPT was encouraged by the approach of the developer at pre-app to spatial layout and overall design and this position has not changed. However, given the stark lack of affordable housing provision in Bath, it is essential that all new developments contribute to the B&NES Council affordable housing targets where it is possible to do so.

The application should not be approved as in its current format the submission lacks information relating to affordable housing provision/viability that will allow a comprehensive and appropriate consideration of the scheme to be undertaken.

Furthermore, in the absence of a viability assessment it is difficult to quantify equivalence in relative build costs which has significant implications relating to design quality. Design Excellence and affordable housing provision should be dealt with transparently through planning rather than left as reserved matters or delegated as a decision.

Secondary to the above, the scheme is contrary to the Bath Building Heights Strategy (B&NES Council: 2010), and the height and massing neither positively enhances or sufficiently reflects the local townscape character and harms the significance of the World Heritage Sites.

The application is contrary to section 16 of the National Planning Policy Framework (December: 2023), B&NES Council policies D1, D2, HE1, CP9, CP10 (Core Strategy and Placemaking Plan, incorporating the Local Plan Partial Update (Volume 1: District-wide Strategy and Policies) (January 2023) and B&NES Council policy B4 (Core Strategy and Placemaking Plan, incorporating the Local Plan Partial Update (Volume 2: Bath) (January 2023).

March 2025 comment conclusions:

We recognise the benefit of housing provision on this brownfield site; however, there is not enough information relating to the provision of affordable housing to enable the planning committee or B&NES officers to make an informed decision.

Harm to the World Heritage Site should be avoided and mitigated. And where harm is identified it must be outweighed by very clearly defined and validated public benefits. There is not enough information to assess harm versus benefit. New buildings in the World Heritage Sites should not only minimise harm, but they should also strive to enhance the sites special qualities and be exceptional design quality. The development as proposed would not achieve this.

The application is contrary to section 16 of the National Planning Policy Framework (December: 2023), B&NES Council policies D1, D2, HE1, CP9, CP10 (Core Strategy and Placemaking Plan, incorporating the Local Plan Partial Update (Volume 1: District-wide Strategy and Policies) (January 2023) and B&NES Council policy B4 (Core Strategy and Placemaking Plan, incorporating the Local Plan Partial Update (Volume 2: Bath) (January 2023).

WALK RIDE BATH: Comment

All best efforts should be made with Crest to ensure that the potential cycle link on their land is secured to ensure the optimum STR routing desire line at that point, which will in practice be used by cyclists as the most direct route. Better for all that it be formally adopted and surfaced than become an informal muddy mess.

3 comments of support have been received, summarised as follows:

- Previously developed site being put to use
- Footpath through the site is being preserved
- Bath is in urgent need of rental accommodation
- Accommodation type meets a recognised need
- Height in keeping with surrounding area
- Cycle spaces will encourage residents to make use of active transportation
- Brickwork in keeping with the industrial history of the site

7 other comments of objection have been received, summarised as follows:

- Too high and unattractive buildings
- Height not in keeping with Albert Terrace and Victoria Bridge Road
- Lack of parking
- Shared living will not solve the housing crisis
- Sufficient shared living in Bath
- Not aimed at young families or low/medium income families
- No affordable housing proposed
- Concerns about use of shared living by students
- Insufficient services for the community
- Insufficient information around class E use
- Vehicle route to Sainsburys could cause conflicts
- Trip generation underestimated
- Underwhelming architecture
- Materials not appropriate
- More trees should be retained
- Impact on views of the Royal Crescent from the surrounding hills
- Threat to World Heritage Site Outstanding Universal Values

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:

CP5: Flood Risk Management
CP6: Environmental Quality
CP9: Affordable Housing
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:

SB7: Green Park Station West (SB7A) and Sydenham Park (SB7B)
B1: Bath Spatial Strategy
BD1: Bath Design Policy
D1: General urban design principles
D2: Local character and distinctiveness
D3: Urban fabric
D4: Streets and spaces
D6: Amenity
D10: Public realm
HE1: Historic environment
LCR9: Increasing the provision of local food growing
PCS1: Pollution and nuisance
PCS2: Noise and vibration
PCS3: Air quality
SCR2: Roof-mounted/ building integrated scale solar PV
SCR5: Water efficiency
ST2: Sustainable transport routes
SU1: Sustainable drainage policy

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 a number of 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:

DW1: District Wide Spatial Strategy
CP1: Retrofitting Existing Buildings
CP3: Renewable Energy
CP4: District Heating
CP7: Green infrastructure
D5: Building design
D8: Lighting
H7: Housing accessibility
LCR6: New and replacement sports and recreational facilities
NE1: Development and green infrastructure
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
PCS5: Contamination
SCR6: Sustainable Construction Policy for New Build Residential Development
SCR7: Sustainable Construction Policy for New Build Non-Residential Buildings
SCR8: Embodied Carbon
SCR9: Electric Vehicles Charging Infrastructure
ST1: Promoting Sustainable Travel
ST2A: Recreational routes
ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

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)

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2021)

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).

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

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1. **Application Context**

The application site was the subject of a previous planning application (20/00259/FUL) for the redevelopment of the site to provide a new care community (Use Class C2) comprising care residences and care suites and ancillary communal, care and well-being facilities, offices in Use Class E(g)(i) together with associated back of house and service areas, pedestrian and vehicular access, car and cycle parking, landscaping, private amenity space and public open space.

This was refused by Planning Committee in January 2021 but allowed on appeal in September 2021. The permission was not implemented and is not extant, having expired in September 2024. However, it is still a material consideration in the assessment of the current planning application and members are therefore requested to have regard to this decision during their assessment of the application which is before them.

The appeal itself set out some useful parameters for levels of heritage harm which were accepted during the course of the appeal, as well as other design parameters which are of relevance here. Further discussions are set out within the report below.

2. Principle of Development

Policy DW1 of the Placemaking Plan sets out the overarching strategy for B&NES to promote sustainable development, which directs new housing, jobs and community facilities within Bath, Keynsham the Somer Valley. For Bath specifically, policy B1 sets out its spatial strategy, enabling the development of around 7,020 new homes concentrating the distribution mainly on larger sites within the central area, then larger sites on the outer neighbourhoods and smaller scale intensification within the existing urban area.

The NPPF sets out at paragraph 11 that all plans and decision should apply a presumption in favour of sustainable development. For decision taking this means:

"c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important in determining the application are out-of-date (8), granting permission unless:

- i) The application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination

Footnote (8) of the NPPF clarifies that this includes, for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five year supply of deliverable housing sites.

In December 2024, the Government published the revised National Planning Policy Framework (NPPF). The published changes aim to tackle the country's acute housing crisis and stimulate economic growth. In order to determine housing need for each Local Authority, the standard method set out in the Planning Practice Guidance (PPG) is applied. This was updated as part of the changes and, as a result, the amount of housing that Bath and North East Somerset (B&NES) are required to plan for through the Local Plan has significant increased by an uplift of 105%. The NPPF and PPG requires that Local Authorities must be able to demonstrate a 5 year housing land supply. B&NES was, prior to the changes, in the process of consulting on options for housing sites for the new Local Plan, which sought to set out the district's strategy for development over the next 20 year period. Whilst the plan does not solely focus on housing, it is relevant that the plan demonstrates sufficient land supply for housing in the district. As a result of the significant uplift in housing requirements, the spatial strategy for the district within this plan needs to be reviewed and the new Local Plan timeline has been delayed.

The housing trajectory for the year 2025-2026 has not yet been calculated or published. However, early analysis and forecasting suggests that, due to the significant changes to the standard methodology and uplift in the Council's housing targets, it is considered likely that, from April 2025, the Council will not be able to demonstrate that they have a 5 year housing land supply, as required by National Policy. Therefore, the most important policies for determining this application are to be considered out-of-date.

Officers consider that this development for housing would engage paragraph 11 of the NPPF and the scheme must be considered within the context of paragraph 11(d)(ii). This will be further explored in the planning balance section of this report.

Site allocation:

The application site is identified for comprehensive mixed-use redevelopment in the council's Placemaking Plan (Policy SB7). The application site together with the adjacent Pinesgate office development, the Pinesgate Industrial Estate, the Sainsbury's petrol filling station and those parts of Sainsbury's car park south/west of the river, form the 'Sydenham Park' element of the allocation. The Sainsbury's retail store and Green Park station also form part of the wider Policy SB7 allocation and are referred to as 'Green Park Station West' but the detailed development requirements are dealt with separately to Sydenham Park.

Policy SB7 allocates the whole of Green Park Station West & Sydenham Park for mixed-use development comprising employment, residential and retail uses. In respect of uses, the detailed development requirements for Sydenham Park (of which the application site forms only part) are specified as follows:

- Residential development (over 500 units)
- Employment floorspace of around 14,000sqm GIA;
- Retail of around 7000sqm net sales floor space;
- A hotel of around 150 beds
- Complementary food and drink establishments

It is important to note that Policy SB7 does not specify the nature of the requisite residential development other than explicitly ruling-out student accommodation; as such the policy is open to residential development falling within Use Class C3 (dwellings) and/or Use Class C2 (residential institutions) and indeed any use that is residential in nature falling somewhere in between.

Shared living is a relatively new type of residential accommodation emerging as an alternative approach to delivering high quality rental accommodation in accessible locations. Market analysis by Knight Frank (The Co-Living Report, 2024) found that last year, nearly 2,500 new co-living beds were completed and opened to residents, reflecting a 65% increase on co-living delivery in 2022. This takes the total number of operational co-living homes in the UK to 7,540. A further 13,483 co-living units are currently under construction or have planning permission granted.

Shared living accommodation typically provides residents with a smaller independent self-contained living unit, supplemented by access to shared communal living areas and amenities in the wider building complex. Schemes provide residents with access to a flexible yet independent form of housing, that includes high-quality modern accommodation and amenities, at more affordable rates and in accessible and central locations close to work and lifestyle amenities.

Shared living falls within sui generis use class but is considered to be a residential development typology which would be permissible under the allocation policy.

Similarly, Policy SB7 does not specify the nature of the employment floor space nor the nature of the retail development (i.e. convenience or comparison goods); there is therefore substantial flexibility within the broad uses that have been specified.

The proposed development comprises 275 build to rent units and 179 shared living units. As above, both of these dwelling typologies are considered to be in a residential use as required by policy SB7.

1126m³ of flexible retail and/or office floorspace is also proposed and this would be within Class E use. Class E covers a broad range of uses, all of which would likely generate employment and/or provide a retail offering. It is not considered necessary to restrict the uses within Class E, nor reasonable given the flexibility within the policy.

The quantum of proposed development is below that specified by Policy SB7. For housing land supply purposes, shared living accommodation is treated as "non-conventional" supply. This means that, generally, a 1.8:1 ratio is applied, which means that 1.8 bedrooms are counted as a single dwelling. The proposal is for 179 shared living units which equates to around 99 traditional dwellings. The total number of "traditional" dwellings proposed by this development is 374 residences, against the 500+ required and 1126sqm of employment/retail floorspace is proposed against the 14,000sqm required and no hotel accommodation is proposed. The number of dwellings proposed, even with the shared living "non-conventional" ratio proposed is uplifted from the previous scheme.

The Economic Development team have raised concern that the current proposals represent a loss in the level of employment at the site, when compared to the previous permission. The previous permission was for a care facility, which in itself would have generated employment, as well as office use. The current proposals will clearly generate less employment than previously proposed. Whilst the reduction the amount of likely generated employment is less than the previously approved scheme, it essential to note that the Homebase site itself constitutes less than half of the wider Sydenham Park allocation. The remainder of the SB7 allocation, which includes the Pinesgate offices, Pinesgate Industrial Estate, the substantial Sainsburys overflow car park and Petrol Filling Station, has sufficient capacity to accommodate the remaining quantum of development required by the policy. Indeed, this was common ground between parties during the course of the 2021 appeal (APP/F0114/W/21/3268794).

The development being proposed as part of this application would not compromise the future redevelopment of any of these sites in the allocated area. Whilst the reduction in the amount of employment space when compared to the previously approved scheme is regrettable, it is not reason to refuse the application, given that the allocation

encompasses a much wider area which is capable of being delivered separately from this application.

It is therefore considered that, in so far as it relates to the principle of development, the scheme complies with policy SB7. The principle of development in this location is acceptable.

3. Student Exclusion

Policy SB7 clearly states that "purpose built student accommodation in this area is not acceptable as this would impede the delivery of other Council objectives". The proposal is not for purpose built student accommodation (PBSA), but it has been raised by third parties and some consultees that Shared Living provides a similar accommodation typology to PBSA and there is concern that the development could result in PBSA 'by the backdoor'.

Whilst shared living accommodation is a relatively new accommodation type to B&NES, it is a more common typology in London. In February 2024, the Large-scale purpose-built shared living London Plan Guidance document was published which although not relevant to B&NES, does provide a useful guide in setting out how shared living accommodation differs from self-contained housing and PBSA. The guidance makes clear that shared living has an emphasis on communal living, with large-scale shared dining, recreation and workspaces being provided to offset the smaller unit sizes. In terms of student accommodation, shared living does not focus on student needs in the same way that PBSA does and would not have a link to the universities. The main differences between it and PBSA can therefore be summarised as:

- Greater flexibility in tenancies and terms in co-living schemes
- More integration with the public in shared living (for example co-working and café areas)
- Lack of nomination agreements with the universities

From discussion with the applicant, it has been indicated that they would not agree to a clause in a S106 agreement which directly restricts students. They have cited concerns in terms of part time students, mature students who may be returning to university, or people undertaking studies alongside full time work. This has been noted by officers. As a compromise, it is suggested that a S106 agreement can still restrict student occupation through clauses which ensure that no nomination agreement can be made with any university, and marketing information for the co-living units is provided to the Council to ensure that units are not being marketed to students. It is considered that this is a reasonable approach, given that the development is not for PBSA and should there be a relatively high level student occupancy levels within the development, then this could constitute a change of use and be dealt with via planning enforcement.

4. Affordable Housing

Policy CP9 has regard to affordable housing. It states that affordable housing will be required as on-site provision in developments of 10 dwellings or 0.5 hectare and above

(the lower threshold applies). The site is located in an area where the policy requires a 30% target of affordable housing.

Policy CP9 goes on to set out that the viability of the proposed development should be taken into account, including;

- Whether grant or another public subsidy is available;
- Whether there are exceptional build or other development costs;
- The achievement of other planning objectives; and
- The tenure and size mix of the affordable housing to be provided.

The Planning Practice Guidance (PPG) sets out the main principles for undertaking viability assessments. It sets out that a "Viability assessment is a process of assessing whether a site is financially viable, by looking at whether the value generated by a development is more than the cost of developing it. This includes looking at the key elements of gross development value, costs, land value, landowner premium, and developer return...Any viability assessment should follow the government's recommended approach to assessing viability as set out in this National Planning Guidance and be proportionate, simple, transparent and publicly available. Improving transparency of data associated with viability assessment will, over time, improve the data available for future assessment as well as provide more accountability regarding how viability informs decision making...In plan making and decision making viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission."

A "Pre-application Viability Assessment" (DS2, dated 5th September 2024) was submitted to the Council in respect of the scheme. This assessment was based on a previous iteration of the proposed development which was presented to the Council at pre-application. As the scheme has developed, amendments to the proposals have taken place which have resulted in minor adjustments to the viability assessment. Given the changes have not resulted in significant changes to the viability position, it was agreed with the Local Planning Authority that an updated viability position letter could be submitted, as opposed to a new, full viability assessment. This letter, also from DS2, is dated 5th March 2025 and reflects the current scheme.

The "Pre-application Viability Assessment" (PVA) has been assessed by independent viability assessors, Dixon Searle Partnership (DSP). The submitted PVA, based on a 100% market scheme with no affordable housing, sets out that the scheme produces a (negative) residual land value of -£36, 378, 686. The PVA notes that the site has a potential value in its existing use as car parking or open storage, however at this stage it assumes a nominal benchmark land value (BLV) of £1. When the deficit is deducted from the assumed profit, the scheme produces a net loss of approximately £13.9 million. The PVA comments that "the applicant is prepared to take a long-term view regarding delivery of the Proposed Development that over time and with future rental growth and yield compression for the residential uses (particularly co-living, which is in its infancy as an investment asset), the development is more deliverable". It is not within the remit of the Local Planning Authority to conclude where there is sufficient justification for the applicant to pursue a scheme financially and it must simply conclude the viability position of the scheme in terms of affordable housing offering.

DSP agree with many of the assumptions set out within the PVA. However, there are a number of areas where a difference of opinion between DSP and DS2 exist which can be summarised as follows (set out in detail in paragraph 4.1.2 of DSP's appraisal):

- Benchmark Land Value should be set at £3 million, not nominal £1
- Gross Development Value of the Build to Rent, Co-living and the commercial units
- Purchaser's costs
- Construction costs
- Agent's marketing and legal fees
- Developer's profit

DSP have therefore set what they consider to be more realistic assumptions in regard of the above during their viability testing. Applying DSP's assumptions, there is a deficit of -£30, 060, 185. Whilst this is a difference of around £6 million when compared to DS2's assessment, it is clear that the scheme is financially unviable to support affordable housing, based on the pre-application scheme and this is agreed between both parties. DSP have 'sensitivity tested' their results and even with the most 'bullish' of yields (such as those seen in prime London schemes), the scheme does not move to a viability positive position.

The amendments to the scheme following revisions to address officer comment have resulted in changes to the viability assessment, as set out in the "Updated Viability Position" letter (DS2, 5th March 2025) (herein called the UVP). The UVP sets out a slight improvement in the viability position of the scheme. Using DS2's figures, the scheme as presented to the Committee would result in a (negative) residual land value of -£35, 939, 755. Using DSP's assumptions, this figure would be -£29, 008, 946. This is accepted by the Local Planning Authority and the scheme is clearly unviable for affordable housing.

Notwithstanding, the applicant has considered their viability position in the context of the required S106 contributions which are set out later in this report and an affordable housing offering as set out within the updated Heads of Terms. The applicant has offered a commuted of £1 million and has factored this into their viability position. Discussions have taken place with the Council's housing team as to whether units could be offered onsite, or whether a commuted sum would be more appropriate in this case. Given the predicted rents of the scheme and the fact that co-living would not be desirable to Registered Providers as an affordable housing typology, a commuted sum is in this case preferred by the Council. The commuted sum can be used by the Council to deliver affordable housing offsite, and this is welcomed and can be considered a benefit of the proposed development. It should also be noted that the previous scheme, which was for Care Provision (use class C2) delivered no affordable housing provision either on or off-site, as this was not a requirement for that use class.

Given the viability position, it is considered that the commuted sum of £1million is appropriate in this case and the scheme is compliant with policy CP9.

5. Housing Accessibility

Local Plan Partial Update policy H7 requires 5.6% of dwellings to be built to Building Regulation M4(3)(2a) standard (wheelchair adaptable housing). Therefore, 15 of the 275

proposed C3 dwellings must meet enhanced accessibility standards. The applicant is proposing that 17 of the units will comply with M4(3)(2a) standards, located in building B2. Page 89 of the Design and Access Statement sets out that a proportion of the shared living units are designed to be accessible, aligning with the requirements of Volume 2 of the Building Regulations and BS8300. Given the typology of shared living and that the number of M4(3)(2a) units are in excess of the requirement for the C3 units, this is accepted.

The policy also states that 48% of the remainder of housing, after the M4(3)(2a) figure has been accounted for, must meet the M4(2) accessible and adaptable dwellings standard. Therefore, 125 of the 275 proposed dwellings must meet enhanced accessibility standards. The developer has set out that, with the exception of the duplexes, all of their C3 residential dwellings will comply with M4(2) standards, which equates to 246 dwellings.

This can be secured by Condition. The scheme is considered to comply with policy H7 of the Local Plan Partial Update.

6. Housing Mix

Policy CP10 of the Development Plan states that new housing development, both market and affordable must provide for a variety of housing types, tenure and size to accommodate a range of different households.

The development provides a variety of housing types, including BTR and shared living, as well as delivering a range of dwelling sizes (1-3 bedrooms). There is a mix of housing types in the surrounding area and the development is considered to accord with policy CP10.

7. Design and Appearance

The vision for the Sydenham Park (SB7) allocation is to create a new city quarter, that responds to the residential development at BWR and represents a confident new stage in the evolution of the city.

There is a clear narrative provided within the Design and Access Statement which explains the evolution of the design proposals and sets out how they have been informed by extensive pre-application discussion with the Local Planning Authority, engagement with the public and through Design West Design Review Panel. Revised plans have been submitted during the course of the application to address concerns raised with regard to the roof form and building D.

Policy CP6 is the Core Strategy's overarching policy dealing with environmental quality; this seeks to secure, amongst other things, high quality inclusive design. Policies D1-D5 set out the Council's detailed urban design policies; these policies collectively seek to secure high-quality design which is appropriate to its context. In particular, Policy D2 supports development which contributes positively to and does not harm local character and distinctiveness; it prescribes that development is expected to positively respond to site context and improve areas of poor design.

Policy D2 requires design to respond appropriately to urban morphology, including amongst other things block and plot patterns; mix of uses, building heights, massing and scale, and local vernacular. In respect of density, Policy D2 is clear that the density of new schemes must be compatible with the character of the area but equally the policy encourages higher densities in accessible locations with good local facilities, on order to make an efficient use of land.

Policy BD1 (the Bath Design Policy) is clear that submissions must explain how the Bath design values have informed the proposed design approach including its aesthetics, building form, use, materials and detailing. It must also be explained how the height and scale of the proposal has respected, responded and positively contributed to the character of Bath, including Bath's heritage, its values and views. In addition, Policy BD1 requires proposals to explain how proposals maintain the significance, integrity and authenticity of the World Heritage Site as well as preserve or enhance the character or appearance of the conservation area.

Site Layout

Four buildings are proposed within the development site as follows:

- Block A; located in the northern part of the site, broken down into buildings A1, A2 and A3 on the proposed plans
- Block B; the central block which is separated into buildings B1 and B2 on the proposed plans
- Block C; the "Gateway Building", located in the eastern part of the site
- Block D; the "Prow Building", located in the southern part of the site adjacent to Pines Way

The design principles set out in policy SB7 make clear that Sydenham Park Street will be the central public realm feature of the new development. It should be a key green infrastructure corridor, serve as a high quality pedestrian and cycle route and active frontages at ground floor level in this area should be provided.

The proposed Sydenham Park Street is located to the south of Building B and will be framed by this building and Building D to the south. It has been designed so as to provide a pedestrian and cycle link through the site, which can continue into the adjacent Sainsburys Car Park Site, through the existing tree lined avenue and beyond. Whilst the entrance to Sydenham Park Street from the west is fairly narrow, it opens up into an area which is between around 9-14m wide. Landscaping is proposed to the south which will provide an attractive green edge to this area of public realm. In addition, commercial spaces are proposed along the ground floor of the southern elevation of Building B. This, coupled with the striking metalwork along this elevation, will provide for a bold, active frontage in this location which has the potential to create a bustling thoroughfare through this part of the site. Whilst the location of Building B is slightly further south than the previously approved scheme, thus providing a lesser width for Sydenham Park Street, this has had the advantage of opening up views of the green hills in other parts of the site, which will be discussed in more detail later within this report. Notwithstanding, it is

considered that the proposed Sydenham Park Street achieves the aspirations of the policy with regard to providing an attractive and usable route through the site.

As well as Sydenham Park Street, the layout incorporates a number of other streets and spaces which provide east-west and north-south routes through the site. These will connect the adjacent BWR development with Green Park and beyond into the city, as required by policy SB7. In the northern part of the site, Midland Terrace runs east west and is flanked by Buildings A and B. This street integrates landscaped area and seating. It is noted that this route will be able to be used by vehicles which is unfortunate given its clear intention to form a critical pedestrian route within the site. However, Sainsburys currently have a route of access across the site and the applicant has utilised design to attempt to slow vehicles in this area. In reality, as set out in the Highways section in this report, the usage of this street by traffic is likely to be low and this is accepted. The northern elevation of Building B will feature much of the shared amenity spaces for the shared living and BTR which will help to create a vibrant atmosphere in this location.

Lockett Walk runs north-south to the east of Building B and will provide a link from Midland Terrace to Sydenham Park Street. This borders the adjacent Sainsburys Car Park, and it is considered that the siting of this street would not preclude development coming forward on this site in the future.

The layout also provides external amenity space for future residents. To the north of Building A is a private amenity area for the residents of these properties. Within the courtyard of Building B is a podium garden which provides amenity of the BTR residents. There are other pockets of landscaping within the development, as well as seating areas within the public realm which will encourage interaction between residents.

Overall, it is therefore considered that the layout complies with the aspirations of policy SB7 and the overall layout makes efficient use of the site, whilst providing substantial connectivity links for active travel.

Architectural approach

The site context is influenced by the scale, massing and materials of the adjacent BWR development to the west. The BWR development includes buildings of up to 8-storeys and features a range of materials included Bath Stone and metal cladding. To the north of the site is Albert Terrace, Western Terrace and The Mews which range to four storeys in height, feature a contemporary design with light material finishes.

The proposed development, in similar fashion to the previously approved scheme, follows an industrial design aesthetic which is intended to reflect the historic uses of the site. It does not seek to be a pastiche of the Georgian architecture found elsewhere within the city. The applicant has undertaken a significant amount of work analysing the architectural setting of the site and interpreting the industrial heritage. This is set out clearly within Section 5 of the Design and Access Statement.

The predominant external facing materials for the elevations is brickwork as well as metal cladding, which is prominent at ground floor level, as well as within the roofscape. Policy SB7 states that this area, "has a significant opportunity to provide a distinct and contrasting built character to the city centre". Policy SB7 goes on to state that, "this

includes the potential of introducing different building forms or typologies and different building materials that can respond to the visual homogeneity of the city". In the context of the previously approved scheme, and pre-application discussions with the Council, the overall industrial approach to the design is considered to be acceptable.

The use of brick across the development has caused concern with some consultees, namely Historic England and the Council's Planning Policy Officer. Third parties such as the Bath Preservation Trust have also expressed concern. It is noted that the Bath Western Riverside Supplementary Planning Document essentially prohibits the use of brick and sheet metal within this area. The Inspector concluded in their decision for the previous appeal at the site that sheet metal was a "widespread, prominent" material within the BWR development and, in relation to the BWR SDP that "bearing this in mind, as well as its use at Albert Crescent/Western Terrace and the extensive corrugated metal sheeting of Green Park Station, I find that this aspect of the guidance can only be given limited weight when the evolving character of this area is taken into account". In terms of brick, the appeal decision concluded at paragraphs 26 and 27 the following:

"Turning to the matter of buff brick, the established character and therefore the relevance of the BWRSPD is less equivocal and I accept that it is not a frequently encountered material in the locale. However, there is a tension with SB7(B) which notes that 'the location would benefit from a clear identity and point of differentiation, one with a strongly defined built environment'. In urban design terms, it is hard to see how the use of a light-coloured brick and pointing would fail to meet this requirement or how the use of an alternative facing material, such as Bath Stone, would result in anything other than a bland contextualisation lacking clear differentiation and identity.

Consequently, I find that both brick and sheet metal would offer a more honest and grounded expression of the industrial heritage of the site which is visually and topographically distinct from the Georgian City and, as such, is capable of accommodating a greater degree of townscape change and the adoption of a more clearly articulated identity."

Therefore, whilst concerns about the extensive use of brick are acknowledged, given the context of the site physically, and in the context of the previous appeal, it is not considered by officers that the use of brick is inappropriate nor refusable in this location. There has been some discussion about the colour of the brickwork as presented within the scheme, and a condition can secure samples.

There will be a varied street-scene character throughout the development. The corners of Building B are clearly defined by bronze-toned metal work, which provides a striking entrance to this part of the site. This is in contrast to the brickwork above and officers consider that the use of materials helps to break up the massing in this location, providing significant design interest and a contemporary approach to the industrial design. Metalwork is also proposed around Sydenham Park Street, particularly along the active frontages which is supported.

Overall, the architectural approach to the scheme achieves the aspirations of Policy SB7 and provides an appropriate design response within the context.

Scale, height and massing

The Bath Building Heights Strategy (BBHS) states that in this area building heights are recommended to be five storeys (where the top storey is set back and designed to be read as roof). It goes on to recommend however that an additional storey (i.e. six storeys in total) may be acceptable along the Lower Bristol Road except where it is in close proximity to existing 2-3 storey residential areas. It also states that an additional storey (i.e. six storeys in total) may be appropriate when fronting public space or marking key locations such as corners or gateways and mixed-use centres.

The storey heights of the development are as follows:

- Block A; four storeys at the ends of the block (A1 and A2) and two storeys across the central element of the block (A3)
- Block B; six storeys, inclusive of the roof in parts
- Block C; four storeys
- Block D; six storeys, inclusive of the roof

The previous appeal scheme at the site ranged from two to six storeys, though had a different distribution of massing across the site, reacting to the layout proposed within that application.

The Council's Principal World Heritage Site Officer has raised concern with regard to the scale and massing of the development, and Historic England and ICOMOS also raised some concern. Following these comments, officers have negotiated a series of design changes to the roofscape which Historic England note "that these are minor improvements; the proposed mansard roofs would be slightly less assertive, and slightly more domestic in character, under the revised proposals".

It is considered that, following the design amendments, the roofscape and use of materials sufficiently break up the massing of the six storey blocks and provide good variation across the site. The six storey buildings front public spaces on Sydenham Park Street and key corners and gateways, such as Pines Way and the Gyratory. In this respect, therefore, the scheme is considered to comply with the BBHS.

Furthermore, the application site forms part of the original Bath Western Riverside site and as such is covered by its associated SPD (Supplementary Planning Document) (March 2008) which includes, amongst other things, a set of Design Codes. The SPD is now over 12 years old and is therefore considered to be of limited weight however its Design Codes, particularly in respect of height, remain of interest. The Design Codes state that buildings on the river frontage should be of 5-8 storeys in height with a variety in heights required to break up the massing here. The central parts of the site are also identified in the Design Codes as being suitable for buildings of 5-8 storeys. It is evident that the proposals are in accordance with the BWR Design Codes in respect of height however as stated, these Design Codes should now only be afforded limited weight.

The BBHS goes on to state however that it may be necessary for building heights to be less than four storeys in this zone in response to heritage assets, residential amenity and to prevent intrusions into views; it also goes on to state that development along the riverside should be subservient to the Georgian city. Whilst heritage will be assessed in

detail in the Heritage section of this report, it is considered appropriate to turn to an assessment of the impact of the development on viewpoints and wider views to explore the acceptability of the scale and massing from this perspective.

A Landscape and Visual Impact Assessment (LVIA) accompanies this submission. It follows accepted methodology and the scope of the LVIA and selection of viewpoints for assessment accords with agreement reached with the Local Planning Authority during pre-application discussion. Viewpoint descriptions and assessment of effect are based on winter views, in accordance with best practice. A series of Visually Verified Montages (VVMs) have been provided, covering local views and longer-distance views from around the city. The VVMs include montages of the consented appeal scheme showing outline and massing for purposes of comparison.

On the basis that the site is located within an existing urban area, is subject to established regeneration policies and is adjacent to public highways, it was agreed at pre-application stage that nighttime effects in terms of landscape character and visual amenity were not substantive issues and did not require further consideration in the LVIA.

When compared with the landscape and visual effects of the consented scheme, the current proposals would similarly result in some benefits and some disbenefits. The differences between the two schemes are minor in this respect.

Particular attention is drawn to viewpoints 8a and 8b which are taken from Stothert Avenue to the west of the development within the BWR scheme. These viewpoints look toward the development. It is considered that the proposed scheme offers a significant improvement here, providing a more direct line of site down Stothert Avenue, which continues toward the city and still provides glimpses of the green hills beyond.

Officers raised concern with regard to viewpoint 3, which looks along Pines Way toward Building D. The Council's Landscape and Urban Design Officer commented that although the external colour of the scheme was more successful than the previously approved scheme, the roofline was less articulated and successful. Following negotiation, the roof has been amended in this location, with articulation provided and the overall shoulder height of the building adjusted to create a roof which appears in proportion with the facades.

For the consented scheme, a range of beneficial and adverse effects on character and on views were found. These were accepted by the Inspector during the course of the appeal. The same can be said for the current proposals. For both schemes, there are beneficial effects arising from positive regeneration but adverse effects due to increased height, massing and loss of views to surrounding hillsides.

The LVIA summary tables for landscape assessment and visual assessment are given in Table 2 and Table 3 respectively in sections 9 and 10. The LVIA concludes that although there are some minor differences between the current proposals and the consented scheme, none of these differences are sufficient to alter the judgements of either magnitude of change or level of effect for any of the six landscape receptors or any of the thirteen visual receptors when the same methodology is applied.

Overall, the LVIA concludes therefore that there are no significant differences in extent or level of adverse and beneficial effects between the current proposals and the consented scheme. The Council's Landscape and Urban Design Officer agrees with the conclusions of the LVIA.

The scale and massing of the proposed development is considered to respond and reflect the immediate context. The development will not appear incongruous when considered in relation to the adjacent BWR development. The amendments to the roof scape, particularly in relation to Building D have improved the quality of the scheme from the Pines Way Gyratory and reduced its visual impact in this location. The context of the previous appeal is also relevant, and a material consideration. The principle of six storeys was accepted during this appeal and whilst the scale and massing has a different distribution to the appeal scheme, the LVIA satisfactorily concludes that the level of adverse impact on the townscape will be similar.

Site landscaping

The landscape design approach set out in the illustrative masterplan Design and Access Statement (DAS) 04.4 and the aspirations for the seven different areas of external space are supported. The incorporation of SuDs (DAS 04.7) as an integral component of the landscape design proposals is welcome. The intention to adopt an integrated approach to landscape design and biodiversity enhancement is supported.

At this stage, only illustrative landscape proposals have been provided, and detailed design proposals for hard and soft landscape will need to be secured via Condition. It will be critical at the detailed design stage to ensure that species for proposed new and replacement trees are carefully selected and that ground conditions (especially in hard surfaced areas), provisional of soil and irrigation are designed to optimise healthy growth and ensure that trees attain an ultimate size commensurate with the scale of the architecture and sufficient to realise the ambition to create 'green streets' and a landscape-focussed public realm.

The design approach for Midland Terrace is set out in DAS 04.10 (pp113-114). The headline objective to 'create a residential street rich with urban greening as part of a multifunctional landscape' is supported but there are some concerns in relation to the balance between vehicular access and the creation of a landscape-oriented people-friendly environment for this street. The illustrative landscape proposals show play features along this route (railway track play logs together with other play equipment and features). As set out in the DAS, there is a clear intention that this route should prioritise pedestrian and cycle movement and become a verdant street for people and one where children can safely play. However, other documents including the Vehicle Access Strategy Plan TA-10 show two-way vehicular access along Midland Terrace for refuse vehicles, delivery vehicles, fire tenders and private cars. In order to keep traffic speeds as low as possible and consequently fulfil the aspirations of the DAS, landscaping will be of particular importance in this area.

The principles set out in DAS 04.18 for incorporation of heritage and wayfinding into the landscape design are supported, but it will be important to ensure that these are given sufficient prominence as the detailed landscape design proposals are brought forward and will imbue the whole design for the external environment, rather than being limited to

specific features at specific locations. For example, only two locations are suggested on the plan for 'found' items, but for a site of this size there would be scope to incorporate more, including for example in area 'F' ('Sydenham riverside'). Again, these matters can be dealt with via condition.

A clear management strategy is critical to ensure successful establishment and long-term healthy growth and maturation of soft landscape elements and the achievement of landscape and ecological objectives for the site. A draft Landscape and Ecological Maintenance and Management Plan (LEMMP) has been provided. The purpose of the document as described in section 1.1 is considered appropriate. It confirms the expectation that the submission of a complete final version of the LEMMP will be required by Condition, that it will cover a minimum 30-year period and will be subject to regular monitoring review and updating as necessary, arrangements for which are outlined in this draft and will need to be refined and agreed as part of the final complete version of the Plan.

The general approach to management responsibilities & review, monitoring & updating, and the production of long term management plans set out in sections 2.8, 2.9 and 2.10 is supported, but the text for section 2.8 should be amended to clarify that the approach will be to adopt a risk management strategy, i.e. to identify risks that might result in objectives not being met, and then identify actions needed to ensure that these risks will be appropriately avoided or mitigated. Clarification is also required as to exactly how the Local Planning Authority will be involved in the longer-term review and management processes, and it is noted that these details will be provided in the final version of the Plan. The principles for community and resident engagement set out in section 2.11 are welcomed, as is the commitment to the providing opportunities for ongoing involvement of the Local Planning Authority in future management.

A full LEMP can be secured by way of condition.

Design conclusion

The layout, architectural approach, landscaping, scale and massing are considered to be an appropriate design response given the sites context. It is considered that the design of the scheme achieves the aspirations of policy SB7 in this regard and complies with the detailed design policies set out in the development plan. The scheme will have wider implications on heritage assets, and this is assessed in the Heritage section of the report below.

8. Heritage Assets

The application site is within the doubly inscribed UNESCO World Heritage Site but is outside of the City of Bath Conservation Area. The City of Bath World Heritage Site was inscribed in 1987, and The Great Spa Towns of Europe was inscribed onto the UNESCO World Heritage list in 2021: the inscription is a transnational serial nomination involving 11 spa towns from 7 countries. All of the towns developed around natural mineral water springs.

The adjacent River Avon however forms the boundary of the conservation area and therefore the development sits within the setting of the conservation area and has the clear potential to affect it.

The application site is situated immediately to the south of Norfolk Crescent (beyond the river), a Grade II* Georgian crescent dating from around 1810. Norfolk Crescent fronts onto Norfolk Crescent Green, a triangular green space adjoining the river. On the northern side of Norfolk Crescent Green is 1-8 Nelson Place which is a palace-fronted Grade II listed terrace of dwelling houses dating from 1805. To the rear of Norfolk Crescent is a terrace of dwelling houses known as Norfolk Buildings; these are Grade II listed and date from 1810-20. The proposed development is also within the setting of a number of Grade II listed buildings on Lower Bristol Road including Victoria Buildings, a terrace of early C19 dwellings, as well as Victoria Bridge itself to the north, a Grade II* suspension bridge over the River Avon constructed in 1836.

Consideration must be given to the effect the proposal might have on the attributes of the Outstanding Universal Value of the World Heritage Site and its setting. There are duties placed on the Council under; Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, that the local planning authority shall 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; and, Section 72 (1) of the same Act to pay special attention to the preservation or enhancement of the character of the surrounding Conservation Area. For the avoidance of doubt, the site is not within the Conservation Area and therefore, the duty with regard to Conservation Area does not apply.

The setting of a heritage asset (as set out in the NPPF Annex 2: Glossary) is 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.' PPG advises that 'when assessing any application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change.'

Policy HE1 of the Placemaking Plan, alongside Policy CP6 of the Core Strategy, seeks to safeguard the district's heritage assets. Development should preserve or enhance those elements which contribute to the special character and appearance of the Conservation Area. Any harm must be justified and weighed against the public benefits of the proposal; great weight must be given to the preservation of the heritage asset in question. As stated above, Policy BD1 requires proposals to explain how proposals maintain the significance, integrity and authenticity of the World Heritage Site and preserve or enhance the character or appearance of the conservation area.

Core Strategy Policy B4 deals with the World Heritage Site and its setting. It is clear that there is a strong presumption against development that result in harm to the Outstanding Universal Values (OUVs) of the WHS. It states that where a development proposal has a demonstrable public benefit that benefit must be weighed against the level of harm [in the decision-making process].

Concerns were raised by Historic England and the Council's World Heritage Site Officer in respect of the scheme as originally submitted. The areas of concern raised principally relate to the following assets and their settings:

- Norfolk Crescent
- Bath Conservation Area
- Bath World Heritage Site (City of Bath and Great Spa Towns of Europe inscriptions)

The appeal scheme was refused on the basis of heritage harm but was allowed on appeal. The Inspector's decision deals with heritage in significant detail and is material to the consideration of this planning application. The Inspector dismissed the view that the appeal scheme resulted in harm to a number of assets, and focussed on the World Heritage Site, Conservation Area and Norfolk Crescent. It is considered that in the context of the current proposals, these are heritage assets which have the potential to be adversely affected by the scheme.

World Heritage Site

The World Heritage Site, doubly inscribed, is a designated heritage asset of the highest significance. The NPPF sets out at paragraph 212 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. The more important the asset, the greater that weight should be.

The City of Bath and Great Spa Towns of Europe World Heritage Site Management Plan (2024-2030) (herein known as the WHSMP) sets out the attributes of the Outstanding Universal Value (OUV) of the World Heritage Site. The following attributes are of most relevance to this proposal:

The City of Bath:

- Georgian Town Planning
- Georgian Architecture
- The Green Setting of the City in a hollow in the hills

The Great Spa Towns of Europe:

- Therapeutic Spa Landscape, specifically the green and undeveloped hillsides surrounding the city

As originally proposed, Historic England raised that, in their view, the proposals maintained the overall height, scale, orientation and materiality of the previously consented scheme, but achieved an increased articulation in terms of the massing of the larger blocks. Both they and the Council's World Heritage Officer noted that the development would result in harm to the attribute "the green setting of the City" and the attribute "Therapeutic Spa Landscapes". The views to the landscape, as a result of the proposal, would be compromised and therefore a critical aspect of how the World Heritage Site is experienced would be harmed. The harm identified would be less than substantial.

Although Historic England did not notify the case formally to UNESCO via the World Heritage Centre in accordance with Paragraph 172 of the World Heritage Committee's

Operational Guidelines for the Implementation of the World Heritage Convention, they did request an informal review of the scheme from them. The Council received a letter, dated 20th December 2024, from the World Heritage Centre. This set out that ICOMOS supported Historic England's response to the scheme and that the current proposals would impact adversely on the OUV of the World Heritage Site.

As a result, revisions were negotiated by the Case Officer and revised proposals were submitted. Whilst the revisions were relatively minor, they amended the roof forms to provide better articulation of the massing across the site and dealt with the roof form of Building D in particular.

Historic England were re-consulted on the proposals. They have stated in their response that "Minor amendments have been made to the design of the proposed development in the form of refinements to the roofscape. We acknowledge that these are minor improvements; the proposed mansard roofs would be slightly less assertive, and slightly more domestic in character, under the revised proposals." Historic England also have concern with regard to the use of brick extensively across the site. However, the principle of brick in this location has been accepted through the appeal scheme and there are elements of metal work which break up the brick. Historic England do not object to the proposals on the basis that a condition should be imposed to control the use of materials and have requested the use of Bath Stone across parts of the development. A condition will be added securing material details; however, the use of Bath Stone has not been requested by officers for the aforementioned reasons.

Despite the design amendments, which are positive, harm is still identified to the OUV of the World Heritage Site, specifically the attributes of "the green setting of the city" and the "therapeutic landscape" and this is consistent with the appeal scheme. Historic England describe the impact on the views toward the hills as "modest adverse" and consequently, the level of harm identified is less than substantial. Whilst there is no formal scale within less than substantial harm, Historic England have advised that they consider the level of harm to be at "the lower end".

Paragraph 215 sets out that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use". This heritage balance is undertaken toward the end of this section of the report.

Bath Conservation Area

The site is not within the Bath Conservation Area (BCA), the boundary of which is the bank of the River Avon. Clearly, however, the site is within its setting and has the potential to affect this asset. When assessing the impact to the Conservation Area in their decision for the appeal scheme, the Planning Inspector noted that ", I find that the setting of the BCA, insofar as it relates to this appeal, comprises the transitional, post-industrial river corridor that is characterised by modernist architectural forms juxtaposed with glimpses of the westernmost extent of the historic city, as experienced by the recreational users of the river corridor and the occupants of riverside dwellings."

Historic England maintain that the development would result in less than substantial harm to the Bath Conservation Area, a view shared by the Council's World Heritage Officer. During the course of the previous appeal, the Inspector concluded that:

"Whilst the proposal would be visible from the BCA, I find that it would be clearly read within the context of the post-industrial river corridor and the modern placemaking of BWR and Albert Crescent/Western Terrace rather than as part of the Georgian city. This would be further re-enforced by the clear visual break provided by the river and its vegetation. I also find that the poor quality of the site currently detracts from the setting of the BCA and that this is exacerbated by its unkempt and derelict appearance. Consequently, I find that the proposal would have a positive effect on the immediate setting of the BCA and that this would consequently enhance its significance..."

The current scheme is not the same as the previous development, but follows a similar storey height, albeit with a differing distribution of massing. The site has also evolved since the appeal scheme, with the Homebase building having been demolished. The site, however, does still have an unkempt appearance with hoarding present across the site. There are clear opportunities for the site to be enhanced as a result of the development. The VVMs set out in the LVIA are particularly useful when assessing the impact of the scheme when viewed from the Conservation Area. In particular VVM 5 (Nelson Place looking SW) which provides a localised view from Nelson Place and VVM View 12 (Kelston View looking NE) which is a long-range view from Kelston View looking across the city. Both of these VVMs demonstrate that the current scheme is comparable to the previous scheme in terms of its impacts on Conservation Area. The site, as characterised by the Inspector, has more modern architectural forms which are juxtaposed with glimpses of the city. The proposed development would retain this.

The Case Officer therefore concludes, on the basis of the current scheme in the context of the previous appeal decision, that the proposal would not cause harm to the character of the Bath Conservation Area.

Norfolk Crescent

Norfolk Crescent comprises two separate Grade II* listings (8-18 Norfolk Crescent and Cumberland House). In the previous appeal decision, the Inspector noted that "I find that the setting of Norfolk Crescent, insofar as it relates to this appeal, to be associated with the juxtaposition of this building with the green and nearby palace-fronted terrace of Nelson Place that is also attributed to John Palmer. They mark the westernmost extent of the Georgian city and have no planned, historic relationship with either the river or the land beyond which appears to have been deliberately screened from view in subsequent years by riverside tree planting. They are to be appreciated through movement in and around their immediate environs and through the glimpsed views across the river from its southern bank."

As with the Bath Conservation Area, Historic England and the Council's World Heritage Officer have concluded that less than substantial harm is caused to the setting of this listed building, by way of the scale, massing and architectural approach. It is acknowledged by Historic England that the revisions have improved the scheme to a minor degree.

The VVMs set out in the LVIA are useful in aiding an assessment as to the impact upon Norfolk Crescent. The asset is separated from the development site by the River and intervening vegetation, which is an important factor in assessing the impact to its setting. Historic England raised similar conclusions in respect of this asset during the course of the previous appeal. The Inspector gave them careful consideration but concluded that the "proposal would be read as a clearly differentiated phase in the development of the city in an area that is able to accommodate new placemaking which has suffered from a post-industrial legacy that has clearly detracted from the setting of at least one of these assets and thus its significance."

Whilst the current proposals present a different scheme, the Inspector's conclusion is a material consideration. The development presents a lower height in the northernmost extent of the development to the appeal scheme and based on the VVMs, creates a similar level of impact as set out in the design section above. For these reasons, the Case Officer concludes that the development would not cause harm to the setting of Norfolk Crescent, when taking into account the existing context, scheme design and degree of separation between it and the site.

Heritage balance

As set out above, the proposed development will result in less than substantial harm to the World Heritage Site. The harm identified results from the reduction in visual connections between the edge of the Georgian city and the setting of the green hills which surround the city.

Paragraph 213 of the NPPF (as echoed by the council's planning policies) states that, "any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification". It is considered that there is clear justification for the harm in this instance. The site and its surroundings form part of an allocation within the adopted development plan for a substantial quantum of development. It is clear that this quantum of development could not feasibly be accommodated with low rise buildings and therefore, interruption of the green hills is an inevitable consequence of development. The applicant has worked hard within their distribution of massing to retain glimpses of the hills.

Paragraph 215, as set out above, is therefore engaged and the less than substantial harm must be weighed against the public benefits of the proposal, giving great weight to the asset's conservation.

There are a number of benefits which can be attributed to the proposals. The recent changes to the NPPF (December 2024) have resulted in B&NES, along with other authorities countrywide, need to accommodate a significantly increased number of houses across the next plan period than previously expected. The development will provide a substantial contribution toward housing supply both through the BTR element and shared living element. This social and economic benefit must be given significant weight in the heritage balance.

The proposal also utilises a brownfield site, within a highly sustainable location. Paragraph 124 of the NPPF sets out that planning decisions should promote effective use of land in

meeting the need for homes. The scheme represents an effective use of land, currently disused, which is also considered to be a public benefit.

Furthermore, the developer has also proposed a financial contribution of £1 million toward affordable housing. Economic benefits of the provision of commercial units, co-working space, construction work and trade benefits should also be given significant weight. The scheme will also provide public realm improvements and improve connectivity across the site into the city, which will be a tangible benefit. The redevelopment of this site, if approved, will be the first step in the realisation of the wider Policy SB7 allocation and may act as a catalyst for the remainder of the Sydenham Park site to come forward.

The public benefits identified above are, therefore, considered to outweigh the less than substantial harm identified to the World Heritage Site.

With respect to any buildings or other land in a conservation area the Council has a statutory requirement under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that conservation area. The site is not within the BCA and therefore, this duty does not apply in this case. 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.'

For the reasons set out above, special attention has been paid to the desirability of preserving the referenced listed buildings (and their setting), the impact of the proposed development in this respect is considered to be acceptable for the aforementioned reasons.

To conclude, the scheme is considered to comply with national and local heritage policy and will achieve acceptable heritage outcomes.

9. Residential amenity

Policy D6 of the Placemaking Plan states that development must provide for appropriate levels of amenity including ensuring that existing and proposed development has appropriate levels of privacy, outlook and natural light. It also seeks to ensure that significant harm is not caused to the amenities of existing or future residents in respect of loss of light, noise, odour, overlooking, traffic or other forms of disturbance. The policy requires development to incorporate adequate space and adequate/appropriate waste and recycling facilities (these matters are dealt with in the design section above).

Policy PCS2 (noise and vibration) states that development will only be permitted where it does not cause unacceptable increases in noise/vibration that would have a significant adverse impact on health, quality of life, natural/built environment or general amenity. The policy also prescribes that

noise sensitive developments should avoid locations wherever possible where occupants would be subject to unacceptable levels of noise and vibration from an existing noise source.

Industrial and commercial uses are present to the south and immediate east of the site including the Pinesgate office development, Pinesgate Industrial Estate, Sainsbury's petrol station and Sainsbury's car park; there is limited potential for an adverse impact on residential amenity here. To the west of the site are a number of residential properties on Victoria Bridge Road and Stothert Avenue; to the immediate north of the site and immediately adjoining it are a number of residential properties in Albert Crescent, Western Crescent and The Mews; there is the potential for the proposal to have an impact on both of these areas in respect of residential amenity. Further to the east beyond the river is the residential area centred on Norfolk Crescent; there is the potential, albeit limited, for the development to also have an impact on the amenity of these properties.

Planning Committee refused the previous development on the basis that it would result in an "unacceptable adverse impact on the levels of residential amenity currently enjoyed by neighbouring residents in respect of loss of privacy/overlooking". The Planning Inspector considered this matter at length during the appeal process and concluded the following in their decision:

"Drawing matters together, I find that significant harm would not be caused to the living conditions of nearby residents with respect to privacy, sunlight, daylight or noise and that the proposal would therefore be consistent with policy D6 of the DSP that seeks, among other things, to ensure that development achieves appropriate levels of privacy, outlook and natural light to existing occupiers as well as avoiding significant harm to the amenities of such individuals in terms of loss of light, increased noise and overlooking."

Impact to the residential amenity - neighbouring occupiers

There are residential properties located to the immediate north of the site within The Mews which is surrounded on three sides by Western Terrace and Albert Crescent. These residents have the potential to be most impacted by the development given their proximity to the site.

Blocks, A1, A2, and A3 are sited in the northern part of the site and are closest to the adjoining boundary with the aforementioned properties. Blocks A1-A3 range in height from 4 storeys at the eastern and western ends, to 2 storeys within the main part of the block. A Daylight and Sunlight Assessment accompanies the submission.

The BRE guidelines advise that, when assessing any potential effects on surrounding properties, only those windows and rooms that have a 'reasonable expectation' of daylight and sunlight need to be considered. It sets out that the "guidelines given here are intended for use for rooms in adjoining dwellings where daylight is required, including living rooms, kitchens and bedrooms. Windows to bathrooms, toilets, storerooms, circulation areas and garages need not be analysed."

The submitted assessment sets out that the BRE guidance acknowledges that windows with a predominantly northern orientation are unlikely to satisfy its targets and that main living rooms are most important. The study has therefore focussed on the relevant living

areas with windows facing within 90 degrees of due south only. This approach is accepted.

The BRE guidance should be applied flexibly with consideration of a site's context. Its numerical targets can be applied to any development, however in more tightly constrained areas (such as urban areas), achieving the BRE targets can be more challenging. This is recognised within the guidance which defines itself as "advisory".

For buildings that neighbour a new development, the guidance suggests that daylight will be adversely affected by the development, if either; its windows achieve a Vertical Sky Component (VSC) below 27% and have their levels reduced to less than 0.8 times their former value, or the levels of natural sunlight within rooms are reduced to less than 0.8 times their former values.

Western Terrace:

Western Terrace is a four storey building which is located around 5.7m from the site boundary and around 19.1m from block A1 (four storeys). The submitted sunlight and daylight study conclude that it is demonstrated that there is full compliance with the BRE recommendations for all habitable rooms which is accepted. Whilst there will be some change in the outlook from these properties, the development is considered to be of a scale and massing that outlook will not be significantly impacted. The 19m degree of separation is considered sufficient to mitigate potentially significant adverse levels of overlooking in respect of these dwellings.

Albert Crescent:

Similar to Western Terrace, the sunlight and daylight study demonstrates that there is full compliance with the BRE guidance for all habitable rooms with regard to daylight and sunlight which is considered to be acceptable. No.8 Albert Terrace, which borders the north eastern corner of the site is located around 15m from block A1 at the closest point. There is the potential for some loss of outlook and privacy given the proximity of the buildings. However, in an urban built-up area, some degree of overlooking is to be expected and the buildings in this location have been kept to a height of 4 storeys. The angle of no.8 Albert Crescent in relation to block A2 means will also provide some mitigation of direct views. Taking all of this into account, it is not considered that the development would cause significant harm to the occupiers of Albert Terrace.

The Mews:

The Mews is located directly to the north of the site and faces into the development directly. It is located around 5.2m from the boundary and 25m from the northern elevation of block A3. Block A3 is proposed to be two storeys. Again, the daylight and sunlight study conclude that there is full compliance with the BRE guidance for all habitable rooms with regard to daylight and sunlight. The degree of separation and that fact that the proposed dwellings in block A3 are 2 storeys mean that there will not be significant levels of overlooking, nor loss of outlook to these dwellings.

Beau House:

Beau House is located to the west of the site, within the BWR development. Measuring from the site plan it is around 73m from Block B1 which is the 6 storey block in the western part of the site. It is considered to be sufficiently separated from the development so that there will not be a significant loss of light, and this is confirmed by the submitted

assessment. Again, there will be a change in outlook for these residents, but the site is separated from Beau House by amenity space and a wide road and therefore, the impacts are not considered significant.

Palladian Building:

The Palladian Building is also located to the west of the site, to the north of Beau House. This building is located around 41-43m from block A1, separated by Victoria Bridge Road. The assessment demonstrates that all by one room is in full compliance with the BRE guidance. The single deviation occurs in R18 on the lower ground floor, which serves a living/kitchen/dining area. The room presents a reduction of 0.73 of the former value, compared to the BRE guidance threshold of 0.8. This is a slight reduction from the guidance which should be applied flexibly in any given context. The scheme is located within the urban area of bath, where development is dense and built-up. In the context of the scheme as a whole therefore, this slight deviation from the guidance is considered to be acceptable in this case and the development would not result in significant levels of harm in this regard. It should also be noted that the previous permission included built form at a similar distance from these properties and the refusal of the application on the basis of residential amenity was not upheld.

Neighbouring occupier's conclusion:

The assessment concludes that the development would not result in significant levels of overshadowing to the neighbouring occupiers and across the whole development, there is only one neighbouring window which does not comply with the BRE guidance in terms of impacts to daylight and sunlight. This is only just below the guidance, which is not enshrined in policy and should be applied flexible. Construction noise will be temporary and can be controlled by condition. Officers therefore conclude that the development would not result in significant harm to the neighbouring occupiers in accordance with policy D6.

Impact to the residential amenity - future occupiers

Shared living:

The amenity of the future residents of the shared living element of the proposals must also be considered. The concept of shared living is based on smaller levels of private accommodation, and this is supplemented by larger communal amenity areas. It must be acknowledged that the Council does not yet have adopted space standards specific to shared living accommodation, however the approach adopted by some other local authorities and in some relevant appeal decisions has been to apply the minimum Nationally Described Space Standards taking account of both studio and communal areas.

The minimum size for a one-person, one-bedroom dwelling in the Nationally Described Space Standards is 37m². The proposed shared living rooms range from 22m² in size up to 37m². The majority of the units sit at the lower end of the scale. In The Co Living Report (Knight Frank 2024), it was reported that rooms typically surpassed 18.5m² in size and therefore, the size of the rooms in this development appear to be above average. The Design and Access Statement sets out that taking into account the internal and external amenity for the shared living residents, there was 4.9m² per apartment. This equates to around 27m² for each of the smaller apartments when taking both the bedroom and shared spaces into account. The amenity spaces for the shared living units are

concentrated on the ground and first floors, including a south facing terrace for residents on the first floor.

The amount of space (communal and provide) per apartment can therefore be calculated at approximately 27m². Whilst this is 10m² less than the equivalent to the minimum acceptable size of a one-person, one-bedroom dwelling, it must be noted that the Council does not have any adopted guidance or policy in respect of shared living space standards. Local Authorities around the country have differing approaches to space standards. For example, Birmingham City Council's Large-Scale Purpose Built Shared Accommodation SPD sets out that bedspaces should be 25m² and internal shared amenity 4.5m². The London Large Scale Purpose Built Shared Living Accommodation SPD sets out that private units should be between 18m² and 27m², with 3-4m² of private amenity space provided per unit. The scheme falls somewhere between the Birmingham and London guidance, which is not directly applicable for B&NES but can be used as useful guidance for officers.

None of the proposed bedspaces are single aspect north facing and therefore occupants would have access to sufficient levels of natural light. Whilst the room sizes are relatively small, there are considered to be sufficient levels of shared amenity spaces, which are clustered so as to encourage social interaction. In the absence of adopted policy of guidance in B&NES the spaces are accepted.

The studios themselves will be furnished with built in, space saving furniture to ensure residents can make efficient use of their private accommodation. Each studio includes a large window providing good access to light and outlook. The building will be fitted with a mechanically ventilated heat recovery system, providing fresh filtered air without the need for natural ventilation. A Noise Assessment has been submitted demonstrating the building can be constructed to provide an acceptable internal noise climate. This has been reviewed and agreed by the Council's Environmental Health team and would be secured by condition if permission was granted.

Overall, it is considered that there would be sufficient levels of amenity provided

Build to Rent (BTR):

The proposed BTR units are a mix of 1, 2 and 3 bedroom units. There are also large areas of outdoor amenity space proposed to be shared between residents, with a private garden area to the north, and a private/communal garden at podium level in the centre of the development. The apartment sizes are considered to be typical for the development typology and officers do not have concerns about the future levels of amenity for these residents.

Residential amenity conclusion

The residential amenity of neighbouring and future occupiers has been carefully considered. It is considered that the scheme has been thoughtfully designed so as to respect the neighbouring occupiers and there has been much engagement by the developer with members of the public in respect of these matters. The future amenity of occupiers is also considered to be acceptable. As such, the scheme is considered to comply with policy D6.

10. Gull Management

Page 171 of the Design and Access Statement acknowledges that gull management has been considered as part of the design development stage. However, there is no specific detail provided in terms of roof access for example.

A gull management plan will therefore be required which identifies areas of potential nesting and perching points, including defining the specific gull proofing mitigation measures to be applied throughout the development, focussed on each building structures and a maintenance programme. This can be secure by way of a phased pre-occupation condition.

11. Air Quality

B&NES Council declared the Bath Air Quality Management Area (AQMA) in 2002 for exceedances of the annual mean Air Quality Assessment Level for nitrogen dioxide. The closest part of the AQMA is the Lower Bristol Road, which is around 6m to the south west of the site at the closest point.

Policy PCS3 of the Placemaking Plan sets out that development will not be permitted where the proposal gives rise to polluting emission which would have an unacceptable adverse impact on air quality, health, the natural or built environment or local amenity of existing and proposed uses. Development should also not be proposed in locations where it would be at unacceptable risk from air pollution.

An Air Quality Assessment has been submitted with the application, which has reviewed the impacts of the construction and operational phases of the development. It demonstrates that the monitoring is within the air quality objectives and the impact from changes to road traffic during the operational phase is negligible. It also shows that risk to future residents being exposed to poor air quality is not significant.

Emergency generator

The report discusses an emergency backup generator with unknown fuel type to be located on the roof of Block B and will be fitted with Selective Catalytic Reduction (SCR) to reduce NOx emissions. An expected test schedule is given and can be secured by condition. The report recommends that the generator should have a maximum NOx emission rate of 5mg/sec and gives a number of best practice measures which should be followed e.g. contacting receptors with regard to testing; again, this can be secured by condition.

Construction and development of the site

The construction dust assessment (Section 5 and Appendix E), states that the risk of dust soiling is high and low for PM10 health effects but will be reduced to negligible with appropriate dust control measures listed in Appendix E. A Construction Environmental Management Plan can be secured by planning condition.

Air Quality conclusion

Overall, the scheme is considered to comply with policy PSC3 and the objections of the AQMA.

12. Highways

The proposal has been assessed against the relevant transport policy requirements set out in the Local Plan Partial Update; in particular policies ST1 and ST7. Additionally, the Transport and Development Supplementary Planning Document (SPD) provides relevant guidance relating to walking, cycling, parking standards ultralow vehicle emissions and travel plans.

The Highway Authority requires that any future transport evidence submission should use the "Decide and Provide" approach to assessment. This aligns with the LPPU policy requirements and seeks to ensure that there is a good range of travel opportunities and a genuine alternative to private car usage. A comprehensive review of the travel demand generated by active travel and public transport use is a fundamental element of the assessment approach. This is emphasised by the requirements of policy ST7, which explains the approach to managing the transport needs relating to new development.

The recently published guidance from the Department of Transport Active Travel England agency also provides direction in how active travel requirements for new developments should be considered, and the guidance presented is relevant to the assessment of the current proposal.

The scheme has therefore been assessed against these policy requirements, and a key consideration is how the proposal would affect travel across the wider area. This is reviewed in detail within the following section.

Site Vehicular Access

The proposed site access arrangements are broadly consistent with the scheme that was considered by planning application 20/00259/FUL, allowed at appeal. There was no highway objection to the previous scheme.

The proposed vehicular access to the site would be taken from the existing access, formed by a junction with Stothert Avenue. Due to an established "right of way" with an adjacent land owner (Sainsburys), there is a route for traffic passing through the site, however, it is likely that these flows will be very low and will probably reduce over time. The scheme has been designed to ensure that traffic speeds are managed throughout the site, and this should help to ensure that pedestrians and cyclists would have some priority over vehicles moving through the same space.

Access to the main car parking area within the site is located a short distance from the junction with Stothert Avenue, and this should help to ensure that most of the development space is lightly trafficked.

Pedestrian Access

The submission is supported by an assessment of the local pedestrian network, and this has been included within the Transport Assessment (TA) document. This includes the relevant Active Travel England assessment toolkit and the Council's own Active Travel

Checklist. There are no significant concerns with this approach, and the site is clearly well connected with the surrounding pedestrian infrastructure.

The pedestrian surveys, as summarised within the TA, demonstrate that the local routes already cater for a significant number of pedestrians, and the enhancement of the routes would be an important element of the proposal. There are no significant concerns regarding the proposed pedestrian arrangements, however, with changes being proposed to the site boundary there is a need to consider the detail of the Stothert Avenue boundary in some detail. Plan TA-03 shows the land ownership arrangements, and that the boundary along Pines Way will be separated from the adopted highway by third party land. The site boundary along the southern part of Stothert Avenue will abut the highway, and this will be opened to improve pedestrian access. There is likely to be a need to rearrange existing street furniture in response to changes at this location, and also to consider whether pedestrian crossing infrastructure, such as tactile paving, also needs to be adjusted.

Cycle Access

The submitted TA summarises the existing cycle network facilities that are located in the surrounding area and also reviews how the cycle routes through the proposed site access junction would be facilitated. There is need to ensure that the scheme can accommodate the relevant policy requirements, and LPPU Policy ST2 identifies the need to safeguard a key strategic cycle route through the site. As originally proposed, it was considered that the proposals did not deliver a reasonable cycle connection through the site. The originally proposed alignment along Stothert Avenue would not have been convenient for the majority of cyclists using the route, and it is not clear how the junction with Stothert Avenue could be adapted to safely accommodate cyclists.

Revisions and further documentation were submitted in response to the concerns raised by Highways Officers in respect of the cycle connections through the site. This documentation further reviews the opportunities to provide the local policy requirement for the delivery of this key cycle route and reviews the options for providing this section of the route. It is recognised that there are various third-party land interests that will directly affect the delivery of the route in the development scenario and in the future, should adjacent land parcels come forward for redevelopment.

Due to the importance of this section of the Policy ST2 Cycle Route, the arrangement presented within TA-17 raises some concern. In particular, it is likely that cyclists would ignore this alignment option, and that the more direct route at the north western corner of the site would be used. That clearly has some safety concerns, and conflict with pedestrians is a risk. In addition, the proposed route would have to utilise the main vehicular access to the site, and this also raises road safety concerns with increased interaction with vehicles accessing the site, parking activity and also using Stothert Avenue.

The Highway Authority has consistently raised concerns regarding the missing cycle route connection to the west of the site. Officers note that the developer has approached the adjacent landowner (Crest Nicholson) and discussions with them are ongoing with regard to delivering this connection. Officers accept that the developer has been making

reasonable effort to resolve this issue and that land ownership matters are, to some extent, out of their control.

Should there be no reasonable prospect of achieving a cycle link connection across this section of land (and it appears unlikely that this position would change over time), the Highway Authority would recommend that there needs to be a comprehensive review of how the Policy ST2 route can be delivered.

The applicant has now provided further information relating to the delivery of the cycle route, including Drawing SK29, which shows how a cycle connection could be delivered on adjacent land. Officers have always accepted that some co-ordination will be required with landowners and a clause in the S106 agreement is suggested to ensure that these conversations continue following the granting of planning permission. The alternative route is therefore, on balance, accepted through the site.

Framework Travel Plan

The latest submission recommends that, given the site location and the very low car parking provision for all commercial uses, there would be no requirement or purpose for a full Travel Plan relating to these uses. Due to there being no potential for any travel mode shift away from private car use associated with these commercial land uses, this is considered to be acceptable in this instance.

Travel Plan Implementation

The Transport and Development SPD sets out that whilst developers will be responsible for the production of a Travel Plan for approval as part of the planning application process, there are two options available for the implementation of approved travel plans.

It has been confirmed that the applicant will implement the Travel Plan, as described by Option 2 of the adopted Transport & Development Supplementary Planning Document. It is confirmed that the calculated Travel Plan Bond for the proposed 275 apartments for the rental market is £213,125.00 plus the non-refundable monitoring fee of £4,775.00. However, the applicant now proposes that this is reduced, given the type of development proposed, the site location and also the lower level of car parking that is proposed. The applicant proposes £37, 100 plus the non-refundable monitoring fee. The calculation is based on a total of 120 hours of officer input per year and the financial elements are developed using the cost rates presented in the SPD. An allowance has also been made for survey costs, using TRICS. The approach has been agreed with Highways Officers and the bond is considered to be an acceptable amount.

Highways Conclusion

Whilst the proposed cycle access route does not follow the direct line of ST2, as set out in diagram 10 of policy SB7, Officers recognise that discussions with landowners are ongoing and there is potential for this to be delivered. The alternative proposed has been accepted by the Highway Authority, on the proviso that the S106 agreement secures ongoing discussions which has been agreed with the applicant. As such, there is no highway objection to the proposals and the scheme is, on balance, considered to comply with the relevant highway policies.

13. Ecology

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be permitted. For all developments, any harm to the nature conservation value of the site should be avoided where possible, before mitigation and/or compensation is considered. In addition, Policy NE3a of the Local Plan Partial Update relates to Biodiversity Net Gain (BNG). In the case of major developments, a BNG of a minimum of 10% must be demonstrated using the latest DEFRA metric (or agreed equivalent), by a suitably qualified and/or experienced ecologist. BNG will be secured in perpetuity (at least 30 years) and a management plan will be required detailing how the post-development biodiversity values of the site will be secured, managed and monitored in perpetuity. This is a mandatory requirement as set out by the provision of the Environment Act (2021); this must be secured by way of condition as set out in Schedule 7A to the Town and Country Planning 1990 Act.

Ecological Assessments

The submitted Ecological Assessment (October 2024) sets out the ecological context of the site. A previous assessment was undertaken at the site in 2020 prior to the demolition of the Homebase building, which overall deemed that the site had low potential for protected and notable species and habitats. The current assessment provides an update to this and includes a desk study, Extended Phase 1 Habitat Survey, initial bat scoping assessment, habitat assessment of the site and immediate environs and an initial assessment of buildings and trees for their potential to support roosting bats.

The conclusions of the survey findings and recommendations are accepted by officers. Details include proposed measures for the protection of two rare species of spider that were recorded at the site (*Philodromus buxi* and *Cryptachaea blattae*), including pre-construction mitigation measures. These are supported and can be secured by way of planning condition.

Biodiversity Net Gain

The submitted Biodiversity Net Gain (BNG) baseline habitats plan and assessment is accepted. The baseline assessment does not include use of the watercourse module, which is accepted, as the site boundary lies just beyond the edge of the 10m riparian zone at its nearest point. As originally proposed, the BNG metric failed the trading rules. An updated BNG report (BMD, February 2025) acknowledges the requirement for the trading rules to be met and that, consequently, there will be a need to purchase off-site units. This is accepted and can be secured by way of the standard BNG pre-commencement condition.

The landscaping plans are, at this stage, indicative and full landscaping details are proposed to be secured by condition. It will be essential for the landscaping design and final details of on-site BNG provision to be in accordance with one another.

Overall, with the purchase of off-site units to meet the trading rules, the site will meet the 10% biodiversity net gain requirement and complies with the provisions of the Environment Act and policy NE3a in this regard.

Lighting and Habitats Regulations Assessment

The proposed development site lies in close proximity to the River Avon, which is a Site of Nature Conservation Interest (SNCI) providing high value for ecology including aquatic ecology and associated riparian habitat and use by a wide range of aquatic and non-aquatic wildlife and including protected species.

Species known to use the river corridor through Bath include a wide range of bat species, and these include light sensitive species such as horseshoe bats, which are considered to be associated with the Bath and Bradford on Avon Special Area of Conservation (SAC). Indeed, the River Avon itself provides supporting habitat to the SAC. As such, consideration is required to Regulation 63 of the Habitats Regulations, and the risk of any impact of a "likely significant effect" from the development on the SAC, or supporting habitat to the SAC, SAC bats or their activity.

As originally submitted, the lighting information indicated that the light spill may exceed ecologically acceptable thresholds onto the River Avon and the risk of a "likely significant effect" could not be ruled out. In response, additional lighting information has been submitted by the applicant including an updated "Lighting Pollution Statement" (Atelier Ten, version P05, March 2025) which includes a calculation illustrating how light spill from within buildings is predicted to impact an area that does not extend beyond a distance of 9.07m from a building. This information is additional to the "External Lighting Calculations" provided within Appendix A of the "Lighting Pollution Statement".

The calculations provided are based on indicative lighting plans but are considered sufficient at this stage to demonstrate the ability of the scheme to control light spill to within acceptable thresholds, such that the scheme will not harm the suitability of the River Avon and bankside habitats for use by SAC bats.

A Shadow Habitats Regulations Assessment has been submitted (BMD, March 2025) and whilst the conclusions regarding the ability of the scheme to avoid harmful levels of light spill onto the River Avon are supported, the document also contains errors and statements which are unsupported. It is therefore recommended by the Council's Ecologist that the Local Planning Authority do not adopt this document in its entirety as the Habitats Regulations Assessment for the scheme.

A HRA has therefore been produced by the Local Planning Authority as the Competent Authority. It is concluded that subject to suitable mitigation measures to ensure lighting design, use and light-spill levels onto the River Avon are controlled for the lifetime of the development (which can be secured by way of condition), the scheme will not have an adverse effect on the Bath and Bradford on Avon SAC, or supporting habitat to the SAC, either alone or in combination with other plans or projects.

Natural England have reviewed the HRA produced by the Local Planning Authority and concur with the assessment conclusions, providing that all mitigation measures are appropriately secured.

The scheme is therefore considered, subject to recommended conditions, to be ecologically acceptable.

14. Arboriculture

Local Plan Partial Update policy NE6 has regard to trees and woodland conservation. Development should seek to avoid adverse impacts on trees and woodlands of wildlife, landscape, historic, amenity and productive or cultural value, as well as appropriately retaining trees and providing new tree planting. Development will only be permitted where it can be demonstrated that adverse impacts on trees are unavoidable to allow for development and that compensatory provision will be made in accordance with guidance within the Planning Obligations Supplementary Planning Document (2023). Development proposals which directly or indirectly affect ancient woodland, and ancient or veteran trees will not be permitted.

The existing Homebase car park contains a significant number of young/semi-mature Lime trees scattered across the site; these are mostly defined in the submitted Arboricultural Impact Assessment (AIA) as Category C trees (low quality). There are a number of semi-mature trees alongside the River Avon; these are identified as Category B and C trees (medium and low quality). Also, off-site, within the adjoining Sainsbury's car park, is an avenue of mature London Plane Trees (mostly Category B trees) protected by a Tree Preservation Order (TPO). These are proposed to remain as existing.

The scheme proposes the removal of 39 trees, this is less than the 43 proposed to be removed under the previous scheme. The majority of the trees to be removed are young specimens. The landscape scheme proposes 72 replacement trees across the site which exceeds the number required by the Council's tree replacement strategy. The policy requires 64 trees to be provided. As such, the additional tree planting over and above this requirement is welcomed.

In response to the Arboricultural Officers original comments, a combined services plan has been provided and has been referred to within the Arboricultural Impact Assessment. This is supported.

There is concern from the Council's Arboricultural Officer in respect of retained trees beyond the red line boundary and windows serving the southern elevation in building C. This concern is also the same for the separation distance between Building D and the four London Places to the south of the site. These London Planes are subject to a TPO ((Ref: 500/297). The proposals are therefore likely to result in the need for pruning and cutting back of the trees adjacent to the southern elevation of Block C and the London Planes. This matter was addressed within the officer report for the previous scheme at the site, which concluded that "whilst the Arboricultural Officer's comments are noted, the need for the overhanging foliage to be pruned does not amount to an existential risk to the trees, The Tree Protection Plan and Arboricultural Impact Assessment will ensure the ongoing protection of these trees during demolition, construction and going forward, albeit pruned. The application accords with Policy NE6 in respect of arboricultural matters."

It is somewhat disappointing that this matter has not been addressed within the current scheme. It is noted that there has been some amendment to the policy context for the

current proposals and policy NE6 was updated as part of the Local Plan Partial Update. However, the updates are not of an extent which would allow officers to draw a different conclusion to the previous permission. Increasing the distance between blocks C and D and the offsite trees would have significant implications for the design and layout of the proposals. Officers do not, therefore, consider that in the context of the allowed appeal, this would form a reason for refusal and conclude that the scheme complies with NE6.

15. Parks and Green Spaces

The Planning Obligations Supplementary Planning Document includes Green Infrastructure, Green Space and Recreational Facilities. The Green Space Strategy (2015) provides the evidence base for the supply of recreational green space in the area of the development related to the existing and projected population. Local Plan Partial Update policy LCR6 (new and replacement sports and recreational facilities) and Placemaking Plan policy LCR9 (increasing the provision of local food growing) provide the policy requirement for development to meet the recreational green space demands generated from proposed development.

Green Space Demand Assessment

The submitted proposals, assuming that the shared living units are single occupancy and applying a 2.3 population multiplier to the Build to Rent element, generate an estimated population of 813 people. This new population will generate the demand for the following quantities of green space:

Allotments - 2439m²
Amenity Green Space - 2439m²
Parks and Recreation grounds - 10569m²
Play Space (Children) - 406.5m²
Play Space (Youth) - 243.9m²
Natural Green Space - 10569m²

This totals 26,666.3m² or 2.67 hectares of green space.

On-site Greenspace

Policy SB7 indicates through the concept diagram and design requirements and principles, that full provision of green space will not be expected to be provided on this site. A combination of on-site provision and off-site improvements will be necessary to meet resident's recreational needs for green space.

Integrated play spaces are proposed within gardens and along the walking routes to offer the opportunity for doorstep play and play on the way. Paragraph 7.78 of the Planning Statement states that the proposal includes c.450m² of integrated play space. Planting beds for community food growing are also proposed within the communal gardens, as well as fruit trees within the private / semi-private spaces. This is supported in principle and detailed plans can be conditioned.

Play provision within the public realm will also need to be secured by condition for the

use by the wider public and maintained to the reasonable satisfaction of the council. Details can be contained within the LEMP.

Existing provision

The Green Space Strategy (2015) has assessed the existing supply of Park and Recreation Grounds in the Widcombe ward to be in deficit of -3.18 hectares. Elizabeth Park was constructed on the adjacent development. This will not, however, remove the deficit in the area of this development.

Remaining Unmet Demand for Green Space Typologies

The development proposal does not provide the full range and quantities of public green space to meet the demands generated from new residents and is reliant on existing off-site provision for recreational needs.

Policy LCR6 provides that where new development generates a need 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 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.

S106 Green Space Project Contribution

The demand for recreational green space can be met through a S106 contribution; such a contribution was secured for the previous permission for the site. The CIL L Regulations requires that S106 contributions are used for an identified project related to the development. The Bath River Line is an urban green infrastructure project which aims to form a continuous 10km linear park through the heart of Bath. The project aims to connect and improve green spaces, including those at Norfolk Crescent and Green Park. Both green spaces are within walking distance of the development. The project also aims to improve wayfinding and interpretation and create a high-quality route for walking and cycling. In addition, by the time the proposals come to fruition, there will likely be other projects within the vicinity that contributions could fund or partially fund.

The required contribution is calculated to be £897, 836.60. It is considered that this contribution passes the CIL 122 tests in that:

- It is necessary to make the development acceptable; the scheme cannot meet its green space requirements on site, and the contribution therefore ensures compliance with policy LCR6.
- Directly related to the development; the contribution is related to the development in that it will provide a contribution to off-site green space within the proximity of the site.
- Fairly and reasonably related in scale and kind to the development; the contribution will be used for off-site green space and has been calculated on the basis of estimated population generated.

The developer has agreed to this contribution and therefore, the scheme is considered to comply with the relevant green space policies.

16. Education

The proposed development has the following generated education need, as calculated by the Council's Education Services Team, based, on the housing mix:

1.118 Early Years children aged 0-1
0.979 Early Years children aged 2
4.194 Early Years children aged 3-4
8.260 Primary School Age Pupils

Current figures relating to the numbers of Early Years children and Primary School pupils and to available Early Years and Primary school capacity in the area of the development indicate that the children and pupils generated can be accommodated within existing provision. There is no objection from Education Services and no requirement for S106 contributions in this regard, given the generated pupils can be accommodated.

17. Flood Risk and Drainage

The application site sits alongside the River Avon which is an Environment Agency Main River. The majority of the site falls within land identified by the Environment Agency as being at a medium risk of flooding i.e. Flood Zone 2. Flood Zone 2 is land identified as having between a 1 in 100 years and 1 in 1000 years risk of flooding. A small part of the site is identified as being within Flood Zone 1 i.e. low risk and this is located within the centre of the site, and the south western corner.

Policy CP5 of the Core Strategy deals with flood risk management. This policy requires development to follow a sequential site-selection approach to ensure that vulnerable development avoids areas at risk of flooding; the policy explicitly directs development away from areas at the highest risk of flooding. In addition, Policy CP5 requires that where development does go ahead in areas at risk of flooding it be made safe throughout its lifetime.

The NPPF sets out that a sequential risk-based approach should be taken to individual applications in areas known to be at risk now or in future from any form of flooding. It goes on to confirm at paragraph 180 that where applications come forward on allocated sites, the application of the sequential test is not necessary (because it has already been undertaken at the plan-making stage). As stated above the application site forms part of the Sydenham Park mixed-use allocation pursuant to Placemaking Plan Policy SB7; the sequential test is not necessary.

Notwithstanding the fact that a sequential test is not required, it is necessary for the development to be appropriately flood resistant and resilient; incorporate sustainable drainage systems; residual risk managed safely and; that safe access and escape routes be included, in accordance with paragraph 181 of the NPPF. To this end, the submission is supported by a Flood Risk Assessment (Hydrick, 2nd October 2024). An outline drainage strategy has also been submitted. This has been assessed by both the Lead Local Flood Authority and the Environment Agency, both of which have no objection to the proposals.

The submitted FRA concludes that the site is at "low" risk from fluvial flood sources (i.e., river flooding), as well as surface water, groundwater, sewer and artificial sources of flooding. The residential finished floor levels are to set at 600mm above the modelled 100-year flood event (plus a 35% allowance for climate change). A small area of floodplain compensation has also been incorporated within the landscaped area to the north of the site to offset against the raising of some of the external levels.

The submitted outline drainage strategy employs sustainable drainage elements. It confirms that betterment will be provided compared to the existing development with a reduced discharge rate and an increased standard of surface water attenuation based on the critical 1 in 100+45% climate change event. This is accepted in principle and a detailed strategy can be secured by condition.

The development therefore complies with policies CP5 and SU1.

18. Archaeology

Policy HE1 seeks to safeguard the district's heritage assets including archaeological remains. It requires therefore, amongst other things, for archaeology to be sustained and enhanced and sufficient information to be submitted demonstrating how development proposals will contribute to an asset's conservation. Furthermore, the policy is clear that great weight is to be given to the conservation of a heritage asset and that any harm must be justified as well as weighed against the public benefits. More specifically to archaeology, Policy HE1 requires scheduled monuments or archaeology of equivalent significance to be preserved in situ; if this is not possible provision must be made for the remains' excavation and recording.

This site was subject to archaeological evaluation in 2019 prior to determination of planning application 20/00259/FUL. The results indicated much of the site had been subject to disturbance that had removed or heavily impacted any significant archaeology. One trench, located in the north-west of the site revealed the presence of a possible Roman road (a postulated line of the Fosseway). This feature appeared to have been impacted by 20th century demolition works but was still considered of some significance as it relates to activity associated with Roman period Bath.

Further excavations of the feature in October of 2024 took place based on a Written Scheme of Investigation that involved extending the original trial trench to ensure a full record of the possible road. The excavations showed that the road in this area had been somewhat impacted by later development but still retained its lower surfaces and filled in side ditches. The road was encountered at c.2.5m depth and continues north from the excavation area into an area designated as landscaping within the development layout. As well as the road a partial stone structure was recorded laying underneath the landscaping area. As this northern continuation will be preserved under the landscaping scheme no further investigation took place of the structure.

The excavation fully recorded the road and associated ditches in the area where possible impacts will take place, and no further investigation is warranted. In order to ensure that post-excavation analysis and publication of the results of the investigation a condition can be attached to permission that requires the developer to confirm funding for this work.

19. Contaminated Land

The application site as stated above has been in a variety of industrial uses throughout the 19th and 20th centuries; the potential for ground contamination and associated risks is therefore clear. Furthermore, the site is identified as a 'Site of Potential Concern', in respect of contaminated land, in the council's records.

Policy PCS1 (pollution and nuisance) prescribes that development will only be permitted on the proviso that there is no unacceptable risk to the development from existing or potential pollution sources as well as no unacceptable risks of pollution arising from the development itself. Policy PCS5 (contamination) states that development will only be permitted on land known to be, or suspected to be, strongly contaminated provided that there is no significant harm or risk of significant harm to health or the environment; appropriate remediation measures are in place and harm can be suitably mitigated.

A suite of documents was submitted within the previous planning application including a Phase 1 and Phase 2 Risk Assessment, a Remediation Implementation Plan, and a Controlled Waters Risk Assessment. The Council's Contaminated Land Officer agreed that further investigation was required, including in areas previously inaccessible due to the presence of the Homebase building.

It was not clear from the submission whether an existing culvert was investigated, or whether an investigatory trawl exercise to inspect the ground areas of concern for underground tanks and structures had taken place as part of any enabling works. The applicant confirmed in an email on the 24th January 2025 as follows:

"From the information shared by the previous owner during the acquisition of the site we do not believe that the culvert or surrounding area were investigated, however this is something we will be doing to understand ground conditions if we are successful with the planning application.

This is the same position for the investigatory trawl exercise to inspect the ground in areas of concern for underground tanks and structures and associated contamination."

This is accepted and can be secured by the conditions recommended at the end of this report. The Environment Agency have been consulted in respect of the Controlled Waters Risk Assessment and the Foundations Works Risk Assessment which relate to the risks to Controlled Waters posed by the development. They have raised no objection in this regard.

The County of Avon Act gives Bath and North East Somerset Council (B&NES) powers to protect the natural thermal springs that arise under artesian pressure in the centre of Bath, from damage that could result from excavations, piling operations or boreholes in the Bath area.

The areas of protection form three concentric zones. Within these zones consent from the Council is required for excavations of depths below the surface of the natural ground, exceeding 5m in the central zone around the Hot Springs, 15m in the zone along the river valley, and 50m in the outer zone as shown on the County of Avon Act map on the B&NES Council Website. These are labelled as zones A, B & C respectively on the Avon Act map.

The site is within Zone A of the County of Avon Act, where excavation in excess of 5m below ground level requires prior consent of the Council. The County of Avon Act gives Bath and North East Somerset Council (B&NES) powers to protect the natural thermal springs that arise under artesian pressure in the centre of Bath, from damage that could result from excavations, piling operations or boreholes in the Bath area. An informative will be added in to the decision notice.

It is noted in Section 6 (Foundation Design/County of Avon Act) of the Construction Phase RIP and Foundation Risk Assessment that the following is required "details of the final foundation solution and any consents obtained under the County of Avon Act for works >15.0 m BGL." As detailed above, the site is within Zone A of the County of Avon Act, where excavation in excess of 5m below ground level requires prior consent of the Council.

Subject to a condition securing a verification report and reporting of any unexpected contamination, the scheme is considered to comply with the relevant contaminated land policies.

20. Sustainable Construction

The scheme provides is a mix of residential and non-residential development and policies SCR6 and SCR7 are applicable to the scheme. Additionally, the scheme is considered to be large-scale development according to the Council's Sustainable Construction SPD and therefore the scheme must be assessed against policy SCR8.

Policy SCR6 of the Local Plan Partial Update has regard to Sustainable Construction for New Build Residential Development. The policy requires new residential development to achieve zero operational emissions by reducing heat and power demand, then supplying all energy demand through on-site renewables.

The policy sets out that the space heating demand must be less than 30kWh/m2/annum and the total energy use less than 40kWh/m2/annum.

Block A

Block A will meet the space heating demand requirement, with a predicted demand of 10.4kWh/m2/annum which is well below the policy requirement. The total energy use is 47.2 kWh/m2/annum which is slightly above the 40kWh threshold set by the policy. Additionally, the renewable energy generation requirement will not meet the total energy use, as this is predicted to be only 10.5kWh/m2/annum.

Block B1

Block B1 will also meet the space heating demand, also being under the policy requirement substantially at 5.8 kWh/m2/annum. Block B1 will also meet the total energy use requirement, with a predicted demand of 37.2 kWh/m2/annum. As with Block A, Block B1 does not achieve the renewable energy generation requirement, with no energy generation proposed.

The Block B1 amenity spaces have been modelled separately at the requires of officers. They fall under the policy requirement of the space heating demand, but do not meet the energy use requirement and no renewable energy generation is proposed.

Block B2

Block B2 meets the space heating demand requirements and the total energy use requirements in accordance with policy SCR6. However, it does not achieve the renewable energy generation requirement of matching the total energy use, with only 3.4 kWh/m²/annum generation proposed.

Block C

Block C meets the space heating demands but does not achieve the total energy use target nor renewable energy generation target.

Block D

Block D is similar to Block C in that the space heating demand is met, but not the total energy use target, nor renewable energy generation target.

The above demonstrates that whilst the scheme generally complies policy SCR6 in terms of meeting the space heating demand requirements, the total energy use and renewable energy requirements are not met across the majority of blocks.

The Sustainable Construction SPD sets out at page 3 that in the case of major developments where the use of on site renewables to match total energy consumption is demonstrated to not be technically feasible (for example with apartments or economically viable, renewable energy generation should be maximised and the residual on site renewable energy must be offset by a financial contribution paid into the Council's Carbon Offset fund.

The development is a high density development which is largely apartment style dwellings. It is considered that in this regard, renewable energy generation to match the energy consumption is not technically feasible within the available onsite space particularly when considering other requirements such as on-site amenity/open space, landscaping and tree planting. Consideration must therefore be given as to whether onsite renewable energy generation has been maximised. The heritage section of this report clearly sets out the sensitivities of the site, particularly with regard to its impacts upon the attributes of the OUV of the World Heritage Site. The roofscape in particular is working hard to satisfy a number of competing material considerations, including the housing of solar photovoltaics and plant material and ensuring there are sufficient roof pitches so that heritage harm is reduced particularly with regard to views into the site from the green hills which surround the city. This limits the availability of roof space for solar photovoltaics. It is therefore accepted that the opportunities for on-site renewables have been maximised in this regard. A contribution to the Council's Carbon Offsetting fund is therefore required and this is further discussed below.

With regard to the total energy use requirements not being met, paragraph 4.10 of the Sustainable Construction SPD states the following:

"All dwellings within the development must meet the energy use, space heating and on-site renewable energy generation requirements individually (i.e. targets cannot be averaged out across the whole development). Non-compliance of individual dwellings will only be considered in exceptional circumstances. In these circumstances, a valid justification must be provided setting out the constraints and mitigating factors in Table 11. Only in exceptional circumstances, where it is clear that all on-site opportunities have been maximised, will non-compliance and/or offsetting (for major development only) be considered."

Table 11 of the Sustainable Construction SPD details that if non-compliance is proposed on the grounds of viability or technical feasibility, a viability assessment or technical rationale is likely to be required. The Energy and Sustainability report (March 2025) sets out that the total energy use falls short of the policy requirement to the due high unregulated energy consumption, which includes things like appliances and the use of white goods. The Council's Climate Policy Officer considers that changes could be made to the scheme to reduce the total energy consumption, and this could include measures such as triple glazing, reducing air permeability and improving the mechanical ventilation heating recovery system performance. Discussions were held with the applicant regarding these matters and a summary of their responses is presented below.

Triple Glazing:

Using triple instead of double glazing presents limited energy savings when compared to double glazing and would significantly increase the build costs of an already unviable development.

Reducing air permeability:

Reducing the air permeability could result in air quality and condensation risk issues, as well as significantly increasing build costs. Again, this would not significantly increase energy savings as the mechanical ventilation and heating recovery (MVHR) units are already recovering most of the heat from ventilation.

MVHR System performance:

The proposed MVHR units being proposed are one of the highest performing on the market.

A viability assessment, as discussed earlier within this report, has been submitted which shows that the scheme is unviable. Increasing the build costs by introducing the measures set out above would further impact upon the viability of the scheme and could impact upon the current affordable housing contribution or and the delivery of the scheme as a whole.

Given the overall viability position of the scheme, it is considered that in this specific case there are exceptional circumstances which exist to allow officers to consider that all on site opportunities have been maximised and non-compliance/offsetting can be considered in this case.

Moving to the commercial units, policy SCR7 of the Local Plan Partial Update has regard to Sustainable Construction for New Build Non-Residential Development. The policy requires sustainable design and construction to be integral to all new development in

B&NES. Major development is to achieve a 100% regulated operational carbon emissions reduction from Building Regulations Part L 2013 (or future equivalent legislation).

The submitted information proposes a 28.2% which is substantially short of the 100% required.

The Sustainable Construction Checklist, as above, sets out that a carbon offsetting contribution can be considered where onsite opportunities have been maximised. For the reasons set out above, it is considered that a contribution is appropriate.

The contribution, using the residual carbon, has been calculated at £367,245 and this has been accepted by the developer.

Overall, therefore, whilst the scheme does not meet the requirements of policies SCR6 and SCR7 in terms of energy demand and carbon emissions reductions. However, the SPD does set out that in circumstances where officers consider that all opportunities for onsite renewable energy generation have been maximised or where there are exceptional circumstances having regard to viability, there is scope for non-compliance to be accepted or an offsetting payment to be paid. An offsetting payment has been agreed and therefore officers conclude that the development meets the aims of the sustainable construction policies in this regard.

Policy SCR8 of the Local Plan Partial Update relates only to large scale new-build development (a minimum of 50 dwellings or a minimum of 5000m² of commercial floor space). Such developments are required to submit an Embodied Carbon Assessment, having regard to the SCC SPD, which demonstrates a score of less than 900kgCO₂e/m² can be achieved within the development for the substructure, superstructure and finished.

The proposed embodied carbon emissions of 634kgCO₂e/m²/year for modules A1-A5 meets the policy requirement of less than 900kgCO₂e/m² for the substructure, superstructure and finishes. Therefore, the proposal is considered compliant with Policy SCR8.

Policy SCR5 of the 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.

21. Planning Obligations

The development will generate Planning Obligations requirements, in accordance with the Council's Planning Obligations SPD. Some of these have been discussed in the report, but for absolute clarity the following list provides a summary:

- Affordable housing commuted sum of £1,000,000
- Contribution towards fire hydrants (£2, 307 per hydrant, + VAT)
- Contribution of £33, 275 towards Targeted Training and Recruitment
- Travel plan bond of £37, 100 plus a £4, 775 non-refundable monitoring fee
- Reasonable endeavours to secure a cycle route access via Crest Nicholson Land
- Contribution of £897, 837 towards off-site green space
- Contribution of £367, 245 towards the Council's carbon offsetting fund

The above contributions are considered to meet the CIL Regulation 122 tests for the reasons set out in the report above. The applicant has agreed to the above.

22. 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.

Officers have had due regard to these matters when assessing this application and have concluded that neither the granting nor the refusal of this application would be likely to have an impact on protected groups and, therefore, that these considerations would not weigh in favour of or against this application.

23. Planning Balance and Conclusions

The application site forms part of the wider 'Sydenham Park' site which is allocated for mixed-use redevelopment pursuant to Policy SB7 of the council's adopted development plan. The mix of uses proposed accords with the schedule of uses prescribed by Policy SB7 and the quantum of each use is proportionate to the size and nature of the application site as well as to the remaining elements of the Policy SB7 allocation. The scheme will not compromise the remainder of the Policy SB7 allocation coming forward for development and it is considered that there would be sufficient land remaining within the allocation area for the policy quantum and mix of uses to be realised.

The scheme before Committee is the culmination of an iterative process with the Local Planning Authority and the scheme has evolved significantly since inception. It is considered that the proposals are an architecturally appropriate response to the site's context, with a nod to the industrial heritage of the area. Whilst a degree of harm has been identified to attributes of the OUV of the World Heritage Site, the level of harm is considered to be less than substantial. Historic England have confirmed that they consider it to be at the "lower end" of less than substantial, if there was a scale as such. The report has set out numerous benefits of the proposals which are considered to outweigh this harm.

It is critical that these benefits are fully considered as part of the assessment, as they themselves are material considerations. The site represents a brownfield site, in a sustainable city location. The NPPF sets out at paragraph 7 that the "purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development and supporting infrastructure in a sustainable manner". It also notes (paragraph 129) that planning decisions should "support development that makes efficient use of land, taking into account the identified

need for different types of housing and other forms of development...". The proposed development forms part of a wider allocation and maximises development opportunity on this site, whilst achieving compliance with other relevant planning policies.

Additionally, the proposals will contribute to affordable housing. Whilst the level of affordable housing is not 30% due to the agreed financial viability position, the commuted sum of £1 million should still be given significant weight as a benefit of the proposals.

The scheme will also deliver on key active travel routes, which will help to connect developments to the west with the city to the east. There are also employment benefits associated with the construction and operational phases.

Although now lapsed, the context of the previously approved scheme (at appeal) is also a material consideration. The development is different; however, it is important to consider the Inspector's comments with regard to heritage harm and the benefits of the proposals, which have been set out in detail within this report. Critically, this appeal decision aids the setting of parameters for the design of the scheme, and it is considered that the current proposals largely conform to the views of the previous inspector.

Officers therefore consider that the scheme presented will result in a high quality development within an allocated site which significantly contributes to the housing supply within Bath.

"Section 70(2) of the Town and Country Planning Act (1990) makes clear that a Local Planning Authority must have regard to "the provisions of the development plan, so far as material to the application" and "any other material considerations". Further, 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".

As set out in the "principle of development" section of this report, officers consider that this development for housing would engage paragraph 11 of the NPPF, given that the Council cannot currently demonstrate a 5-year housing land supply. It is not considered that the application of policies in the Framework that protect assets of particular importance (as set out in footnote 7 of the NPPF, including the World Heritage Site) would provide a strong reason for the refusing of granting permission given the public benefits of the proposals. Additionally, it is not considered that there would be adverse impacts of the scheme which would significantly and demonstrably outweigh its benefits. The scheme is considered to be policy compliant.

As such, officers recommend the application for permission, subject to the conditions set out below (or such conditions as may be appropriate) and the securing of the necessary obligations within the Heads of Terms by way of a legal agreement.

RECOMMENDATION

Delegate to PERMIT

CONDITIONS

0 A.) Authorise the Head of Legal and Democratic Services to enter into a Section 106 Agreement to cover the following:

1. Affordable Housing/Commuted Sum of £1,000,000 commuted sum
2. Contribution towards Fire Hydrants.
3. Contribution of £33,275 towards Targeted Training and Recruitment.
4. Travel Plan bond of £37,100 over 5 years plus the monitoring fee of £4,775.
5. Reasonable but commercially prudent endeavours to secure a cycle route access via Crest Nicholson Land to the west of the site.
6. Contribution of £897,837 towards Parks and Recreation
7. Contribution of £367,245 towards the Council's carbon offsetting fund.
8. Monitoring fees contribution £486 per obligation

B.) Subject to the prior completion of the above agreement, authorise the Head of Planning to PERMIT subject to Conditions (or such conditions as may be appropriate):

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 Phasing Plan (Pre-commencement)

No development shall commence, excluding investigation, site clearance and other enabling works until a phasing plan defining distinct areas of the site and the order in which these will be delivered has been submitted to and approved, in writing, by the Local Planning Authority. Thereafter the construction of the development hereby approved shall not precede other than in accordance with the approved details.

Reason: It is necessary that the stages of development and the provision of associated public services and infrastructure follow a co-ordinated sequence. This is a pre-commencement condition because otherwise development may commence outside of the agreed co-ordinated sequence.

3 Biodiversity Net Gain Plan (Pre-commencement)

Unless confirmed as exempt, no development shall commence (except site clearance, ground investigations and remediation) until full details of a Biodiversity Gain Plan achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for any on-site habitats and biodiversity measures, have been submitted to, and approved in writing by, the Local Planning Authority. The Plans shall be in accordance with current best practice guidelines and standards. The approved Biodiversity Net Gain Assessment and calculation and shall include the following:

In all cases:

1. Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric or any successor and accompanying evidence for baseline condition assessments;
2. A BNG habitat map for on-site proposed habitats
3. Information about the steps taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat and, in the case of any irreplaceable habitat, information on arrangements for compensation for any impact of the development has on the biodiversity of the irreplaceable habitat (which does not include the use of biodiversity credits).
4. Details and evidence of any registered off-site biodiversity gain units allocated to the development and any biodiversity credits purchased for the development;

Where on-site habitat is proposed/retained:

5. Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives;
6. Annual work schedule for at least a 30 year period
7. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; on-site disposal of grass cuttings or other vegetation waste; routine cutting of ivy where there is no specific arboricultural justification; inappropriate maintenance methods, storage of materials; inappropriate machine or vehicle access).
8. Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives.
9. Details of proposed reporting to the Local Planning Authority, and proposed review and remediation mechanism.
10. Proposed costs and resourcing, and legal 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 and to ensure delivery of Biodiversity Net Gain in accordance with Bath and North East Somerset Local Plan Partial Update policies NE3, NE3a NE5 and D5e and paragraph 13 of Schedule 7A to the Town and Country Planning 1990 Act (Biodiversity Gain Condition).

4 Construction Management Plan (Pre-commencement)

No development shall commence (excluding ground investigations and remediation) until a Construction Management Plan for that particular phase has been submitted to, and approved in writing by, the Local Planning Authority. This shall include details of the following:

1. Deliveries (including storage arrangements and timings);
2. Contractor parking;
3. Traffic management;
4. Working hours;
5. Site opening times;
6. Wheel wash facilities;
7. Site compound arrangements;
8. Measures for the control of dust;

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 clearance and construction works could have a detrimental impact upon residential amenity.

5 Construction Environmental Management Plan (Pre-Commencement)

No development (excluding site investigations, clearance and remediation) shall take place until a site-specific Construction Environmental Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, vibration, dust and site lighting. The plan should include but not be limited to;

1. Procedures for maintaining good public relations including complaint management, public consultation and liaison
2. Arrangements for liaison with the Council's Environmental Protection Team
3. All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours: 08 00 Hours and 18 00 Hours on Mondays to Fridays and 08 00 and 1300 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
4. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
5. Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
6. Procedures for emergency deviation of the agreed working hours.
7. Identifying the steps and procedures that will be implemented to minimise the creation and impact of dust from site preparation, groundworks and construction phases of the development and manage heavy goods vehicles (HGV) access to and from the site due to neighbouring Air Quality Management Area (AQMA).
8. Measures for controlling the use of site lighting whether required for safe working or for security purposes.

The development shall be carried out in accordance with the approved Construction Environmental Management Plan.

Reason: To protect neighbouring residents from potential nuisance associated with construction in accordance with Policies D6 and PCS3 of the Bath and North East Somerset Placemaking Plan.

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

No development shall commence until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The arboricultural method statement shall include details of the following:

1. A programme of works to include details of supervision and monitoring by an Arboricultural Consultant and the provision of site visit records and certificates of completion to the local planning authority;
2. Measures to control potentially harmful operations such as site preparation (earthworks and level changes), the storage, handling, mixing or burning of materials on the site and the movement of people and machinery throughout the site;
3. The location of any site office, temporary services and welfare facilities;
4. The location of any service runs or soakaway locations;
5. A scaled Tree Protection Plan showing the location of all retained trees and tree protection measures.

No development or other operations shall thereafter take place except in accordance with the approved details.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy NE6 of the Bath and North East Somerset Local Plan Partial Update. 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.

7 Drainage (Pre-commencement)

No development shall commence, except site clearance, ground investigations and remediation and other enabling works, until a detailed drainage design based on the approved Flood Risk Assessment and Outline Drainage Strategy has been submitted to, and approved in writing by, the Local Planning Authority. The drainage design will demonstrate how surface water will be managed within the site using sustainable drainage principles. The design shall include the following:

1. Plans;
2. Structure details;
3. Calculations demonstrating performance of the system at the critical 1:1, 1:30 and 1:100+45% climate change events; and
4. Details of how the proposed drainage system will be maintained to perform to the design standard of life of the development.

The drainage strategy shall be installed prior to the first occupation of the development and in accordance with the approved details.

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. This is a condition precedent because it is necessary to obtain details of the drainage strategy prior to any initial construction works which may prejudice the surface water drainage strategy.

8 Materials - Submission of Schedule and Samples (Bespoke Trigger)

No construction of the external walls of the development shall commence in each phase until a schedule of materials and finishes, and photographs of the 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. Additionally, a sample panel of all external walling and roofing materials to be used for that phase has been erected on site, approved in writing by the Local Planning Authority, and kept on site for reference until the development is completed. The schedule shall include:

1. Detailed specification of the proposed materials (such as type, size, colour, brand, quarry location, etc.);
2. Photographs of all of the proposed external materials;
3. An annotated drawing showing the parts of the development using each material.

Physical samples of materials shall be made available at the request of the Local Planning Authority.

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.

9 Landscape Design Proposals (Bespoke Trigger)

No development beyond slab level shall take place until full details of both hard and soft landscape proposals and programme of implementation have been 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
3. External car parking layouts
4. Other vehicle and pedestrian access and circulation areas
5. Hard surfacing materials
6. Minor artefacts and structures (eg outdoor furniture, play equipment, refuse or other storage units, signs, lighting)
7. Proposed and existing functional services above and below ground (eg drainage, power, communication cables, pipelines, etc, indicating lines, manholes, supports etc)
8. Retained historic landscape features and proposals for restoration, where relevant

Soft landscape details shall be consistent with the Biodiversity Net Gain Assessment, Biodiversity Gain Plan and Ecological Report and 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

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.

10 Implementation of Landscaping Scheme (Bespoke Trigger)

All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of each phase 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 30 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.

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.

11 Gull Management Plan (Bespoke Trigger)

Prior to occupation of the relevant phase a detailed Gull Management Plan has been submitted to and approved in writing by the Local Planning Authority. The approved Gull Management Plan shall be implemented and any relevant measures installed prior to the first occupation of the development and retained permanently thereafter.

Reason: to protect the residential amenity of future and neighbouring occupiers in accordance with policy D6 of the Bath and North East Somerset Placemaking Plan.

12 Architectural Details - Large Scale Drawings (Bespoke Trigger)

No construction of the external walls of each phase the development shall commence until large scale details and construction sections of the following elements of built fabric are submitted to and approved in writing by the Local Planning Authority.

1. Typical window construction including reveal and sill;
2. Masonry Banding detail;
3. All rainwater goods
4. Typical parapet detail
5. Entrance glazing / reveals;

6. Commercial units fascia's;
7. Commercial units;

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

Reason: In the interests of safeguarding the architectural intent, design quality, the appearance of the development and contribution to the surrounding area in accordance with policy CP6 of the Bath and North East Somerset Core Strategy, policies HE1, 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.

13 External & Internal Lighting (Bespoke Trigger)

No new external or internal lighting shall be installed without full details of the proposed lighting design being first submitted to and approved in writing by the Local Planning Authority. These details shall include:

1. proposed lamps and lamp models, with manufacturer's specifications; proposed lamp positions; numbers and heights, with details also to be shown on a plan;
2. Light spill modelling, in accordance with the standards and best practice guidelines as described in ILP Guidance Note 08/23 "Bats and artificial lighting in the UK", including details of predicted light spill and lux levels within and beyond site boundaries, onto adjacent land, boundary vegetation and the River Avon, and all ecological habitats and sensitive features within and adjacent to the site, on both vertical and horizontal planes, with details of predicted light levels to also be shown on a plan, and at heights using sections and drawings;
3. details of lighting controls; proposed hours, frequency and duration of use; and details of all measures and features to contain light spill, and to prevent upward light spill and light spill onto trees and boundary vegetation and adjacent land; and to limit use of lights when not required; and to avoid harm to bat activity and other wildlife.
4. Details of a scheme of lighting compliance checks and monitoring and reporting to the LPA of lighting compliance and light spill levels, to demonstrate lighting is installed and being operated in accordance with the approved scheme and light spill thresholds; to include details of proposed actions and remediation for any issues arising from lighting compliance checks

The lighting shall be installed, maintained and operated thereafter only 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 Partial Update.

14 Dwelling Access (Pre-occupation)

Each dwelling shall not be occupied until it is served by a properly bound and compacted footway to at least base course level between the dwelling block and the existing adopted highway.

Reason: To ensure that the development is served by a safe and suitable access in accordance with Policy ST7 of the Bath and North East Somerset Local Plan Partial Update.

15 Residents Welcome Pack (Pre-occupation)

Prior to the occupation of each phase of the development a new resident's welcome pack has been submitted to and approved in writing by the Local Planning Authority. The new resident's welcome pack shall be issued to the first occupier of each residential unit of accommodation prior to its occupation. It shall include information of bus and train timetable information, information giving examples of fares/ticket options, information on cycle routes, a copy of the Travel Smarter publication, car share, car club information etc., to encourage residents to try public transport.

Reason: To encourage the use of public transport in the interests of sustainable development in accordance with Policy ST1 of the Bath and North East Somerset Placemaking Plan.

16 Car Club (Pre-occupation)

No residential building shall be occupied or use commenced until details of a car club scheme, in accordance with a contract to be entered into by the developer and an approved car club provider, shall be submitted to and approved in writing by the Local Planning Authority. The car club scheme shall detail (where applicable):

- o The allocation of spaces
- o The number of vehicles to be provided
- o Provision of car club membership for all eligible residents of the development for a minimum of three years
- o Promotion of the scheme
- o The phasing at which the scheme will be introduced

Reason: In order to promote the use of car clubs and electric cars and reduce dependency on the private car in accordance with Policy ST1 of the Bath and North East Somerset Local Plan Partial Update.

17 Travel Plan - Shared Living (Pre-occupation)

No occupation of the Shared Living units shall commence until a Travel Plan for this part of the development has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan.

Reason: In the interest of enabling a genuine choice in mode of travel, reducing car dependency and encouraging sustainable travel methods in accordance with Policies ST1 and ST7 of the Bath and North East Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document.

18 Travel Plan - Commercial units (Pre-occupation)

No occupation of the Commercial Units shall commence until a Travel Plan for this use has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan.

Reason: In the interest of enabling a genuine choice in mode of travel, reducing car dependency and encouraging sustainable travel methods in accordance with Policies ST1

and ST7 of the Bath and North East Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document

19 Travel Plan - Residential Units (C3) (Pre-occupation)

No occupation of the residential dwellings (Class C3) shall commence until a Travel Plan for this use has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the approved Travel Plan.

Reason: In the interest of enabling a genuine choice in mode of travel, reducing car dependency and encouraging sustainable travel methods in accordance with Policies ST1 and ST7 of the Bath and North East Somerset Local Plan Partial Update and the Transport and Development Supplementary Planning Document.

20 Site Management Plan (Pre-occupation)

Prior to the occupation of the relevant phase of the development a Site Management Plan, incorporating parking (car and cycle), delivery and servicing arrangement details, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the Site Management Plan.

Reason: To ensure that the development is served by a safe and suitable access in accordance with Policy ST7 of the Bath and North East Somerset Local Plan Partial Update.

21 Highway Works (Pre-occupation)

No occupation of the development shall commence until a highway scheme has been submitted to and approved in writing by the Local Planning Authority which integrates the existing adopted highway arrangements on Stothert Avenue with the development scheme. This should include the repositioning of existing street furniture as necessary. The highway scheme shall be implemented in accordance with the approved details, prior to the first occupation of the site or in accordance with a programme of implementation agreed with the Local Planning Authority.

Reason: To ensure that the development is served by a safe and suitable means of access in accordance with Policy ST7 of the Bath and North East Somerset Local Plan Partial Update.

22 Arboriculture - Signed Certificate of Compliance (Pre-occupation)

No development or other operations shall take place except in complete accordance with the approved Arboricultural Method Statement. A signed certificate of compliance with the Arboricultural Method Statement and tree protection plan by the appointed Arboriculturalist shall be submitted to and approved in writing by the Local Planning Authority with 28 days of completion of all associated works within the relevant phase.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy NE6 of the Bath and North East Somerset Local Plan Partial Update and to ensure that the approved method statement is complied with for the duration of the development.

23 Contaminated Land - Verification Report (Pre-occupation)

Prior to any phase of development being occupied a verification report for the relevant phase that demonstrates the effectiveness of the remediation carried out has been submitted to, and approved in writing by, the Local Planning Authority, unless the findings of the approved investigation and risk assessment has confirmed that a remediation scheme is not required.

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 policy PCS5 of the Bath and North East Somerset Local Plan Partial Update and chapter 15 of the National Planning Policy Framework.

24 Archaeology - Post Excavation and Publication (Pre-occupation)

Prior to the occupation of each phase the development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of post-excavation analysis in accordance with a publication plan which has been submitted to and approved in writing by the Local Planning Authority for that relevant phase. The programme of post-excavation analysis shall be carried out by a competent person(s) and completed in accordance with the approved publication plan, or as otherwise agreed in writing with the Local Planning Authority.

Reason: The site has produced significant archaeological findings and the Council will wish to publish or otherwise disseminate the results in accordance with Policy HE1 of the Bath & North East Somerset Placemaking Plan.

25 Emergency Generator Emission Rate (Pre-Occupation)

Prior to the occupation of the relevant phase of development details of the emergency generator shall be submitted to and approved in writing by the Local Planning Authority. The details shall include the following:

1. Written confirmation from a qualified person(s) that the emergency generator has a NOx emission rate of less than 5mg/sec;
2. A monitoring schedule for the emissions standard; and
3. A testing and maintenance schedule in accordance with best practice measures.

The monitoring reports shall be made available for inspection at the request of the Council and testing and maintenance shall be carried out in accordance with the approved details.

Reason: To protect neighbouring residents in the vicinity of the development in accordance with Policies D6 and PCS3 of the Bath and North East Somerset Placemaking Plan.

26 Landscape and Ecological Management Plan (Pre-occupation)

Prior to the occupation of the development hereby approved a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. These details shall be fully in accordance with all previously approved ecological mitigation, compensation, enhancement and biodiversity net gain requirements and shall include:

1. A list of long-term wildlife conservation and landscape design aims and objectives, which, where applicable, shall be specific to named habitats, species and ecological issues of importance. They shall include (but not be limited to): delivery and long term maintenance of landscaping and habitats to achieve Biodiversity Net Gain in accordance with the approved Biodiversity Net Gain Assessment
2. Creation of habitats to a specified condition and / or that achieve specified levels of structural, botanical, and/or invertebrate diversity; provision of habitats suitable for specified species (for example linnet and other bird species); habitats with suitable conditions, connectivity and quality for use by bats as part of connected flight routes;
3. Proposed management prescriptions and operations; locations, timing, frequency, durations; methods; equipment and personnel as required to meet the stated aims and objectives
4. A plan showing the boundary or boundaries of land to which the LEMP applies. All details, locations, boundaries of habitats and management areas shall also be shown on a plan.
5. A list of activities and operations that shall not take place and shall not be permitted within the LEMP Plan area (for example use of herbicides; waste disposal and disposal of arisings; inappropriate maintenance methods; storage of materials; machine or vehicle access)
6. Proposed habitats shall correspond to and meet the minimum standards set out in the approved Ecological Mitigation, Compensation and Enhancement Plan
7. Proposed monitoring and reporting scheme, to include a 5 year rolling programme for ongoing review and future remediation strategies
8. Proposed resourcing; funding sources and legal responsibility.

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 and maintained and utilised thereafter, in accordance with the approved details and timings.

Reason: To ensure the long term maintenance and management of landscape and ecological features in the interests of providing net gain of biodiversity and mitigating the landscape impacts of the development in accordance with policies NE2, NE2A and NE3 of the Placemaking Plan.

27 Ecological Compliance Statement (Pre-occupation)

Prior to the occupation of each phase of the development hereby approved a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by a suitably experienced professional ecologist) confirming and demonstrating, using photographs, adherence to and completion of all ecological mitigation and enhancement measures and features, and all habitat provisions, in accordance with approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the ecological mitigation and enhancement measures and habitat provisions, to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3; NE3A; NE5 and D5e of the Bath and North East Somerset Local Plan Partial Update.

28 Sound Attenuation - Post-Construction (Pre-Occupation)

Prior to the occupation of the relevant phase, an assessment from a competent person in respect of the completed development shall be submitted to and approved in writing by the Local Planning Authority. The assessment shall demonstrate that the development has been constructed to provide sound attenuation against external noise, for that relevant phase. The following levels shall be achieved: 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.

Reason: to protect future occupants of the development from exposure to noise from road traffic in accordance with policy D6 of the Bath and North East Somerset Placemaking Plan.

29 SCR6 Residential Properties (Pre-occupation)

Prior to the occupation of the relevant phase 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, as a minimum, achieve the standards set out within the Sustainable Construction Checklist submitted 12th March 2025.

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:

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

30 SCR7 Non-Residential Properties (Pre-occupation)

Prior to the occupation of the relevant phase 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, as a minimum, achieve the standards set out within the Sustainable Construction Checklist submitted 12th March 2025.

Energy performance calculations (e.g. SBEM) and the tables below are to be updated with as-built performance values.

1. Table 3 or Table 3.2 (if proposal has more than one building type)

2. Table 5 (updated)
3. Building Regulations Part L post-completion documents for renewables;
4. Building Regulations Part L post-completion documents for energy efficiency;
5. Microgeneration Certification Scheme (MCS) Certificate/s

Reason: To ensure that the approved development complies with Policy SCR7 of the Bath and North East Somerset Local Plan Partial Update Local Plan Partial Update.

31 SCR8 Embodied Carbon (Bespoke Trigger)

Within 3 months of the practical completion of the final phase 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 SCR8.

Post-Completion Stage (using as-built values)

1. Table 6
2. Table 7
3. Site energy (including fuel) use record
4. Contractor confirmation of as-built material quantities and specifications
5. Record of material delivery including distance travelled and transportation mode
6. Waste transportation record including waste quantity, distance travelled and transportation mode
7. List of product-specific EPDs for the installed products and materials

Reason: To ensure that the approved development complies with Policy SCR8 of the Bath and North East Somerset Local Plan Partial Update Local Plan Partial Update.

32 Flood Risk Assessment (Pre-occupation/Compliance)

The development shall be carried out in accordance with the submitted Flood Risk Assessment Hydrock, document reference: 31606-HYD-XX-XX-RP-WENV-0001, issue number: P03, issue dated: 02/10/2024) and supporting documents, in particular, the following mitigation measures:

1. Finished floor levels (FFL) for more vulnerable usage (including residential, kitchens and living) shall be set no lower than 20.36m above Ordnance Datum (AOD).
2. Landscaping within 20 metres of the Main River Avon will be delivered as per the drawing title "Indicative Detailed Landscape General Arrangement Plan 2/5" (drawing No: BMD.20.0019.DR.P003, revision: A, revision dated: 21/10/2024).

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To ensure that site occupants can reasonably be considered safe from flood risk from the River Avon before the delivery of the Bristol Avon Flood Strategy flood defences and from the subsequent residual risk posed by flood defence failure, overtopping or flooding from other sources.

33 Ecological Mitigation Measures - Construction Phase and Long Term (Compliance)

The development hereby approved shall be carried out only in accordance with the recommendations and proposed mitigation measures as detailed in Section 5 and Appendix F (Spider Assessment and Management Plan) of the approved Ecological Assessment (inc. Spider Assessment & Management Plan) report by BMD dated October 2024. All such measures shall be adhered to retained and maintained thereafter for the purpose of wildlife conservation.

Reason: To avoid harm to ecology including protected species and to avoid net loss of biodiversity in accordance with policies NE3 and NE3a of the Bath and North East Somerset Local Plan Partial Update.

34 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.

35 Parking (Compliance)

The areas allocated for parking and turning on the submitted plan 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.

36 Contaminated Land - Unexpected Contamination (Compliance)

In the event that contamination which was not previously identified 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 of the National Planning Policy Framework.

37 Housing Accessibility (Compliance)

17 of the C3 dwellings hereby approved shall meet the optional technical standards 4(3)(2a) in the Building Regulations Approved Document M and 246 C3 dwellings shall

meet optional technical standards 4(2) in the Building Regulations Approved Document M, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure that the optional technical standards for accessibility for market housing in accordance with policy H7 of the Bath and North East Somerset Council Local Plan Partial Update.

38 Plant Noise Levels (Compliance)

Noise from plant associated with the development hereby approved shall comply with limits detailed in Table 10 of Environmental Noise Assessment (31606-HYD-XX-XX-RP-Y-0001) dated October 2024.

Reason: To protect future occupants of the development from exposure to environmental noise in accordance with policy D6 of the Bath and North East Somerset Placemaking Plan.

39 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 Plans List

Received 11th October 2024:

Site Location Plan 02217-JTP-ZZ-XX-DR-A-00000 P1
Existing Block Plan 02217-JTP-ZZ-XX-DR-A-00001 P1
Proposed Floor Plans- Building A1 (all levels) 02217-JTP-BA-XX-DR-A-10000 P1
Proposed Floor Plans - Building A2 (all levels) 02217-JTP-BA-XX-DR-A-10001 P1
Proposed Floor Plans - Building A3 (all levels) 02217-JTP-BA-XX-DR-A-10002 P1
Proposed Floor Plans - Building C (all levels) 02217-JTP-BC-XX-DR-A-10110 P1
Proposed Elevations - Building A1 02217-JTP-BA-XX-DR-A-11002 P1
Proposed Elevations - Building A2 02217-JTP-BA-XX-DR-A-11003 P1
Proposed Elevations - Building A3 02217-JTP-BA-XX-DR-A-11004 P1
Proposed Elevations - Building C 02217-JTP-BC-XX-DR-A-11009 P1
Proposed Elevations - Substation Building 02217-JTP-BD-XX-DR-A-11011 P1
Proposed Sections - Building A 02217-JTP-BA-XX-DR-A-12002 P1
Proposed Sections - Building C 02217-JTP-BC-XX-DR-A-12004 P1
Proposed Sections - Building D 02217-JTP-BD-XX-DR-A-12005 Z1

Received 28th February 2025:

Proposed Site Sections - Site Wide Sections 02217-JTP-ZZ-XX-DR-A-12001 Z1
Proposed Block Plan 02217-JTP-ZZ-XX-DR-A-00002 Z1
Proposed Roof Plan 02217-JTP-ZZ-XX-DR-A-00003-Proposed -Z1
Proposed Sections - Building B 02217-JTP-BB-XX-DR-A-12003 Z1
Proposed Elevations - Building B - 1 of 4 02217-JTP-BB-XX-DR-A-11005 Z1

Proposed Elevations - Building B - 2 of 402217-JTP-BB-XX-DR-A-11006 Z1
 Proposed Elevations - Building B - 3 of 402217-JTP-BB-XX-DR-A-11007 Z1
 Proposed Elevations - Building B - 4 of 402217-JTP-BB-XX-DR-A-11008 Z1
 Proposed Floor Plan - Building B Ground Level 02217-JTP-BB-00-DR-A-10003 Z2
 Proposed Floor Plan - Building B Level 01 02217-JTP-BB-01-DR-A-10004 Z2
 Proposed Floor Plan - Building B Level 02 02217-JTP-BB-02-DR-A-10005 Z2
 Proposed Floor Plan - Building B Level 03 02217-JTP-BB-03-DR-A-10006 Z2
 Proposed Floor Plan - Building B Level 04 02217-JTP-BB-04-DR-A-10007 Z2
 Proposed Floor Plan - Building B Level 05 02217-JTP-BB-05-DR-A-10008 Z2
 Proposed Roof Plan - Building B 02217-JTP-BB-05-DR-A-10009 Z2
 Proposed Floor Plans - Building D - 1 of 2 (levels 00 - 04) 02217-JTP-BD-XX-DR-A-10111 Z2
 Proposed Floor Plans - Building D - 2 of 2 (levels 05 & roof) 02217-JTP-BD-XX-DR-A-10112 Z2
 Proposed Elevations - Building D 02217-JTP-BD-XX-DR-A-11010 Z1
 Proposed Elevations - Site Wide Elevations 02217-JTP-ZZ-XX-DR-A-11001 Z1

2 Biodiversity Net Gain - Standard Informative

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements apply. A detailed version of the biodiversity gain condition can be found in the list of conditions attached to this permission.

The effect of section 73D of the Town and Country Planning Act 1990:-

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

3 Permit/Consent Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 39 of the National Planning Policy Framework.

4 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.

5 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

6 Civil or legal consents

This permission does not convey or imply any civil or legal consents required to undertake the works.

7 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.

8 Hot Springs

The County of Avon Act gives Bath and North East Somerset Council (B&NES) powers to protect the natural thermal springs that arise under artesian pressure in the centre of Bath, from damage that could result from excavations, piling operations or boreholes in the Bath area.

The areas of protection form three concentric zones. Within these zones consent from the Council is required for excavations of depths below the surface of the natural ground, exceeding 5m in the central zone (Zone A) around the Hot Springs, 15m in the zone along the river valley (Zone B), and 50m in the outer zone (Zone C) as shown on the County of Avon Act map on the B&NES Council Website. These are labelled as zones A, B & C respectively on the Avon Act map, link to website, below.

In response to applications for consent the Council consult with a consulting geologist and the Environment Agency and can refuse consent if in their opinion an operation is likely to cause injury to or affect in anyway the natural hot springs.

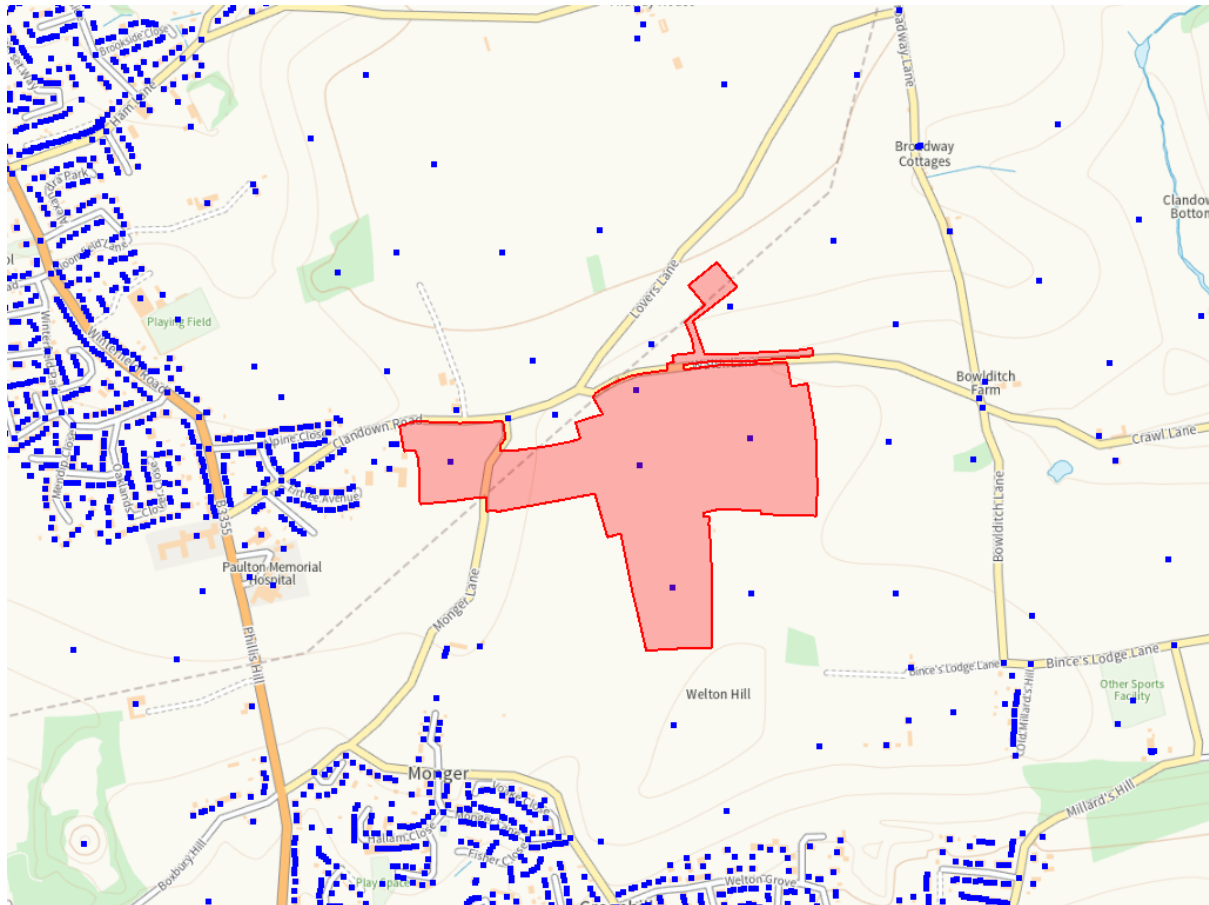
Any disagreement between the Council and an applicant is to be determined by a (suitably qualified) geologist agreed by both parties or, in the case of a dispute, one appointed by the President of the Institution of Civil Engineers.

The application needs to be supported with a plan indicating the location of the boreholes/piles, a detailed review of the geology of the site/area to the full depth of the required excavation/piling, including provision of site investigation data and logs for the site/vicinity, available BGS logs for the area and any other logs/data that may be relevant, a detailed method statement and a risk assessment that demonstrates how the hot springs will be protected and how any unintentional release of artesian or sub-artesian groundwater will be identified, controlled and permanently sealed.

Further information regarding the Avon Act and the process and requirements for making an application can be found on the B&NES website as follows:

<https://www.bathnes.gov.uk/complete-county-avon-act-applicationform#:~:text=The%20County%20of%20Avon%20Act%201982%20%2D%20Section%2033,by%20drilling%20or%20other%20means>

Item No: 02
Application No: 24/03894/FUL
Site Location: Parcel 2882 Water Lane Paulton Bristol Bath And North East Somerset



Ward: Midsomer Norton North **Parish:** Midsomer Norton **LB Grade:** N/A
Ward Members: Councillor Shaun Hughes Councillor Michael Auton
Application Type: Full Application
Proposal: Temporary installation of ground-mounted solar photovoltaic (PV) farm with battery storage along with continued agricultural use, ancillary infrastructure and security fencing, landscaping provision, ecological enhancements and associated works.
Constraints: Agric Land Class 1,2,3a, Coal - Standing Advice Area, Contaminated Land, Policy CP3 Solar and Wind Landscape Pote, Policy CP9 Affordable Housing, Policy LCR5 Safeguarded existg sport & R, LLFA - Flood Risk Management, Policy NE2A Landscapes and the green set, Policy NE3 SNCI 200m Buffer, Policy NE3 SNCI, Ecological Networks Policy NE5, NRN Grassland Strategic Netwo Policy NE5, All Public Rights of Way Records, SSSI - Impact Risk Zones,
Applicant: PACE Yeti Energy Limited
Expiry Date: 9th May 2025
Case Officer: Isabel Daone
To view the case click on the link [here](#).

REPORT

The application site consists of 15.64 hectares of agricultural fields located to the east of Paulton. The site is largely bound by Water Lane to the north (though the point of connection mast is sited in the fields to the north of this and to the south of Lovers Lane), Monger Lane to the west and Bowlditch Lane to the east. Two Public Rights of Way (PROW) are located alongside the southern and eastern boundaries, and there are also two further PROWs near to the western site boundaries.

There are several residential properties located within proximity of the site, the closest being in the north western corner and the north eastern corner at the junction of Water Lane and Crawl Lane. A number of listed buildings are present within the vicinity and three Conservation Areas are also located around the site. The site is not located within the Green Belt, or a National Landscape.

Planning permission is sought for the temporary installation of a ground-mounted solar photovoltaic (PV) farm with battery storage along with continued agricultural use, ancillary infrastructure and security fencing, landscaping provision, ecological enhancements and associated works.

REASON FOR COMMITTEE:

The Local Parish Council's have objected to the proposals and a Local Councillor has requested that the application come before Planning Committee. In accordance with the Council's Scheme of Delegation, the application was referred to the Chair and Vice Chair of the Planning Committee. Their comments are included below and both consider that the application should be debated and decided by Planning Committee.

Chair:

"The level of public interest in this application warrants consideration by the Planning Committee"

Vice Chair:

"Noting the referral by a Midsomer Norton local Councillor, the opinions of Midsomer Norton Town Council (objection) and Paulton Parish Council (generally supportive in principle) and the level of public interest, I recommend that there is an opportunity for the merits of this application to be discussed in public by the Planning Committee."

Relevant Planning History:

There is no relevant planning history on this site.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation responses:

ARBORICULTURE:

No objection, subject to conditions.

ARCHAEOLOGY:

No objection, subject to archaeological mitigation condition.

AVON & SOMERSET POLICE:

No objection, subject to comments.

CONTAMINATED LAND:

No objection, subject to condition

COUNCILLOR SHAUN HUGHES:

This application has received significant public interest and concern, therefore should you be minded to permit this application I wish to request that it is referred to the Planning Committee for review.

DRAINAGE AND FLOODING:

18th November 2024 - Scope for revision

20th December 2024 - No objection

ENVIRONMENT AGENCY:

10th December 2024 - Objection

24th February 2025 - Objection

4th March 2025 - No objection, subject to conditions

HIGHWAYS:

14th November 2024 - Scope for revision

20th December 2024 - Scope for revision

30th January 2025 - No objection, subject to conditions.

LANDSCAPE:

5th November 2024 - Scope for revision

20th January 2025 - Scope for revision

26th February 2025 - No objection, subject to conditions

MIDSOMMER NORTON TOWN COUNCIL:

Object for the following reasons:

1. Temporary nature of the lease (long-term viability, technology becoming obsolete and site's return to agricultural);
2. Insufficient detail and impact assessment (noise concerns, acoustic barrier and visual impact);
3. Conflict with Local Plans (site not included in the B&NES Local Plan; appropriateness of this site for development);
4. Impact on neighbouring properties and sensitive locations;
5. Battery storage risks (battery fires and their uncontrollability);
6. Incomplete context and technical details (impact of construction activity, detailed specifications for pylons and location of substations).

NATURAL ENGLAND:

Agree with conclusions of the Habitat Regulations Assessment (HRA).

PAULTON PARISH COUNCIL:

- Supportive in principle
- Noise concerns (proposed noise levels, but assessment shows acceptable levels)
- Poor agricultural land quality
- Ecological impact is low
- More scaled drawings of substation required
- Location of POC mask could be revised
- Site access - will not be able to cope with increase traffic especially during construction phase
- Landscape concerns, particularly viewpoint 9
- £62,000 to be provided by the solar company but how will this be split between parishes?

PUBLIC RIGHTS OF WAY:

31st October 2024 - Scope for revision

11th November 2024 - No objection

THIRD PARTY REPRESENTATIONS:

Transition Bath:

We are generally supportive on increasing renewable energy capacity without B&NES in line with B&NES's declaration of a Climate Emergency but can't comment on the aesthetics of this application. The latest NPPF proposals to support renewable energy should strengthen this submission.

One comment of support has been received and is summarised as follows:

- Well-designed and carefully thought scheme
- Positive impacts to local environment and economy

- Onsite biodiversity net gain is impressive
- Valuable contribution to B&NES Council local clean and secure energy strategy

Ten comments of objection have been received and are summarised as follows:

- Glint and glare concerns
- Loss of scenic value and rural character
- Loss of agricultural land
- Urban infrastructure in a rural setting
- Set a precedent for housing in this location
- Effect on property values
- Increase traffic and noise pollution, particularly during the construction phase
- EMF may affect sensitive individuals
- Crime concerns
- Solar infrastructure sustainability credentials - difficult to recycle
- Site has "least potential" for solar development in the B&NES Landscape Sensitivity

Assessment (LUC 2021)

- Ecological information is lacking
- Impact to wildlife
- Landscape assessment is not acceptable
- Not energy for local people
- Solar development should take place on brownfield sites
- Battery station, connection masts and clutter are inappropriate
- 45 years is not temporary
- Increase in flooding
- Scale of battery storage and substation
- Significant amount of concrete needed for construction
- Fire risks
- What tree species will be used to provide proper screening?
- Acoustic fence insufficient
- Attenuation basin inadequate in scale and location

One general comment has been received which requests an OS map showing the fields impacted as it is not clear. The application clearly shows the fields which are subject to the application and further maps have not be requested by officers.

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:

CP5: Flood Risk Management
CP6: Environmental Quality
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
D4: Streets and spaces
D6: Amenity
HE1: Historic environment
NE2A: Landscape setting of settlements
PCS1: Pollution and nuisance
PCS2: Noise and vibration
RE5: Agricultural land
SU1: Sustainable drainage policy

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 a number of 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:

DW1: District Wide Spatial Strategy
CP3: Renewable Energy
D5: Building design
D8: Lighting
NE1: Development and green infrastructure
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
PCS5: Contamination
ST2A: Recreational routes
ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

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

Transport and Development 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).

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

PRINCIPLE OF DEVELOPMENT:

The Energy National Policy Statements (NPS) are a material consideration for planning applications and the designation of NPS EN-1 and EN-3 in January 2024 confirms the presumption for granting renewable energy projects due to the critical national priority to deliver low carbon and renewable electricity generation to meet the legally binding targets of delivering electricity from renewable sources by 2035. The Energy NPS' establish the urgent and critical need for renewable energy schemes.

Renewable and decarbonised energy will play an important role in both ensuring we are able to meet present and future needs, without compromising the environment for future generations.

Section 14 of the NPPF relates to national policy in respect of 'Meeting the challenge of climate change' and focusses on the transition to a low carbon future. Specifically,

paragraph 161 sets out that the "planning system should support the transition to net zero by 2050...and support renewable and low carbon energy and associated infrastructure".

This is echoed in local policy. Local Plan Partial Update (LPPU) policy CP3 relates to renewable energy and makes clear that proposals for renewable and low carbon energy-generating and distribution networks will be supported in the context of sustainable development where a number of criteria are met. The policy sets a minimum requirement for 110MWe (Megawatt Electricity) to be generated within the District from renewable sources by 2029.

The proposed development is for a 15.64 hectare solar development which will consist of solar photovoltaic panels, a Battery Energy Storage System (BESS), a point of connection (POC) mast and other associated infrastructure. The solar farm will have a capacity of 9.2 MW using solar panels. The proposed BESS will have an export capacity of 49.5MW. The Planning Statement sets out that the scheme will enable the generation of approximately 10 gigawatt hours of renewable energy, which is the equivalent of enough power for 3,210 homes per annum.

The Policies Map illustrates the geographically assessed landscape potential for renewable energy development within the district. A landscape led approach, based on the Landscape Sensitivity Assessment (LSA) for Renewable Energy Development (LUC, 2021), is set out by the Council. The proposed development is a Band D solar development (which covers 15-30 hectares). The application site is located within area 3B (Wellow Brook Valley), which has low-moderate potential for Band C solar development (10-15 hectares) and low potential for Band D solar development. However, each application must be assessed on its own merits and there is no reason why applications cannot come forward in areas set out in the LSA which have low potential for solar development of different scales. Impacts to landscape are further assessed within this report.

Overall, therefore, solar development is supported in principle by policy CP3 so long as other material considerations can be met, which is assessed in the report below.

LOSS OF AGRICULTURAL LAND:

A number of third parties have raised concern in respect of the loss of existing 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, 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 application site is made up of several field parcels, all of which fall into Grade 3 agricultural land according to Council mapping. An Agricultural Land Classification Report (Bateman Rural Associates Limited) accompanies the submission. This demonstrates that much of the site is graded 3a, with grades 3b and 4 making up a smaller proportion of the site.

Policy RE5 directs development away from Grades 1 and 2, and in this respect the scheme is therefore compliance with this policy. Notwithstanding, officers consider that there clearly are significant sustainability benefits which outweigh the loss of the land. Whilst brownfield sites should be utilised as far as possible for solar, the amount of rural land within B&NES and the energy targets required to be achieved as set out in policy CP3 mean that it is somewhat inevitable that greenfield sites will need to be utilised. Whilst the majority of the site is Grade 3a, this is not protected by policy RE5. Additionally, the development is temporary, though will operate for a significant period of time.

The scheme is considered to comply with policy RE5, and the loss of agricultural land is accepted.

IMPACT TO LANDSCAPE CHARACTER:

Policy CP3 sets out that proposals for renewable energy will only be permitted where they do not result in significant adverse landscape and visual impacts, which cannot be satisfactorily mitigated.

Local Plan Partial Update policy NE2 has regard to conserving and enhancing the landscape and landscape character. The policy notes a number of criteria which should be met in order for the development to be considered acceptable in landscape, including conserving the local landscape character and conserving. The policy also states that development should seek to avoid or should adequately mitigate any adverse impacts on the landscape. Proposals with the potential to impact on the landscape/townscape character of an area or on views should be accompanied by a Landscape and Visual Impact Assessment undertaken by a qualified practitioner to inform the design and location of any new development.

The submitted Landscape and Visual Appraisal (LVA) (Briarwood Landscape Architecture) has been professionally produced, and the Council's Landscape Officer considers that the likely visual effects and effects on character have been appropriately assessed and consider seasonal effects (such as greater visibility during winter conditions). The selection of viewpoints is also appropriate.

The principal conclusions of the LVA are that:

- The proposed solar farm would not be unduly prominent or dominant in relation to the character of the local landscape;
- The key characteristic of the local landscape which differentiate the local landscape from other areas would not be fundamentally changed and would contribute to prevail;

- Whilst there would be some adverse effects on character, the level of harm would not be unacceptable, and although effects would be long term, they would ultimately be temporary and reversible;
 - In terms of visual impact, of the nine representative viewpoints assessed, only viewpoint 9 (from public footpath CL16/21) would experience major adverse effects and subject to appropriate mitigation the level of effect could be reduced to moderate by year 10;
 - There would be other adverse effects on the visual amenity of the local area, but these would generally only be minor to moderate and would in most cases be capable of reduction over time, with mitigation;
 - There would be only a limited effect on and harm to the visual amenity of the wider landscape beyond the site boundary and its immediate environs.
- Generally, the conclusions can be taken as reliable, but there were some areas of concern which have been addressed during the course of the application.

The proposed point of connection (POC) mast will be of a broadly similar height to the existing pylon to which it will connect and will be visually very prominent. It is explicitly mentioned in the LVA in the assessments for viewpoints 2 and 5, although not for viewpoint 9 and other viewpoints along PROW CL16/21 where its impact would be greater. However, the visual impact at viewpoint 9 is already acknowledged to be major adverse and this assessment is accepted.

Whilst the POC mast will be a prominent new feature within the landscape, its immediate context adjacent to an existing pylon must be taken into considered. The POC mast plan shows additional structures at the base, which appear 5-6m in height. Whilst, the new mast cannot be screened in its entirety, mitigation screen planting has now been introduced around the base of the mast. This will not reduce the visual impact from the medium and longer-range views, it will be of benefit of reducing impact to the close-range views, particularly from the PROW.

Another important aspect of mitigation is the external appearance of the structures and cabins. The solar inverter cabin, batter inverter cabin and battery storage stations are proposed to be steel structures, but no colour has been specified. A suitable recessive colour will need to be selected and can be secured by way of planning condition. Similarly, the acoustic fence will be 4m in height and therefore, its visual impact will also need to be minimised through appropriate specification and colour/finish. Details of any bracing will also need to be secured, and a condition can ensure this is agreed prior to installation.

Hedgerow translocation is proposed to allow for the necessary visibility splays can be provided at the access points. Concerns were raised by officers that the translocated hedgerow was hard up against the visibility splay and would not have sufficient space to regrow over time. This has now been revised. Concern was also raised with regard to the Monger Lane Access and the amount of hedgerow proposed to be translocated. A detailed access plan has now been provided which shows an acceptable level of translocation.

A Landscape and Ecological Management Plan (LEMP) will be required to ensure the long-term success of the landscape mitigation and enhancement measures, and this can be secured by condition.

Third parties have highlighted that the proposed solar development is within an area of low potential for a solar development of this scale, within the Landscape Sensitivity Assessment Renewable Energy Development (LUC 2021 Report). This report indicates that much of the B&NES district has, from a landscape sensitivity perspective, low potential for solar development of 15-30 hectares. The report, does not, prevent solar development from coming forward in these areas and if such impacts of solar projects of this scale can be mitigated and the level of adverse impacts are not unacceptable, then there is no reason that development should be refused on this basis.

Further, it has been raised that brownfield sites should be used for solar development, as well as existing roofs of buildings and not green fields. B&NES is an overwhelmingly rural district. Ideally, solar would be directed toward brownfield sites; however, the district has a finite number of such sites and not all will be suitable for solar development. Indeed, there are also other priorities such as housing and employment development which need to be balanced with the need for renewable energy. Sites also need to be able to deliver a point of connection to the grid so that electricity can be exported. There is therefore acceptance from officers that rural sites will need to come forward.

The proposed development will have an impact upon the existing landscape and will introduce urban infrastructure into this rural location on the edge of Paulton. However, the LVA has robustly demonstrated that the level of adverse impact can be mitigated to at least "moderate" after a ten-year period. It is also important to note that the development will be removed at the end of its life and a decommissioning strategy can be secured by condition. There is no objection to the proposals from the Council's Landscape Officer, who, alongside the case officer, has rigorously assessed the scheme from a landscape perspective.

It is therefore considered that the development meets policy CP3 in respect of landscape, and policies NE2 and NE2A.

HERITAGE ASSETS:

Policy HE1 of the Placemaking Plan, alongside Policy CP6 of the Core Strategy, seeks to safeguard the district's heritage assets. Development should preserve or enhance those elements which contribute to the special character and appearance of Conservation Areas. Any harm must be justified and weighed against the public benefits of the proposal; great weight must be given to the preservation of the heritage asset in question.

There are duties placed on the Council under; Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, when considering whether to grant planning permission for development which affects a listed building or its setting, that the local planning authority shall 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.

The setting of a heritage asset (as set out in the NPPF Annexe 2: Glossary) is 'the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.' PPG advises that 'when assessing any

application for development which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change.'

Conservation Areas:

Paulton is the closest Conservation Area. However, the submitted Zone of Theoretical Visibility (ZTV) demonstrates limited visibility of the site. There are only glimpsed views out to countryside from the centre of Paulton. The map provided indicates small areas of theoretical visibility. Following an assessment of the information provided and a review of the site, the development is not considered to impact the Paulton Conservation Area.

Midsomer Norton Conservation Area is shown on the ZTV not to be impacted by the development and there is no objection to this conclusion.

Following officer advice, further assessment of the Radstock Conservation Area was undertaken with specific assessment of Combe End and Clandown and the Fosse Way Ridge where there would be some intervisibility. The Conservation Area is currently being reviewed, and initial assessments have indicated the potential expansion of the designation to include Clandown Farm. This asset has been separately assessed as it is also listed.

Whilst the application site would be visible to the west of the designation, the impact is not considered to cause harm to the Conservation Area, including the new potential additions to the designation. This is due to the scale of development and the change in nature to the rural landscape when viewed from within the conservation area towards to the application site. Given this distance between the asset and the application site, combined with existing vegetation and historic use of the land, the introduction of the solar panels would cause less than substantial harm to the setting of the designation. The Council's Conservation Officer has advised that this would be a low level of less than substantial harm.

Listed Buildings:

The heritage assessment has included four listed buildings which are within the middle study area: Clandown Farmhouse, Church of The Holy Trinity and Holy Trinity Vicarage.

Whilst there is established landscaping on the boundary of the Church of the Holy Trinity and Vicarage, it is agreed with the conclusion of the Heritage Assessment that there would be a low level of less than substantial harm to these listed buildings. This is due to views towards to the application site being possible and the resulting change in character. No further listed building settings are considered to be harmed.

The application seeks consent to improve landscaping, and this is identified in the statement as potential mitigation. Whilst it is not considered that the landscaping will fully address the level of harm, its implementation is supported to enable some additional screening.

Undesignated Heritage Assets:

Following pre-application advice, the heritage statement has included non-designated heritage assets. The authors state there are no non-designated heritage assets in the vicinity as these have not been included in the HER.

The NPPF states that 'non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified by plan-making bodies as having a degree of heritage significance meriting consideration in planning decisions, but which do not meet the criteria for designated heritage assets. A substantial majority of buildings have little or no heritage significance and thus do not constitute heritage assets. Only a minority have enough heritage significance to merit identification as non-designated heritage assets.'

There are a number of buildings which are identified on the 1840s tithe map within close proximity of the site and visits to these identify that they have a degree of heritage significance in their construction and style. This includes a group of buildings at Monger, adjacent to the site and isolated buildings dotted in the vicinity of the application site. These examples were highlighted to the applicant, and it is therefore disappointing that they were not assessed further before being discounted within the heritage statement.

Notwithstanding the above, the buildings identified have been assessed by the Conservation Team and it is considered that Broadway Cottages and properties on Craw Lane would not be impacted.

There would be a clear level of intervisibility between properties at Monger Lane and Clandown Road. These buildings have modern alterations and would not be worthy of listing.

Heritage balance:

The NPPF sets out at paragraph 112 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.

In respect of non-designated heritage asset, paragraph 216 of the NPPF confirms that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Less than substantial harm has been identified to the Church of the Holy Trinity and Vicarage and the Radstock Conservation Area. Paragraph 215 sets out that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

There will be a number of public benefits to the scheme which have been set out in the principle of development section of this report but are summarised again below.

The proposed development will result in a significant contribution to the Council's renewable energy targets. The NPPF also sets out (paragraph 161) that the NPPF should

support renewable and low carbon energy and associated infrastructure. Additionally, the proposal will result in jobs being created during construction and through the ongoing operation of the development; this should be afforded moderate weight. The scheme is also providing a significant biodiversity gain, which is also of public benefit with regard to biodiversity.

Attributing great weight to the significance of the heritage assets (Church of the Holy Trinity and Vicarage and the Radstock Conservation Area), it is considered that there are public benefits associated with the development which outweigh the harm identified and the scheme therefore complies with policy HE1.

In respect of the non-designated heritage assets, it is considered that the harm is not significant and taking a balanced judgement, as per the provisions of the NPPF, it is not considered that the level of harm would be sufficient reason to refuse the application.

ARCHAEOLOGY:

Policy HE1 of the Placemaking Plan sets out that Scheduled monuments and other non-designated archaeological sites of equivalent significance should be preserved in situ. In those cases where this is not justifiable, or feasible provision should be made for their excavation and recording. The appropriate publication and curation of the finds/archive will be required.

The submitted geophysical survey and Cultural Heritage Impact Assessment (CHIA) indicate that the area proposed for the solar farm contains potential archaeology of local significance relating to possibly Roman and Industrial periods and proposes that trial trench investigation take place post-determination. The CHIA also states that if remains of higher significance than predicted are encountered during trial trenching, alternative design options to limit harm to below ground archaeological remains will be implemented.

As such, pre-commencement conditions are recommended securing the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation and an archaeological field investigation with subsequent programme of archaeological work.

Subject to these conditions, the scheme complies with policy HE1 with regard to archaeology.

RESIDENTIAL AMENITY:

The key consideration with regard to residential amenity is the potential for noise and disturbance. Whilst this will not occur from the panels themselves, the development includes a large Battery Energy Storage System (BESS) which will generate noise pollution. An Acoustic Assessment (ion Acoustics) accompanies the submission. The Assessment positions are set out on page 2 of the assessment and are as follows:

- AP1 - Springfield Farm
- AP2 - Bowlditch Farm
- AP3 - Salisbury Cottage
- AP4 - Broadway Cottage

AP5 - Monger Cottages

AP6 - Bences Lodge

These are the nearest residential receptors and are thus considered appropriate assessment points.

The noise generating equipment can be summarised as follows:

- 36no. BYD MC Cube ESS Battery Units
- 16no. SMA 4600 UP Central Inverters: 13 servicing the BESS site and 3 servicing the solar farm
- 1no. HV Transformer

The noise assessment confirms that "the nature of solar farms is such that electricity is only generated during daylight hours. Electricity generation may extend in times considered part of the night during the summer, i.e. early mornings before 0700hrs, and also during the evening period after 1900hrs. Note that the early morning periods during spring and summer often coincide with the dawn chorus. The solar farm would not be operational at the quietest times of the night, nor during the late evening when most people would be trying to sleep."

However, the BESS can operate at any time of the day or night. They are typically expected to operate at peak times, such as early winter evenings.

The World Health Organisation (WHO) set out external noise criteria to protect residents. Outside bedroom windows, noise levels should not exceed 45dBL so that residents can sleep with their windows open. The WHO limit is a level taken 1m from the façade of a building, and so the equivalent free field level will be approximately 3dBL lower at 42dBL. In amenity spaces such as gardens, noise levels of 50dBL will cause moderate annoyance, and noise levels of 55dBL will cause serious annoyance.

A 48-hour baseline noise assessment was carried out in April 2023, with monitoring points being set up at Springfield (MP1) and Bowlditch (MP2) Farms. The typical background noise levels were as follows:

MP1 - 39dBL (7am-11pm) and 25dB: (11pm - 7am)

MP2 - 35dBL (7am-11pm) and 25dB: (11pm - 7am)

The noise assessment clarifies that at "night, the background noise levels are very low and in such circumstances BS 4142 states that absolute noise limits can be more relevant as discussed in Section 3.3. In this case, an appropriate can be derived from the WHO Community Noise 1999 guidance as discussed in Section 3.4 above. To prevent sleep disturbance, a limit of LAeq 42dB (free-field) is advised. To ensure that the new development cannot be a factor in the LAeq 42dB limit being exceeded, plant noise levels would need to be 10dB below this i.e. LAeq 32dB."

A 4m acoustic barriers is proposed to surround the BESS, which can be secured by condition, and is taken into account in the proposed noise levels. Page 18 of the noise assessment sets out the results of the noise impact assessment.

During the daytime (7am-11pm) the noise levels range from 32dBL to 37 dBL, including a +2dBL correction for audible tones. The noise levels at AP1 and AP2 are most impacted by the development, but the noise levels will still be at or below the background noise levels.

For the night time, the scenario in the noise assessment includes all plant running simultaneously. It is noted that this is unlikely to occur in practice because the predictions are based on an external temperature of 25 degrees centigrade which is a fairly rare occurrence in the UK, except in peak Summer. The approach to using the worst case scenario is appropriate and welcomed.

The results of the night time assessment (11pm - 7am) also include a +2dBL correction for tonality. The noise limit is set at 32dBL for the reasons set out above. The noise limits range from 24dBL to 32dBL at Springfield Farm. This indicates that there will be a low noise impact.

It is imperative that the acoustic fencing is installed prior to the first use of the BESS and a condition is thus recommended to this end. The Council's Environmental Protection Team have assessed the noise assessment and have no objection to the proposals.

Whilst the scheme is located such that it will not result in overbearing or overshadowing; it will result in a change in outlook for residents. An important aspect to consider is glint and glare - a Glint and Glare Study accompanies the submission (PagerPower).

There is no formal guidance which sets out the distance at which glint and glare should be assessed. The submitted report deals with road, aviation and dwelling receptors, which is considered appropriate. 88 dwellings were identified for assessment.

The study demonstrates that a number of dwellings will experience some impacts from the panels. For most dwellings, the solar reflections are predicted for less than 60 minutes per day, and for less than 3 months of the year. A number will experience the same, but for more than 3 months of the year. However, for these properties there is identified screening like existing vegetation, which will result in no impact. Table 3 in the submitted report sets out these results in detail. As screening matures, the impacts will decrease. Impact levels range from none to moderate. Although the outlook from a number of dwellings will change, the impacts are not considered to be significant as demonstrated by the results of the glint and glare assessment.

Although not related to residential amenity, it can also be reported that the proposals are acceptable in terms of glint and glare effects for aviation and the highway network.

The scheme is considered to comply with policy D6 of the Placemaking Plan.

ARBORICULTURE:

An Arboricultural Impact Assessment (AIA) and tree survey have been submitted with the application. The AIA states that no trees will require removal for any of the associated activities however, a number of small hedgerow sections have been identified as requiring removal for the construction of new access tracks.

The report identifies four A category trees; two are within hedging towards the north of the site and two are isolated within the fields and are more vulnerable to damage. These could be future veteran trees if appropriately managed within a Landscape Ecological Management Plan, which will be secured by way of condition. The Council's Arboricultural Officer has raised that T15 could be linked to the eastern hedge via a section of new hedge to improve biodiversity. Additional new planting is being provided across the site, which is further explored in the ecology section below, and hedgerow planting this location would not complement the existing panel layout, which are deliberately pushed away from hedgerows to provide an ecological buffer. This has therefore not been requested by the case officer.

Fencing is proposed for tree protection and the intention to erect the permanent security fencing first where this is feasible to provide tree protection and avoid unnecessary temporary fencing is noted. This is a reasonable proposal, but a watching brief should be employed to prevent accidental damage and ensure that the security fencing is correctly positioned. The Tree Protection plan also needs to be updated so that the security fencing is highlighted for easy identification and included in the key on the Tree Protection Plan. An updated plan can be secured by condition, as well as further details of the new tree planting, which is welcomed.

ECOLOGY:

An Ecological Impact Assessment (EclA) has been submitted with the application (Tyler Grange, 15th August 2024), and a further EclA Addendum (Tyler Grange, 18th February 2025). The addendum report provides details of additional surveys for birds and bats further to the 2024 report.

The EclA states that "the site is comprised of agricultural pastoral (modified grassland, negligible ecological importance) land, bisected by native species-rich hedgerows (local ecological importance) with some scattered trees (local ecological importance). The site contains habitats that support common and widespread nesting and foraging birds, foraging and commuting bats, badgers, brown hare, and possible hedgehogs, amphibians and reptiles".

The level of survey effort undertaken and the assessment of the ecological baseline are considered acceptable for the site.

The EclA identifies the site as being of local importance for bats, and a relatively diverse assemblage of species was recorded on site including lesser horseshoe and greater horseshoe bats which are annex II species. The EclA considers it unlikely that the greater horseshoe bats recorded on site are likely to be associated with Mells Valley SAC which is accepted.

The EclA does identify that the hedgerows on site 'aid commuting and foraging' of bats and that these are to be retained. Clarity was sought by officers in regard to the buffer zones between the arrays and hedgerows and an Ecological Parameters Plan was subsequently submitted. This shows a 5m buffer surrounding retained hedgerow which is considered to be acceptable and will allow for bat/bird foraging and commuting, as well as management and maintenance.

A shadow Habitats Regulations Assessment was submitted and concludes that the proposed development would not give rise to likely significant effects on the Mells Valley SAC, the Chew Valley Lake SPA or the Mendip Wodland SAC. This conclusion is accepted by the Council and the shadow Habitat Regulations Assessment position is, for the avoidance of doubt, adopted by the Council.

Natural England have been consulted in respect of the HRA and conclude the following:

"A Habitats Regulations Assessment Statement has been provided which has screened the proposal to check for the likelihood of significant effects. Your assessment concludes that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination. On the basis of the information provided, Natural England concurs with this view."

A revised biodiversity net gain metric has been submitted which accounts for the fact that some newly seeded grassland will be beneath solar panels, making future management challenging. The revised metric demonstrates a 63% net gain in habitat units and a 33% uplift in hedgerow units, far in excess of the 10% mandatory requirement. This can be secured by condition.

Overall, the scheme is considered to be ecologically acceptable.

TRANSPORT AND HIGHWAYS:

The scheme is shown to provide four access points into the site, two existing agricultural access points from Monger Lane, one further existing access point located on Water Lane and one proposed new access point to be provided along Ongar Lane as shown on the Layout Plan.

The Transport and Access Statement (TAS) states that during the construction period the access along Water Lane will not accommodate any construction traffic; the existing access points would be utilised from Monger Lane, with the eastern access accommodating movements to and from the site. This access point leads into a permeable access track and temporary site compound with suitable turning and parking facilities for construction vehicles. A plan was provided during the course of the application which details the access arrangements and visibility splays, which are considered suitable given the data collected by the Automatic Traffic Count (ATC) in the area.

The ATC provided details of the traffic flow and vehicle speeds along the site. The surveys recorded two-way vehicle data along Monger Lane, Clandown Road and Water Lane over a seven-day period. A 12-hour survey was undertaken on Monger Lane to record vehicular and pedestrian volumes to the south of the proposed access point. Figure 2.5 within the TAS indicates the location of each survey location.

The results within point 2.3 details that a maximum average of 48 two-way movements during the weekday AM peak (8am-9am), and 59 two-way movements in the weekday PM peak (5pm-6pm). Details of HGV movements were also recorded with a maximum daily movement of 7 vehicle with 2 other goods vehicles over a 24-hour period.

The vehicle speeds were recorded along the access roads which gave a maximum 85th percentile vehicular speed of 31mph along Clandown Road, 26mph along Monger Lane and a maximum of 24mph along Water Lane. The survey concluded that the vehicles speeds along the surrounding highways were lower than the posted speed limit.

The survey recorded 22 pedestrian movements along the site within the 12-hour period. As a PRoW (CL24/26) is located along Monger Lane, south of the proposed construction accesses, the scheme will need to provide suitable signage for both pedestrians and construction workers information.

The sites anticipated trip generation is 876 vehicle movements during the stated 32-week construction period, which equates to around 27-28 movements per week. This is the equivalent of around 4-5 trips a day for construction related traffic, which is not considered to be significant. However, point 5.4.8 of the TAS states that approximately 30 staff members will require access to the site per day during peak construction period. The staff requirement may, as a maximum, provide 60 two-way movements a day on top of the construction vehicle movements. A revised layout plan has been submitted which provides an area for dedicated on-site parking which would be temporary for the construction period. The car park shows 23 spaces, but there is capacity to accommodate further space within the site if required and this is accepted.

Information regarding how car sharing opportunities will be promoted was required by the Highway Authority to ensure that suitable measures were able to be provided. The submitted information sets out that this will be promoted via the site manager and contractors. The Highway Authority consider this acceptable, given the provision of car parking space through the amended plans.

It is therefore considered that the development can be constructed without significant impact to the local highway network and subsequently operated safely and without impact. A construction management plan can be secured by condition, as well as the highway works to the access to provide the suitable visibility splays. A decommissioning plan will also need to be secured so that any potential impacts during this phase can be mitigated.

FLOOD RISK AND DRAINAGE:

The Lead Local Flood Authority (B&NES) and the Environment Agency were consulted in respect of the application. It is noted that several third parties have raised flood risk concerns in their comments.

The Lead Local Flood Authority (B&NES) reviewed the scheme in terms of flooding and surface water management. This land currently contributes to recurring flooding of Bowlditch Lane, and this development could exacerbate this issue. There is therefore a reasonable expectation for attenuation to be provided across the highlighted surface water flood flow paths within the submitted Flood Risk Assessment.

As originally submitted, there was some discrepancy between the Surface Water Management Plan and layout plans in terms of surface water infrastructure being provided on the site (attenuation basin, pond and underground water tanks). The Management Plan also did not detail where the attenuation basin and ponds would flow to.

A Drainage Technical Note dated 6th December 2024 was submitted. This clarified that the cessation of farming activities (such as ploughing, traversing the field with heavy machinery and allowing it to become trodden by livestock) will likely reduce the run-off rates from the site. Indeed, the Environment Agency have shown that farming activity can considerably increase the rate of run off from a site. The change will reduce soil compacts which will allow them to become aerated and should improve their water acceptance potential. The proposed grass and meadow planting for biodiversity purposes will also serve to limit flows across the site as they will have high levels of attenuation.

The underground water tanks proposed are not for surface water management. A number of third parties have raised concern with regard to fire risk and the battery storage. The National Fire Chiefs Council provide guidance for battery systems and states that:

'Any static water storage tanks designed to be used for firefighting must be located at least 10 metres away from any BESS container/cabinet. They must be clearly marked with appropriate signage. They must be easily accessible to FRS vehicles and their siting should be considered as part of a risk assessed approach that considers potential fire development/impacts. Outlets and connections should be agreed with the local FRS. Any outlets and hard suction points should be protected from mechanical damage (e.g. through use of bollards).'

The Fire Service has been consulted and has not raised comment. A condition can secure confirmation that outlets and connection have been agreed with the local fire service in accordance with the guidance above, prior to the first use export of electricity to the grid.

It has also been clarified that the proposed pond and attenuation basin is provided for biodiversity net gain and for habitat for fauna and wildlife and does not form part of the Surface Water Management Plan.

The Lead Local Flood Authority, upon receipt of the Technical Note, have confirmed that the submitted Management Plan is acceptable and do not object to the proposals.

The Environment Agency originally objected to the proposals on the basis that insufficient information had been supplied to demonstrate that the risk of pollution posed to groundwater quality could be safely managed.

Revised information has been submitted, and the Environment Agency have removed their objection to the proposals. The BESS will be served by a sealed surface water drainage system and is situated upon a High Vulnerability Secondary A aquifer which is designated for the protection of potable water used for human drinking water supplies.

The proposed development will be acceptable if the measures detailed in the "Report on Drainage and Contaminated Water Management for Co-located Solar and Battery Energy Storage System (BESS) Sit, Version 2, Dated 16/02/2025" are implemented. This can be secured by way of condition.

The LLFA and Environment Agency now have no objection to the proposals, and it is acceptable in flooding and drainage terms.

PUBLIC RIGHTS OF WAY:

The B&NES Public Rights of Way team has no objection to the application. If any construction works or the siting of fencing will impinge upon the definitive line of any of the public footpaths, then a pre-construction site visit with the PROW team must be arranged. A number of informatives can be added to the decision notice to remind the applicant of PROW processes.

SECURITY AND DESIGNING OUT CRIME:

Paragraph 135 of the NPPF requires that planning decisions 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.

The Designing Out Crime Officer (Avon and Somerset Police) has made comment on the application. They note that the proposed deer fencing may not be a suitable deterrent for theft and advises that means of intrusion detection and physical security needs to be robust. CCTV should also be employed. A CCTV plan can be secured by way of condition.

There is no overall objection from the police, and the applicant is advised to note their advice in respect of security.

OTHER MATTERS:

Third parties have raised concerns that the development will decrease property prices. This is not a material planning consideration.

Concerns have been raised with regard to Electromagnetic Radiation. The applicant has provided the following information:

"Like batteries used in handheld devices, lithium-ion and other types of batteries do not give off electromagnetic radiation. These batteries store electrical energy in chemical form, which can be converted back into electrical energy and discharged back to the grid. This conversion is performed by a bidirectional inverter, which must be tested and certified for electromagnetic compatibility.

There are elements of the proposed installation such as transformers and overhead cables that will produce some electromagnetic radiation. They are designed in accordance with stringent directives and codes which ensure that any electromagnetic emissions are kept to safe levels. There is also no evidence that electromagnetic fields at the frequencies associated with BESS developments causes harm to health.

PACE have also confirmed that all equipment associated with the scheme will be installed in compliance with the 1998 ICNIRP (International Commission on Non-Ionizing Radiation Protection) guidelines on the limitation of public exposure to electromagnetic fields."

This is considered to be acceptable.

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.

Officers have had due regard to these matters when assessing this application and have concluded that neither the granting nor the refusal of this application would be likely to have an impact on protected groups and, therefore, that these considerations would not weigh in favour of or against this application.

CONCLUSION:

The proposed development will represent a change in the existing landscape within this area. However, overtime it is considered that landscape harms can be successfully mitigated in line with planning policy. Less than substantial harm to heritage assets has been identified, but it has been demonstrated that these are clearly outweighed by the public benefits of the scheme. Additional information has been provided to alleviate concerns with regard to hedgerow buffers in ecological terms and the scheme is considered to be policy compliant in this regard.

There are a number of benefits associated with the proposals which must be given weight in the planning assessment.

The scheme will provide a significant contribution to the Council's renewable energy requirements. There is a critical and identified need for clean, renewable energy and the NPPF provides a strong policy narrative for supporting such developments. The BESS will store energy so that it can be distributed more evenly throughout the year, at times where there is less sunlight and/or demand for electricity is particularly high.

Further, the proposed BNG uplift is in excess of the required 10% net gain, which is also considered to be of benefit.

The scheme will provide jobs during the construction and operational phases which should also be attributed weight as a benefit.

"Section 70(2) of the Town and Country Planning Act (1990) makes clear that a Local Planning Authority must have regard to "the provisions of the development plan, so far as material to the application" and "any other material considerations". Further, 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"."

In this case, it is considered that the proposals comply with the development plan as a whole and officers recommended that the application is permitted in line with the conditions set out below.

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 Net Gain Plan (Pre-commencement)

Unless confirmed as exempt, no development shall commence until full details of a Biodiversity Gain Plan achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for any on-site habitats and biodiversity measures, have been submitted to and approved in writing by the Local Planning Authority. The Plans shall be in accordance with current best practice guidelines and standards and shall be in accordance with the approved Biodiversity Net Gain Assessment and calculation and shall include the following:

In all cases:

1. Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric or any successor, and accompanying evidence for baseline condition assessments;
2. A BNG habitat map for on-site proposed habitats
3. Information about the steps taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat and, in the case of any irreplaceable habitat, information on arrangements for compensation for any impact of the development has on the biodiversity of the irreplaceable habitat (which does not include the use of biodiversity credits).
4. Details and evidence of any registered off-site biodiversity gain units allocated to the development and any biodiversity credits purchased for the development;

Where on-site habitat is proposed/retained:

5. Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives;
6. Annual work schedule for at least a 30 year period
7. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; on-site disposal of grass cuttings or other vegetation waste; routine cutting of ivy where there is no specific arboricultural justification; inappropriate maintenance methods, storage of materials; inappropriate machine or vehicle access).

8. Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives.
9. Details of proposed reporting to the Local Planning Authority, and proposed review and remediation mechanism.
10. Proposed costs and resourcing, and legal 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 and to ensure delivery of Biodiversity Net Gain in accordance with Bath and North East Somerset Local Plan Partial Update policies NE3, NE3a NE5 and D5e and paragraph 13 of Schedule 7A to the Town and Country Planning 1990 Act (Biodiversity Gain Condition).

3 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:

1. Deliveries (including storage arrangements and timings);
2. Contractor parking;
3. Traffic management;
4. Working hours;
5. Site opening times;
6. Wheel wash facilities;
7. Site compound arrangements;
8. Measures for the control of dust;

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.

4 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: Ecology) has been submitted to and approved in writing by the Local Planning Authority. The CEMP: Ecology shall include the following:

- 1) Risk assessment of potentially damaging activities
- 2) 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

- 3) 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
- 4) The times and frequency of visits during construction when a professional ecologist needs to be present on site to oversee works
- 5) Responsible persons and lines of communication
- 6) 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.

5 Archaeological Evaluation (Pre-commencement)

No development shall commence until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has first been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work should provide a field evaluation of the site to determine date, extent, and significance of any archaeological deposits or features, and shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of potential archaeological interest and the Council will wish to evaluate the significance and extent of any archaeological remains. This condition is a pre-commencement condition because any construction works have the potential to harm archaeology.

6 Archaeological Mitigation (Pre-commencement)

No development shall commence until the applicant, or their agents or successors in title, has presented the results of the archaeological field evaluation to the Local Planning Authority, and has secured the implementation of a subsequent programme of archaeological work, or preservation in situ methodology in accordance with a written scheme of investigation which has first been agreed and approved in writing by the Local Planning Authority. The agreed programme of archaeological work shall be carried out by a competent person and completed in accordance with the approved written scheme of investigation.

Reason: The site is within an area of potential archaeological interest and the Council will wish to record and protect any archaeological remains. This condition is a pre-commencement condition because any construction works have the potential to harm archaeology.

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

No construction or decommissioning shall commence until a Detailed Arboricultural Method Statement with Tree Protection Plan following the recommendations contained within BS 5837:2012 has been submitted to and approved in writing by the Local Planning Authority. The arboricultural method statement shall include details of the following:

1. A programme of works to include details of supervision and monitoring by an Arboricultural Consultant and the provision of site visit records and certificates of completion to the local planning authority;
2. Measures to control potentially harmful operations such as site preparation (including demolition, clearance, earthworks and level changes), the storage, handling, mixing or burning of materials on the site and the movement of people and machinery throughout the site;
3. The location of any site office, temporary services and welfare facilities;
4. The location of any service runs or soakaway locations;
5. A scaled Tree Protection Plan showing the location of all retained trees and tree protection measures.

Details of the above for the decommissioning phase shall be submitted to the Council no later than six months prior to the 45th anniversary of the first export date.

No development or other operations shall thereafter take place except in accordance with the approved details.

Reason: To ensure that trees to be retained are not adversely affected by the development proposals in accordance with Policy NE6 of the Bath and North East Somerset Local Plan Partial Update. 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.

8 Materials - Submission of Materials Schedule (Bespoke Trigger)

No construction of the buildings (including the solar inverter cabin, batter inverter cabin and BESS) 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 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.

9 Landscape Design Proposals (Pre-commencement)

No development shall commence until full details of both hard and soft landscape proposals and programme of implementation have been 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
3. Car parking layouts
4. Other vehicle and pedestrian access and circulation areas
5. Hard surfacing materials
6. Minor artefacts and structures (e.g. outdoor furniture, play equipment, refuse or other storage units, signs, lighting)
7. Proposed and existing functional services above and below ground (eg drainage, power, communication cables, pipelines, etc, indicating lines, manholes, supports etc)

Soft landscape details shall be consistent with the Biodiversity Net Gain Assessment/ Biodiversity Gain Plan/ Ecological Report and 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

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.

10 Implementation of Landscaping Scheme (Bespoke Trigger)

All hard and soft landscape works shall be carried out in accordance with the approved details. 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 30 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.

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.

11 Landscape and Ecological Management Plan (Pre-occupation)

No occupation of the development hereby approved shall take place until full details of a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. These details shall be fully in accordance with all approved ecological mitigation, compensation, enhancement and biodiversity net gain requirements and shall include:

1. A list of long-term wildlife conservation and landscape design aims and objectives, which, where applicable, shall be specific to named habitats, species and ecological issues of importance. They shall include (but not be limited to): delivery and long term maintenance of landscaping and habitats to achieve Biodiversity Net Gain.
2. Creation of habitats to a specified condition and / or that achieve specified levels of structural, botanical, and/or invertebrate diversity; provision of habitats suitable for specified species (for example linnet and other bird species); habitats with suitable conditions, connectivity and quality for use by bats as part of connected flight routes;
3. Proposed management prescriptions and operations; locations, timing, frequency, durations; methods; equipment and personnel as required to meet the stated aims and objectives
4. A plan showing the boundary or boundaries of land to which the LEMP applies. This shall include the existing and translocated hedgerows. All details, locations, boundaries of habitats and management areas shall also be shown on a plan.
5. A list of activities and operations that shall not take place and shall not be permitted within the LEMP Plan area (for example use of herbicides; waste disposal and disposal of arisings; inappropriate maintenance methods; storage of materials; machine or vehicle access)
6. Proposed habitats shall correspond to and meet the minimum standards set out in the approved Ecological Mitigation, Compensation and Enhancement Plan
7. Proposed monitoring and reporting scheme, to include a 5 year rolling programme for ongoing review and future remediation strategies
8. Proposed resourcing; funding sources and legal responsibility.

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 and maintained and utilised thereafter, in accordance with the approved details and timings.

Reason: To ensure the long term maintenance and management of landscape and ecological features in the interests of providing net gain of biodiversity and mitigating the landscape impacts of the development in accordance with policies NE2, NE2A and NE3 of the Bath and North East Somerset Local Plan Partial Update.

12 Ecological Compliance Statement (Pre-occupation)

Prior to the first exportation of electricity to the grid a report produced by a suitably experienced professional ecologist (based on post-construction on-site inspection by a suitably experienced professional ecologist) confirming and demonstrating, using photographs, adherence to and completion of the CEMP in accordance with approved details, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To demonstrate compliance with the CEMP to prevent ecological harm and to provide biodiversity gain in accordance with NPPF and policies NE3 NE3A; NE5 and D5e of the Bath and North East Somerset Local Plan Partial Update.

13 Fire Safety Compliance Confirmation (Pre-occupation)

Prior to the first exportation of electricity to the grid, or use of the Battery Energy Storage System, evidence shall be submitted to and approved in writing by the Local Planning Authority that the outlets and connections to the underground water tanks have been agreed with the local fire service. The site shall then be operated in accordance with the agreed details.

Reason: To ensure that the development is safely operated in accordance with part 8 of the NPPF.

14 Highway Works (Pre-occupation)

No use of the development shall commence until the highway works shown on drawing number BLA214-04 has been provided. There shall be no on-site obstruction exceeding 900mm above ground level within the visibility splay. The visibility splay shall be retained permanently thereafter.

Reason: To ensure that the development is served by a safe and suitable means of access in accordance with Policy ST7 of the Bath and North East Somerset Local Plan Partial Update.

15 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. Predicted lux levels and light spill on both the horizontal and vertical planes;
3. 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 policy CP6 of the Bath and North East Somerset Core Strategy and policies NE3 and D8 of the Bath and North East Somerset Local Plan Partial Update.

16 Acoustic Fencing (Bespoke trigger)

Prior to the first use of the Battery Energy Storage System, the 4m high Acoustic Fencing, as detailed within section 6.2 of the Noise Assessment for Planning Acoustic Report A2007 R01 (June 2024), shall be installed in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. This will include elevation drawings, a manufacturer's specification, its colour and finish. The fencing shall be installed in accordance with the approved details and prior to the first use of the BESS.

Reason: To ensure that landscape character is protected, as well as the residential amenity of nearby residents, in accordance with policy CP6 of the Bath and North East

Somerset Core Strategy, policy D6 of the Bath and North East Somerset Placemaking Plan and policies NE2A and NE2 of the Bath and North East Somerset Local Plan Partial Update.

17 Arboriculture - Signed Certificate of 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 trees to be retained are not adversely affected by the development proposals in accordance with Policy NE6 of the Bath and North East Somerset Local Plan Partial Update and to ensure that the approved method statement is complied with for the duration of the development.

18 De-commissioning Strategy (Bespoke Trigger)

No less than six months before the final export date, or before the 45th anniversary of the first export date (whichever is soonest), a decommissioning strategy 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, an updated Construction Management Plan (De-commissioning) and timescales for the work. 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 approved details, unless otherwise agreed in writing by the Local Planning Authority.

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

Reason: To protect the landscape character in accordance with policy NE2 of the Bath and North East Somerset Local Plan Partial Update, the safe operation of the highway in accordance with policy ST7 of the Bath and North East Somerset Local Plan Partial Update and to ensure sufficient ecological mitigation in accordance with policies NE3 and NE3a of the Bath and North East Somerset Local Plan Partial Update.

19 Drainage Strategy (Compliance)

The development hereby permitted shall be carried out in strict accordance with the approved 'Report on Drainage and Contaminated Water Management for Co-located Solar and Battery Energy Storage System (BESS) Site, Version 2, Dated 16/02/2025' including the specific mitigation measures detailed therein.

Reason: To ensure that the proposed non-mains drainage system does not harm groundwater resources in line with paragraph 187 of the National Planning Policy Framework and "Position Statement G10 - Developments posing an unacceptable risk of pollution".

20 Contaminated Land - Unexpected Contamination (Compliance)

In the event that contamination which was not previously identified 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 the first use 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 of the National Planning Policy Framework.

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 This decision relates to the following plans:

Ecological Parameters Plan (ref. 16134/P09A - dated March 2025)
Mitigation and Enhancements Plan V5 (ref. UKS579_10 - dated 21.02.2025)
Layout Plan (ref. UKS579_09 - dated 20.02.2025)
Hedgerow Translocation - Water Lane Access (BLA214-04 REV B - dated 31.01.2025)
Hedgerow Translocation - Monger Access (ref. BLA214-05 - dated 13.02.2025)
Drainage Layout Plan (ref. UKS579 - dated 24.01.2025)
POC- Mast Elevation (ref. UKS579_07 V0 - dated 08.07.2024)
Battery Inverter Cabin (ref. UKS579_04A V0 - dated 24.05.2024)
Location Plan (ref. UKS579_08 0 - dated 07.08.2024)
Acoustic Fence (ref. UKS579_12 V0 - dated 24.05.2024)
Double Gate (ref. UKS579_05 V0 - dated 24.05.2024)
Battery Elevation (ref. UKS579_02 V1 - dated 24.05.2024)
Access Track Elevation (ref. UKS579_11 V0 - dated 24.05.2024)
Deer Fence Typical Arrangement (ref. UKS579_06 V1 - dated 24.05.2024)
PV Panel Elevation (ref. UKS579_03 V0 - dated 24.05.2024)
Substation Plan & Elevation Drawing (ref. UKS579_07 V0 - dated 08.07.2024)
Solar Inverter Cabin (ref. UKS579_04 V0 - dated 24.05.2024)
CCTV (ref UKS579_01 V0 - dated 24.05.2024)
Appendix D Tree Protection Plan (dated 26.07.2024)

2 Permit/Consent Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 39 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 or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

4 Biodiversity Net Gain - Standard Informative

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements apply. A detailed version of the biodiversity gain condition can be found in the list of conditions attached to this permission.

The effect of section 73D of the Town and Country Planning Act 1990:-

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

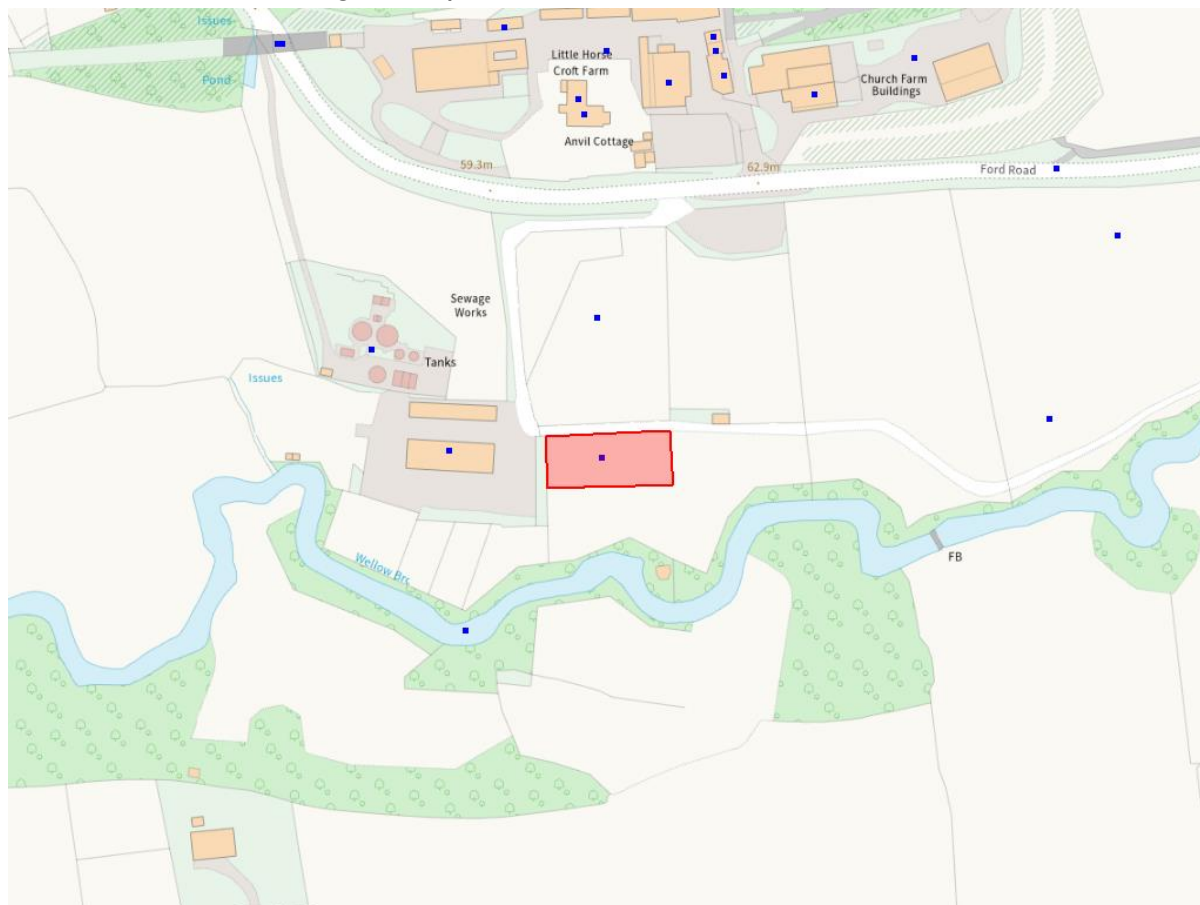
Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and
- ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

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: 24/02841/FUL
Site Location: Storage Compound Little Horse Croft Farm Ford Road Wellow Bath



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

Ward Members: Councillor Matt McCabe Councillor Fiona Gourley

Application Type: Full Application

Proposal: Retention of contractors compound as additional agricultural hard standing.

Constraints: White Ox Mead Air Strip 3km buffer, Agric Land Class 1,2,3a, Policy CP3 Solar and Wind Landscape Pote, Policy CP8 Green Belt, Policy CP9 Affordable Housing, Flood Zone 2, LLFA - Flood Risk Management, Policy NE1 Green Infrastructure Network, Policy NE2 AONB, Policy NE3 SNCI 200m Buffer, Ecological Networks Policy NE5, NRN Woodland Strategic Networ Policy NE5, NRN Wetland Strategic Network Policy NE5, All Public Rights of Way Records, SSSI - Impact Risk Zones,

Applicant: Mr F Shellard

Expiry Date: 14th February 2025

Case Officer: Danielle Milsom

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

REPORT

The application refers Little Horse Croft Farm, an agricultural holding located within Wellow. The site falls within the Green Belt and Area of Outstanding Natural Beauty.

Planning permission is sought for the retention of contractors compound as additional agricultural hard standing.

Reason for committee

Following the objection made by Wellow Parish Council, which was contrary to officer recommendation to PERMIT, the application was referred to the Chair of Planning Committee. It was decided that the application be heard by Planning Committee for the following reasons:

Cllr Ian Halsall:

In light of the balance of views as to the acceptability of this proposal within its rural setting of the greenbelt and in the National Landscape by the Parish Council and members of the public, it is considered that this application would be worthy of consideration by the Committee.

Relevant Planning History

There is no relevant planning history on this site.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses :

Wellow Parish Council: Objection

The temporary hardstanding was created by Wessex Water to facilitate ongoing works to the adjoining sewage plant. It should be noted that whereas Wessex Water notified B&NES about the removal of some hedging no mention was made of the hardstanding. The 'compound' has an earth bund to two sides and a mature tree line to the other. The bund was presumably created with the topsoil which was removed prior to the hardcore/gravel being laid.

Wellow Parish Council voted to OBJECT to this application for the following reasons:

1. The existing hardstanding is of a considerable size with little evidence that this is necessary to the farm business. The main activities on this parcel of land appear to be the storing, cutting, drying and selling of firewood and the grazing of horses. A trailer parked on the roadside is a rare sight and there appears to be sufficient space around the barn area for storage of such vehicles.
2. The hardstanding is in a flood zone and can easily be seen from the highways contrary to statements in the application.
3. The retention of this development would negatively impact the openness of the Green Belt and AONB. The loss of yet more high grade agricultural land on this parcel of land is not deemed acceptable. Policies RE5 (Agricultural Land), CP8 (Green Belt), GB1 (Visual Amenities in the Green Belt)

4. To avoid more high quality agricultural land being unnecessarily developed Wessex Water should restore this site by reinstating the top soil and reseedling when it is no longer required

Representations Received :

Three support comments received. A summary is as follows:

- Good to get agricultural machinery away from highway to avoid hazards and accidents
- Business has grown and the development is needed for progression
- Important for highway safety
- Area and levels stays the same and the surface used is permeable
- Once waters works are complete, the machinery could go back to original storage area. The area could then remain and be used for horse exercise.
- Development would keep the use of the land and surrounding area

Two objections received. A summary is as follows:

- Detrimental impact on the AONB
- Hardstanding effects the drainage in an area subject to flooding
- Against the purposes of the AONB and Green belt
- Against policies of the local plan and NPPF

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

CP5: Flood Risk Management

CP6: Environmental Quality

CP8: Green Belt

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
D4: Streets and spaces
D6: Amenity

GB1: Visual amenities of the Green Belt

HE1: Historic environment
RE2: Agricultural development
SU1: Sustainable drainage policy

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 a number of 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:

DW1: District Wide Spatial Strategy

D8: Lighting

NE1: Development and green infrastructure
NE2: Conserving and enhancing the landscape and landscape character
NE3: Sites, species, and habitats
NE3a: Biodiversity Net Gain
NE5: Ecological networks
ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

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

Transport and Development Supplementary Planning Document (January 2023)

The Existing Dwellings in the Green Belt Supplementary Planning Document (October 2008)

The City of Bath World Heritage Site Setting Supplementary Planning Document (August 2021)

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.

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

This application proposes the retention of a hard standing previously used and installed by Wessex Water under permitted development. The proposal aims to retain the area for use associated with the agricultural holding. As a condition under part 13, class A of the General Permitted Development Order, upon completion of works, development must be removed from the land and the land restored to its former state. The retention of the hardstanding therefore requires planning permission.

PRINCIPLE OF DEVELOPMENT IN THE GREEN BELT:

The site falls within the Green Belt, therefore the principal matter to consider is whether the development comprises inappropriate development. Paragraph 154 of the NPPF specifies development which is an exception to inappropriate development. This includes buildings for agriculture, and also includes engineering operations providing the development does not harm the openness of the Green Belt or conflicts with its purposes.

The hardstanding is proposed to cater for the storage of agricultural machinery in association with the existing agricultural business. The hardstanding is considered to comprise of an engineering operation, therefore the test to consider harm to Green Belt openness is of relevance. As per the requirements of the GPDO, the hardstanding is required to be removed following completion of works. As a result, the retention of the hardstanding is considered as new development for the purposes of the assessment.

The hardstanding is located adjacent to the existing agricultural holding where existing barns, structures and hard standing is located. The site is set at a lower ground level from the main road with the land sloping down towards the application site. The hardstanding is not located in isolation from the existing built development of the site.

The proposal involves additional planting to the east and south of the hardstanding. This involves planting on top of the existing earth bund to the east. This would soften views from the upper valley. To the south, the trees are proposed along with a meadow. This would create a softer backdrop to blend with the landscape.

With the additional planting, which would be secured through the BNG condition, and given that the hardstanding is sited adjacent to existing hardstanding and development, it is considered that harm would not be caused to openness of the Green Belt as a result.

In addition, the storage of any agricultural machinery, or associated storage buildings would not be considered inappropriate development, meeting with an exemption listed under paragraph 154 of the NPPF.

The proposal to retain the existing hard standing for the purposes of agriculture is therefore considered not to be inappropriate in the Green Belt.

The development is therefore considered to be compliant with policy CP8 of the Core Strategy, policies GB1 and GB3 of the Local Plan Partial Update and part 13 of the NPPF.

DESIGN, 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 hardstanding is located close to the existing hard standing for the farm stead. The developed form is therefore concentrated towards the centre of the site. Due to the topography of the land, steeply sloping down to the south, its location is suitable. The hardstanding would allow for agricultural machinery to be stored, along with other agricultural material. Given the agricultural setting, this would not cause harm to the visual amenities of the site. Whilst the hardstanding is visible from public view, it is considered to be read in conjunction with existing development and as such would not cause harm to the character and appearance of the site. Additional vegetation is also proposed to help to blend the hardstanding further.

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 Core Strategy, policies D1, D2, D3, D4 and D5 of the Placemaking Plan and part 12 of the NPPF.

LANDSCAPE:

Local Plan Partial Update policy NE2 has regard to conserving and enhancing the landscape and landscape character. The policy notes a number of criteria which should be met in order for the development to be considered acceptable in landscape, including conserving the local landscape character and conserving. The policy also states that development should seek to avoid or should adequately mitigate any adverse impacts on the landscape. Proposals with the potential to impact on the landscape/townscape character of an area or on views should be accompanied by a Landscape and Visual

Impact Assessment undertaken by a qualified practitioner to inform the design and location of any new development.

There is a duty under Section 85 of the Countryside and Rights of Way (CROW) Act 2000 which states that, "Any relevant authority exercising or performing any functions in relation to, or so as to affect, land in an area of outstanding natural beauty in England must seek to further the purpose of conserving and enhancing the natural beauty of the area of outstanding natural beauty.

The development is sited adjacent to existing agricultural buildings, within a site which sits at a low ground level. The development is read in conjunction and in association with the existing built form. The additional planting would soften its appearance and this has sought to screen the proposal to the benefit of the wider landscape. A sequential test has also been carried out to identify if there are any other sites within the holding. The proposed area is considered to be the most suitable given the topography of the land. The proposal would not cause harm to the character and appearance of the site or wider landscape area and consideration has also been given as to how to ensure the site is the most suitable and how to further screen with vegetation.

Overall, the proposal is considered to comply with policy NE2 of the Local Plan Partial Update, policy NE2A of the Placemaking Plan and part 15 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.

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 SAFETY AND PARKING:

Policy ST7 of the Local Plan Partial Update has regard to transport requirements for managing development. It sets out the policy framework for considering the requirements and the implications of development for the highway, transport systems and their users. The Transport and Development Supplementary Planning Document expands upon policy ST7 and includes the parking standards for development.

Access arrangements to the site are not proposed to be altered by this proposal. Movements within the site would continue with agricultural vehicles. The submission indicates that the retention of the hardstanding would result in less agricultural vehicles needing to be stored on the road. This is regarded as a benefit. In any case, as the existing access is not to be altered and movements within the site would remain similar to existing, it is considered that there would not be any additional highway safety issues.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Local Plan Partial Update, the Transport and Development Supplementary Planning Document (2023), and part 9 of the NPPF.

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.

The application site is located within flood zone 2. As per the NPPF, a site-specific flood risk assessment should be provided for all development in flood zones 2 and 3. The application does not meet any exemption to the need for a sequential test, it is therefore required.

A flood risk assessment as sequential test has been carried out. It is considered that the appropriate search area for the application would be limited to the site boundary of the agricultural holding, given its required use in connection with the farm.

Consideration has been put forward to identify any other potential suitable locations within the holding for the hardstanding. The southern half of the site is located within flood zone 2 and therefore would not be appropriate to consider given that there would not be a lesser risk. The southern boundary of flood zone 1, which lies to the north of the hardstanding, is under an overhead electricity supply line. Therefore it would not be possible for vehicles to operate in this area. This therefore excludes the area adjacent to the track, within flood zone 1.

The location proposed is located close to the existing built form, is not underneath power lines, is a level site and does not require further ground work which could cause further risk to flooding. It is as such considered that the sequential test is passed, identifying the location as suitable for the proposed development.

The development falls within the less vulnerable category and therefore the exception test is not required.

The hard surface is made of a permeable material and there are no proposed amendments to levels. In the event of flood, there would be safe refuge within the site for safe exit. The submitted flood risk assessment therefore satisfies part 14 of the NPPF.

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 part 14 of the NPPF.

ECOLOGY:

Policy NE3 of the Local Plan Partial Update has regard to Sites, Species and Habitats and states that development which results in significant harm to biodiversity will not be

permitted. For all developments, any harm to the nature conservation value of the site should be avoided where possible before mitigation and/or compensation is considered.

In addition, Policy NE3a of the Local Plan Partial Update relates to Biodiversity Net Gain (BNG).

In the case of minor developments, development will only be permitted where no net loss and an appropriate net gain of biodiversity is secured using the latest DEFRA Small Sites Metric or agreed equivalent. As per Schedule 7A of the Town and Country Planning Act 1990, a minimum of 10% gain is required.

As the hardstanding should be removed as per the GPDO requirements, the baseline of existing habitat has been taken to the land which would be reinstalled following the hardstanding's removal. This approach is accepted.

The proposal involves the planting of vegetation to the existing bund and also involves a meadow to the south and tree planting. This results in a BNG of 34.61% which is acceptable.

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.

(3) 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;

Protected characteristics include disability.

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.

Officers have had due regard to these matters when assessing this application and have concluded that neither the granting nor the refusal of this application would be likely to have an impact on protected groups and, therefore, that these considerations would not weigh in favour of or against this application.

CONCLUSION:

"Section 70(2) of the Town and Country Planning Act (1990) makes clear that a Local Planning Authority must have regard to "the provisions of the development plan, so far as material to the application" and "ant other material considerations". Further, 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".

In this case it is considered that the application complies with the relevant planning policies as discussed in the report above is therefore recommended for permission.

RECOMMENDATION

PERMIT

CONDITIONS

1 Biodiversity Net Gain Plan (Pre-commencement)

Within 6 months of the development being approved, full details of a Biodiversity Gain Plan achieving a minimum of 10% measurable biodiversity net gain, and a Habitat Management Plan for any on-site habitats and biodiversity measures, shall be submitted to and approved in writing by the Local Planning Authority. The Plans shall be in accordance with current best practice guidelines and standards and shall be in accordance with the approved Biodiversity Net Gain Assessment and calculation and shall include the following:

In all cases:

1. Pre and post development biodiversity values including a completed metric calculation tool using the DEFRA Biodiversity Metric or any successor, and accompanying evidence for baseline condition assessments;
2. A BNG habitat map for on-site proposed habitats
3. Information about the steps taken to minimise the adverse effect of the development on the biodiversity of the onsite habitat and any other habitat and, in the case of any irreplaceable habitat, information on arrangements for compensation for any impact of the development has on the biodiversity of the irreplaceable habitat (which does not include the use of biodiversity credits).
4. Details and evidence of any registered off-site biodiversity gain units allocated to the development and any biodiversity credits purchased for the development;

Where on-site habitat is proposed/retained:

5. Long term aims and objectives and targets for habitats; proposed management prescriptions and operations; timing, frequency, durations and methods of operations; specialist expertise, specialist tools/machinery or equipment and personnel where required to meet the stated aims and objectives;
6. Annual work schedule for at least a 30 year period
7. A list of activities and operations that shall not take place and shall not be permitted within the Habitat Management Plan (HMP) area (for example use of herbicides; on-site disposal of grass cuttings or other vegetation waste; routine cutting of ivy where there is no specific arboricultural justification; inappropriate maintenance methods, storage of materials; inappropriate machine or vehicle access).
8. Detailed monitoring strategy for habitats and species, and methods of measuring progress towards and achievement of stated objectives.
9. Details of proposed reporting to the Local Planning Authority, and proposed review and remediation mechanism.
10. Proposed costs and resourcing, and legal 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 and to ensure delivery of Biodiversity Net Gain in accordance with Bath and North East Somerset Local Plan Partial Update policies NE3, NE3a NE5 and D5e and paragraph 13 of Schedule 7A to the Town and Country Planning 1990 Act (Biodiversity Gain Condition).

2 Implementation of Landscaping Scheme (Bespoke Trigger)

All soft landscape works shall be carried out in accordance with the approved details, as shown on drawing 71006-10-001 rev E. The works shall be carried out by the end of the next planting season.

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.

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.

3 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 The decision relates to the following plans:

Revised Drawing	11 Feb 2025	71006-10-001 REV E	EXISTING	AND
PROPOSED SITE PLAN				
OS Extract	29 Jul 2024	LOCATION PLAN		

2 Biodiversity Net Gain - Standard Informative

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition "(the biodiversity gain condition)" that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements apply. A detailed version of the biodiversity gain condition can be found in the list of conditions attached to this permission.

The effect of section 73D of the Town and Country Planning Act 1990:-

If planning permission is granted on an application made under section 73 of the Town and Country Planning Act 1990 (application to develop land without compliance with conditions previously attached) and a Biodiversity Gain Plan was approved in relation to the previous planning permission ("the earlier Biodiversity Gain Plan") there are circumstances when the earlier Biodiversity Gain Plan is regarded as approved for the purpose of discharging the biodiversity gain condition subject to which the section 73 planning permission is granted.

Those circumstances are that the conditions subject to which the section 73 permission is granted:

- i) do not affect the post-development value of the onsite habitat as specified in the earlier Biodiversity Gain Plan, and

ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat the conditions do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier Biodiversity Gain Plan.

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 or post to Planning Services, Lewis House, Manvers Street, Bath, BA1 1JG.

4 Permit/Consent Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 39 of the National Planning Policy Framework.

5 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

Item No: 04
Application No: 24/04465/FUL
Site Location: The Hollies Charlton Road Keynsham Bath And North East Somerset BS31 2JA



Ward: Keynsham North **Parish:** Keynsham Town Council **LB Grade:** N/A
Ward Members: Councillor Alex Beaumont Councillor George Leach
Application Type: Full Application
Proposal: Subdivision of land and conversion of existing residential annexe to dwelling
Constraints: Agricultural Land Classification, Air Quality Management Area, Conservation Area, Policy CP12 Centres and Retail, Policy CP9 Affordable Housing, District Heating Priority Area, Housing Development Boundary, Policy NE1 Green Infrastructure Network, Neighbourhood Plan, SSSI - Impact Risk Zones, Policy ST8 Safeguarded Airport & Aerodrome,
Applicant: MS Julie Griffin
Expiry Date: 11th April 2025
Case Officer: Christopher Masters
To view the case click on the link [here](#).

REPORT

The application refers to an existing residential Annex located at the rear of the property known as The Hollies, which is located within the Keynsham Conservation Area and housing development boundary.

Planning permission is sought for the subdivision of the land and conversion of existing residential annexe to dwelling.

Reasons for Reporting to Committee

The application has been reported to Committee as the Officer's recommendation is contrary to comments provided by Keynsham Town Council. In line with the Council's Scheme of Delegation the application was referred to the Chair of the Planning Committee, who stated:

"As the initial permission for an annex carried a condition to maintain the development as an ancillary use, it is considered that the Committee should have the opportunity to assess whether the policy tests have been met to enable this to now become a self-contained dwelling."

In addition, the Vice Chair commented:

"Noting Keynsham Town Council's objection in relation to the ancillary use clause which formed a condition of the previous 'Granny annex' application, I recommend that this application is determined in public by the Planning Committee to provide an opportunity to understand and debate the policy conclusions."

Relevant Planning History

98/02700/FUL - REFUSED - 2 February 1999 - Two storey rear extension; loft conversion with dormer

08/01849/FUL - PERMIT - 1 August 2008 - Erection of a single storey side and rear extensions

17/04289/FUL - PERMIT - 31 October 2017 - Erection of granny annex.

SUMMARY OF CONSULTATIONS/REPRESENTATIONS

Consultation Responses:

Environmental Protection - Having reviewed the submitted noise impact assessment, no objection is raised to the above application by the Environmental Protection Team.

Highways - No comment

Keynsham Town Council - OBJECT on the following grounds:

(i) The planning application 17/04289/FUL was permitted with an ancillary use (compliance) clause that states the development hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as the Hollies, Charlton Road, Keynsham and shall not be occupied as an independent dwelling unit, business or holiday let for the following reason: The accommodation hereby approved is not capable of independent occupation or change of use without adverse impact on the amenities of existing and future residential occupier's contrary to Policy D6 of the Bath and North East Somerset Placemaking Plan.

(ii) The Town Council supports the Highways Department comment that the Development Management Procedure Order requirements are not met.

Representations Received :

None received

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:

CP6: Environmental Quality

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

D4: Streets and spaces

D6: Amenity

D7: Infill and backland development

HE1: Historic environment

LCR9: Increasing the provision of local food growing

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 a number of 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:

DW1: District Wide Spatial Strategy

KE1: Keynsham spatial strategy

D5: Building design

H3: Residential development in existing buildings

ST1: Promoting Sustainable Travel

ST7: Transport requirements for managing development

SUPPLEMENTARY PLANNING DOCUMENTS:

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

Transport and Development Supplementary Planning Document (January 2023)

NATIONAL POLICY:

The updated National Planning Policy Framework (NPPF) was published in December 2024 and is a material consideration. Due consideration has been given to the provisions of the National Planning Practice Guidance (NPPG).

CONSERVATION AREAS:

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.

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:

1. Principle of development
2. Design, character and appearance (Including impacts on the Keynsham Conservation Area)
3. Residential amenity

4. Highway safety and parking
5. Sustainable construction and renewable energy
6. Public sector equality duty
7. Conclusion

1. PRINCIPLE OF RESIDENTIAL DEVELOPMENT:

The site is within the Housing Development boundary of Keynsham where the principle of development is supported by Policies DW1 and KE1. Policy H3 also sets out that the sub-division of existing buildings including outbuildings will be permitted, unless:

- i. The residential use creates a severe transport impact, (in a way that the existing use would not);
- ii. The development prejudices the continued commercial use of ground/lower floors.
- iii. It would lead to a form of sub-division that would harm the significance of a listed building.

In this instance the development would result in an existing residential outbuilding being formed into an independent residential unit. The proposal would not create a severe transport impact as explained in the highway section below and does not relate to a commercial premises or listed building. The proposed development therefore accords with Policy H3 and is acceptable subject to the material considerations discussed below.

2. DESIGN, CHARACTER AND APPEARANCE:

Policies D1, D2 and D3 of the Placemaking Plan and Policy D5 of the Local Plan Partial Update 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. Furthermore, 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.

The proposal relates to an existing single storey detached outbuilding which sits discretely within its context.

Given the siting and context of the building, pattern and layout of surrounding development, and its relationship with and extent to which it is screened from the public realm by the existing boundary treatments and surrounding built form, it is not considered that the use of the building as an independent dwelling would adversely affect the character and appearance of the site or surrounding conservation area.

The removal of the patio doors on the north elevation shall not diminish the character or appearance of the building.

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 given the discrete nature of the existing building and the nature of the proposed works the development is considered to preserve the character and appearance of this part of the Conservation Area and its setting.

The proposal respects the local context and maintains the character and appearance of the surrounding area. Therefore, the proposal accords with policy CP6 of the Core Strategy (2014), policies D1, D2, D3, D4 and HE1 of the Placemaking Plan (2017), Policy D5 of the Local Plan Partial Update (2023) and parts 12 and 16 of the NPPF.

3. 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.

It is acknowledged that the annex building was permitted under application 17/04289/FUL, subject to a condition which required the building to be used only for ancillary purposes on the basis that it was deemed at the time not to be capable of independent occupation or change of use without adverse impact on the amenities of existing or future residential occupiers.

It is on this basis that the Town Council has objected to the scheme.

In considering this current proposal, a site visit was made in which it was noted that the host dwelling and annex building have a limited degree of separation, which at its closest point is approximately 11m. Concern was therefore raised regarding the potential for intervisibility between the rear first floor windows of the existing dwelling and those in the north elevation of the proposed dwelling, which would have afforded occupiers with unsatisfactory levels of privacy. To address this, the applicant has proposed removing the windows on the north elevation of the existing annex building so that there is no direct intervisibility between the two dwellings. Subject to this alteration being undertaken it is considered the dwelling would benefit from acceptable levels of privacy and would not prejudice the privacy of neighbouring properties.

The submitted plans demonstrate that subject to removing the fenestration on the northern elevation, occupiers of the dwelling would benefit from adequate amounts of internal and external space, natural light, outlook and privacy.

Regard has also been given to whether any nearby noise sources including the adjacent commercial premises and car park could result in occupiers of the dwelling being subjected to unacceptable levels of noise. Following submission of a noise impact assessment, the Council's Environmental Protection Team are satisfied occupiers of the development would not be subject to unacceptable noise levels.

Accordingly, it is considered that the building could be occupied independently in a manner which affords occupiers of both the proposed and nearby dwellings with acceptable levels of amenity.

Given its design, siting, layout and relationship with surrounding properties, the proposed development 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.

4. HIGHWAYS SAFETY AND PARKING:

Policy ST7 of the Local Plan Partial Update has regard to transport requirements for managing development. It sets out the policy framework for considering the requirements and the implications of development for the highway, transport systems and their users. The Transport and Development Supplementary Planning Document expands upon policy ST7 and includes the parking standards for development.

The proposed dwelling would be accessed from a public footpath via an existing pedestrian gate which is 1.2m wide. It is noted that in this instance given the layout of the site and its relationship with the public highway it would not be possible for the proposed dwelling to benefit from any dedicated off-street motor vehicular parking. This is considered acceptable given the highly sustainable location of the site.

An existing garden storage building which shall be retained within the curtilage of the proposed dwelling offers secure, weatherproof storage for two bicycles.

The means of access and parking arrangements are acceptable and maintain highway safety standards. The proposal accords with policy ST7 of the Local Plan Partial Update, the Transport and Development Supplementary Planning Document (2023), and part 9 of the NPPF.

5. SUSTAINABLE CONSTRUCTION AND RENEWABLE ENERGY:

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.

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.

Policy LCR9 states that all residential development will be expected to incorporate opportunities for local food growing (e.g. border planting, window boxes, vertical planting, raised beds etc.) there is sufficient space for this to be achieved within the curtilage of the dwelling. The proposal accords with Policy LCR9.

6. 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.

Officers have had due regard to these matters when assessing this application and have concluded that neither the granting nor the refusal of this application would be likely to have an impact on protected groups and, therefore, that these considerations would not weigh in favour of or against this application.

7. CONCLUSION:

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 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.

3 Water Efficiency - 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.

4 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 Bath and North East Somerset Placemaking Plan.

5 Blocking up of Fenestration (Compliance)

No independent occupation of the approved dwelling shall commence until the existing doors and windows in the northern elevation of the dwelling hereby approved have been closed up and the area of walling made good to match the existing building.

Reason: To safeguard the amenities of occupiers and adjoining occupiers from overlooking and loss of privacy in accordance with policy D6 of the Bath and North East Somerset Placemaking Plan.

6 Removal of Permitted Development Rights - No Windows (Compliance)

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no windows or other openings, other than those shown on the plans hereby approved, shall be formed in the North elevation of the dwelling hereby approved at any time unless a further planning permission has been granted.

Reason: To safeguard the amenities of occupiers and adjoining occupiers from overlooking and loss of privacy in accordance with policy D6 of the Bath and North East Somerset Placemaking Plan.

PLANS LIST:

1 This decision relates to the following plans:

All received 14th February 2025

BS31-02 V3 BLOCK PLAN

BS31-03 V3 SITE PLAN - EXISTING & PROPOSED

BS31-04 V3 EXISTING PLAN & ELEVATIONS

BS31-05 V3 PROPOSED PLAN & ELEVATIONS

BS31-01 V3 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 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 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

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 Biodiversity Net Gain - Exempt/Not required

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information available this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply.

6 Permit/Consent Decision Making Statement

In determining this application the Local Planning Authority considers it has complied with the aims of paragraph 39 of the National Planning Policy Framework.